

The Office of the State Register announces the availability of the revised **ENVIRONMENTAL QUALITY, LAC 33:V, HAZARDOUS WASTE AND HAZARDOUS MATERIALS VOLUME**. This *CERTIFIED* publication contains all amendments through June, 1994.

Price: \$61.80  
(Out-of-state purchases \$60.00)

Make Check Payable To:

Office of the State Register  
Post Office Box 94095  
Baton Rouge, LA 70804-9095  
(504) 342-5015

THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY  
5408 SOUTH ELLIS AVENUE  
CHICAGO, ILLINOIS 60637

PROFESSOR [Name]  
[Address]

DEAR [Name]:  
[Text]

## CONTENTS

### I. EXECUTIVE ORDERS

|  |     |
|--|-----|
| EWE 94-23—Authorizes Special Sugarcane Harvest Vehicle Permit Issuance .....             | 850 |
| EWE 94-24—Establishes Statewide Communications System Executive Steering Committee ..... | 850 |
| EWE 94-25—Bond Allocation for PPG Industries, Inc. of Calcasieu Parish .....             | 851 |
| EWE 94-26—Bond Allocation for Louisiana Housing Finance Agency .....                     | 851 |
| EWE 94-27—Establishes the Louisiana Goals 2000 Commission .....                          | 852 |

### II. EMERGENCY RULES

#### Agriculture and Forestry:

|   |     |
|---|-----|
| Office of Animal Health Services, Livestock Sanitary Board—Testing Nonvaccinated Heifer Calves for<br>Brucellosis (LAC 7:XXI.11765) ..... | 853 |
|---|-----|

#### Education:

|  |     |
|--|-----|
| Board of Elementary and Secondary Education—Bulletin 746—Certification of School Personnel ..... | 853 |
| Bulletin 746—Health Certification Requirements .....   | 854 |
| Bulletin 1794—Textbook Adoption Standards .....  | 854 |
| Bulletin 1882—Administrative Leadership Academy Guidelines, 1994 (LAC 28:I.920) .....            | 854 |
| Bulletin 1943—Teacher Assessment—Grievance Procedure .....                                       | 854 |

#### Health and Hospitals:

|  |     |
|--|-----|
| Office of the Secretary, Bureau of Health Services Financing—Case Management Services for Optional<br>Targeted Population Groups and Waiver Programs ..... | 855 |
| Home Health Agencies .....   | 856 |
| Mental Health Rehabilitation Services .....  | 856 |
| Disproportionate Share—Private Hospitals Inpatient Services .....  | 857 |

#### Social Services:

|  |     |
|--|-----|
| Office of Family Support—Standard Utility Allowance and Income Exclusions (LAC 67:III.1965, 1980-1981) ..... | 860 |
|--|-----|

#### Treasury:

|  |     |
|--|-----|
| Board of Trustees of the State Employees Group Benefits Program—Plan Document—Dentists and Oral Surgeons ..... | 861 |
|--|-----|

#### Wildlife and Fisheries:

|  |     |
|--|-----|
| Wildlife and Fisheries Commission—Fall Inshore Shrimp Season ..... | 861 |
| Migratory Bird Hunting Seasons 1994-95 .....                       | 862 |
| Oyster Season 1994-95 .....  | 862 |
| Zone 1 Shrimp Season .....   | 863 |
| Zone 3 Shrimp Season .....   | 863 |

### III. RULES

#### Agriculture and Forestry:

|   |     |
|---|-----|
| Office of Animal Health Services, Livestock Sanitary Board—Disposal of Dead Poultry (LAC 7:XXI.11771) ..... | 863 |
|---|-----|

This public document was published at a total cost of \$4,050.00. 1,025 copies of this document were published in this monthly printing at a cost of \$2,050.00. The total cost of all printings of this document including reprints is \$2,050.00. This document was published by Moran Printing, Inc., 5425 Florida Blvd., Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audio cassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

**Economic Development:**

|  |     |
|--|-----|
| Board of Interior Designers—Certificate Reinstatement and Restoration (LAC 46:XLIII.703,704) | 864 |
| Office of Commerce and Industry—Industrial Ad Valorem Tax Exemption (LAC 13:I.Chapter 15)    | 864 |
| Polygraph Board—Continuing Education (LAC 46:LVI.101)  | 868 |

**Education:**

|  |     |
|--|-----|
| Board of Elementary and Secondary Education—Bulletin 741—General Education Development   | 868 |
| Bulletin 741—Honors Curriculum—Nonpublic   | 869 |
| Bulletin 741—Honors Curriculum—Public  | 869 |
| Bulletin 741—Librarians—Nonpublic  | 869 |
| Bulletin 741—Math Requirements   | 869 |
| Bulletin 1525—Principal Evaluation (LAC 28:I.917)  | 870 |
| Vocational Education State Plan 1995-96 (LAC 28:I.939)   | 870 |
| Student Financial Assistance Commission, Office of Student Financial Assistance—Employment Opportunity Program—Due Diligence Requirements (LAC 28:V) | 870 |
| Lender of Last Resort Program (LAC 28:V.Chapter 3)   | 871 |
| LEO Collection Due Diligence (LAC 28:V)  | 872 |
| Scholarship/Grant Application Deadline (LAC 28:V)  | 872 |

**Environmental Quality:**

|  |     |
|--|-----|
| Office of Air Quality and Radiation Protection, Air Quality Division—Emission Reduction Credits Banking (LAC 33:III.Chapter 6) (AQ 85) | 873 |
| Mobile Sources Emissions Reduction (LAC 33:III.611) (AQ91)   | 881 |
| Office of Water Resources, Water Quality Management Division—Surface Water Quality Standards (LAC 33:IX.Chapter 11) (WP12)             | 883 |

**Health and Hospitals:**

|  |     |
|--|-----|
| Office of Public Health—Sanitary Code—Shellfish (Chapter IX); Food, Drug and Cosmetics (Chapter 4, Part I) | 884 |
| Office of the Secretary—Case Management of Licensing Standards (LAC 48:I.Chapter 49)                       | 885 |
| Bureau of Health Services Financing—Narcotics and Controlled Substances (LAC 48:I.3903)                    | 895 |
| Medical Disclosure Panel—Informed Consent (LAC 48:I.2400-2428)   | 895 |

**Labor:**

|  |     |
|--|-----|
| Office of Labor—Minor Labor Law (LAC 40:VII.103) | 897 |
|--|-----|

**Social Services:**

|   |     |
|---|-----|
| Office of Community Services—Children's Trust Fund; Child Abuse and Neglect Prevention (LAC 67:V.401) | 898 |
| Reimbursement Rates for Residential Facilities (LAC 67:V.3503)  | 898 |
| Office of Family Support—Food Stamp Recovery (LAC 67:III.2005)  | 898 |
| Office of the Secretary—Title IV-A At-Risk Child Care (LAC 67:I.101-103)                              | 899 |

**Transportation and Development:**

|  |     |
|--|-----|
| Board of Registration for Professional Engineers and Land Surveyors—Engineering Industrial Operations (LAC 46:LXI.105) | 900 |
|--|-----|

**IV. NOTICES OF INTENT****Agriculture and Forestry:**

|   |     |
|---|-----|
| Office of Animal Health Services, Livestock Sanitary Board—Equine Infectious Anemia Testing (LAC 7:XXI.11765) | 901 |
| Livestock Fairs, Shows, Sales and Rodeos (LAC 7:XXI.11775)  | 902 |
| Quarantining, Vaccinating and Testing of Swine for Brucellosis/Pseudorabies (LAC 7:XXI.11776)                 | 903 |

**Education:**

|  |     |
|--|-----|
| Board of Elementary and Secondary Education—Bulletin 741—Health Education                          | 904 |
| Bulletin 741—Instructional Time  | 905 |
| Bulletin 921—Education Majors Program (LAC 28:I.921)   | 906 |
| Bulletin 1196—Food and Nutrition Program (LAC 28:I.913)  | 906 |
| Bulletin 1452—Supervisors of Child Welfare and Attendance and School Social Workers (LAC 28:I.901) | 907 |
| Bulletin 1822—Competency Based Postsecondary Curriculum Guides                                     | 908 |
| Migrant Education State Plan—FY 1995 (LAC 28:I.933)  | 909 |
| Teacher Tuition Exemption (LAC 28:I.921)   | 909 |
| Waivers of Minimum Standards (LAC 28:I.313)  | 910 |

**Environmental Quality:**

|   |     |
|---|-----|
| Office of Air Quality and Radiation Protection, Air Quality Division—Conformity of Federal Actions to SIPs (LAC 33:III.Chapter 14) (AQ95) | 911 |
| Emission Standard for Asbestos (LAC 33:III.5151) (AQ97)   | 920 |
| Federal Transit Act Conformity (LAC 33:III.Chapter 14) (AQ99)   | 922 |
| Storage of Volatile Organic Compounds (LAC 33:III.2103) (AQ92)  | 923 |

**Health and Hospitals:**

|  |     |
|--|-----|
| Office of Public Health—Sanitary Code—Disposition of Dead Human Bodies (Chapter XXVI)                                    | 926 |
| Sanitary Code—Reportable Diseases (Chapter II)   | 927 |
| Office of the Secretary—Service and Facilities for Other than State General Hospitals (LAC 48:I.2109)                    | 928 |
| Bureau of Health Services Financing—Case Management Services for Optional Targeted Population Groups and Waiver Programs | 929 |

|   |     |
|---|-----|
| Certified Medicaid Enrollment Centers .....   | 944 |
| <b>Public Safety and Corrections:</b>   |     |
| Liquefied Petroleum Gas Commission—Recertification of Cylinders and School Bus/Mass Transit Fueling<br>(LAC 55:IX.Chapters 1 and 12); Repeal of LAC 55:IX.Chapters 3,5,7,9,11 ..... | 946 |
| Office of State Police, Charitable Gaming Commission—Bingo/Keno; Raffle; and Electronic Video Bingo<br>(LAC 42:I.Chapters 17 and 19) .....  | 952 |
| <b>Social Services:</b>   |     |
| Office of Community Services—Vendor Day Care Program (LAC 67:V.2301) .....  | 953 |
| Office of Rehabilitation Services—Policy Manual (LAC 67:VII.101) .....  | 954 |
| <b>Treasury:</b>  |     |
| Board of Trustees of the State Employees Group Benefits Program—Plan Document—Dentists and Oral Surgeons<br>Exclusion, Exceptions .....   | 955 |
| <b>V. POTPOURRI</b>   |     |
| <b>Agriculture and Forestry:</b>  |     |
| Office of Agricultural and Environmental Sciences, Horticulture Commission—Retail Floristry Examination .....   | 955 |
| <b>Health and Hospitals:</b>  |     |
| Board of Veterinary Medicine—Examination Dates .....  | 956 |
| Office of Public Health—Health Assessment—American Creosote .....   | 956 |
| Nutrition Program for Women, Infants and Children (WIC) .....   | 956 |
| <b>Labor:</b>   |     |
| Office of Employment Security, Research and Statistics—Average Weekly Wage. ....  | 956 |

# EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 94-24

## EXECUTIVE ORDER EWE 94-23

WHEREAS: the health, welfare and prosperity of thousands of Louisiana's citizens depend upon the productivity of the Louisiana sugarcane farmer; and

WHEREAS: the Louisiana sugarcane farmer is experiencing an unusually productive crop which contains consistently heavy stalks; and

WHEREAS: this unusually heavy crop needs to be harvested urgently and is constituting overweight loads when the farm vehicles are fully loaded; and

WHEREAS: an exceptional economic problem has been created by the weight restrictions on vehicles fully loaded with sugarcane; therefore requiring action to be taken; and

WHEREAS: it is the intent of the governor of the State of Louisiana that this executive order shall supplement the provisions of Revised Statutes Title 32;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the constitution and laws of the State of Louisiana, do direct the secretary of the Louisiana Department of Transportation and Development to issue a special harvest season permit to the operators of vehicles loaded with sugarcane as follows:

SECTION 1: A special harvest season permit shall be issued to the operators of vehicles loaded with sugarcane with the following restrictions:

1. These permits shall only be valid if the vehicle is properly registered and operating on the State Highway System. These permits shall not apply to the Interstate Highway System.

2. These permits shall allow total gross weight not to exceed 86,600 pounds plus 15 percent.

3. These permits shall be issued at the Louisiana Department of Transportation and Development without cost to the applicant.

SECTION 2: This executive order shall be effective upon signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 20th day of July, 1994.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9408#002

WHEREAS: the current DOTD microwave and State Police communication systems are old and not able to provide all state agencies the communication requirements; and

WHEREAS: the governor believes that the need for a state of the art statewide 800MHz trunked two-way radio system and digital microwave system for the communication for the executive branch of government of the State of Louisiana; and

WHEREAS: the two-way radio system has an impact on all major departments in which it communicates with each other, and employees of their department;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the constitution and the laws of the State of Louisiana, do hereby establish the Statewide Communications System Executive Steering Committee to design, construct, administer and maintain a statewide, shared 800MHz trunked two-way radio system and supporting digital microwave system as follows:

SECTION 1: The Statewide Communications System Executive Steering Committee shall be composed of the following membership:

A. secretary of the Department of Transportation and Development;

B. secretary of the Department of Public Safety and Corrections;

C. deputy secretary of the Department of Public Safety and Corrections, Public Safety Services;

D. secretary of the Department of Wildlife and Fisheries;

E. secretary of the Department of Environmental Quality;

F. a representative of the Division of Administration.

SECTION 2: The deputy secretary of the Department of Public Safety and Corrections will serve as the chairman.

SECTION 3: The duties and functions of the Statewide Communications System Executive Steering Committee shall include (but shall not be limited to):

A. establish a technical task force and appoint members;

B. review recommendations of the technical task force;

C. approve system design and implementation plans;

D. approve system testing and formally accept system;

E. establish polices for allocation and management of system resources and future for 800MHz and microwave;

F. establish policies for system admission and use on 800MHz and microwave;

G. establish policies for system operation, administration and maintenance.

SECTION 4: The committee shall meet at times and dates as needed.

SECTION 5: A majority of the committee shall constitute quorum.

SECTION 6: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 21st day of July, 1994.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9408#003

**EXECUTIVE ORDER EWE 94-25**

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Calcasieu Parish Public Trust Authority has requested an allocation from the 1994 ceiling to be used in connection with the financing of certain solid waste disposal facilities at the Lake Charles plant located in Calcasieu Parish, Louisiana; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, the Parish of Calcasieu; and

WHEREAS: it is the intent of the governor of the State of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 ceiling in the amount shown:

| AMOUNT OF ALLOCATION | NAME OF ISSUER                          | NAME OF PROJECT     |
|----------------------|---|---------------------|
| \$7,300,000          | Calcasieu Parish Public Trust Authority | PPG Industries, Inc |

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the State of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through November 30, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about November 30, 1994.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. EWE 92-47, supercedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of July, 1994.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9408#004

**EXECUTIVE ORDER EWE 94-26**

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishes (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Louisiana Housing Finance Agency (the "agency") has requested an allocation from the 1994 ceiling to be used in connection with a program (the "program") of financing of mortgage loans for first time homebuyers throughout the State of Louisiana (the "state") in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended (the "code"); and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the state; and

WHEREAS: it is the intent of the governor of the State of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this section is hereby granted an allocation from the 1994 ceiling in the amount shown:

| AMOUNT OF ALLOCATION | NAME OF ISSUER                   | NAME OF PROJECT                      |
|----------------------|----------------------------------|--------------------------------------|
| \$20,000,000         | Louisiana Housing Finance Agency | Single Family Mortgage Revenue Bonds |

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the State of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through November 30, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about November 30, 1994.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. EWE 92-47, supercedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of July, 1994.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9408#005

#### EXECUTIVE ORDER EWE 94-27

WHEREAS: the Goals 2000: Educate America Act provides incentives for states, school districts, and local schools to develop and implement comprehensive school improvement plans; and

WHEREAS: every student in Louisiana must have equal access to an education that promotes educational excellence; and

WHEREAS: educators, students, parents, and the greater community must assume leadership when developing/implementing school improvement plans in order for lasting improvements to occur within local schools; and

WHEREAS: simultaneous top-down and bottom-up education reform must occur in order for school reform to be effective; and

WHEREAS: federal, state and local initiatives must be unified to improve education in Louisiana; and

WHEREAS: technology must be integrated into all aspects of the educational process; and

WHEREAS: Louisiana is in need of a vision and action plan for education that builds upon existing and future school reform initiatives; and

WHEREAS: committed citizens in Louisiana are already involved in broad-based partnerships to improve education in local communities; and

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the state constitution and laws of the State of Louisiana, do hereby establish a Louisiana Goals 2000 Commission, which shall be domiciled in the governor's office.

SECTION 1: The Louisiana Goals 2000 Commission shall:

A. engage a broad spectrum of Louisianians in the development of a State Improvement Plan and Technology Plan which:

1. creates a vision for education in Louisiana;
2. delineates specific strategies, action steps, and timelines to bring Louisiana's vision of education to reality.

B. make recommendations to the governor, state superintendent, and appropriate constituted bodies regarding governance and policy issues that will facilitate school reform efforts in Louisiana.

SECTION 2: The Goals 2000 Commission shall consist of not less than 20 members who represent the following categories:

- governor;
- state superintendent of schools;
- representatives of:
  - state board of education;
  - state legislature;
  - teachers;
  - principals;
  - school administrators;
  - higher education;
  - teacher organizations;
  - parents;
  - secondary school students;
  - business and labor;
  - community based organizations;
  - local boards of education;
  - local/state officials responsible for health, social and other related services;
  - non-public schools;
  - experts in educational measurement and assessment.

SECTION 3: The governor and state superintendent may replace individuals on the commission in the event that vacancies occur.

SECTION 4: Staff support shall be provided by the Louisiana Department of Education, as well as the governor's office.

SECTION 5: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State



of Louisiana, at the Capitol, in the City of Baton Rouge, on this 1st day of August, 1994.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9408#006

# EMERGENCY RULES

## DECLARATION OF EMERGENCY

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

Testing Nonvaccinated Heifer Calves for Brucellosis  
(LAC 7:XXI.11765)

In accordance with R.S. 49.953(B), the Administrative Procedure Act, the Department of Agriculture and Forestry Livestock Sanitary Board and Commissioner Bob Odom, under the authority granted under R.S. 3:2095, hereby declares an emergency situation and adopts the following emergency rule due to the continued incidence of brucellosis infection in cattle herds, the necessity to move as quickly as possible to complete the eradication program and the advantage of increased surveillance in moving the program forward to eventual completion.

Brucellosis is an infectious disease of cattle which has caused millions of dollars of lost productivity. An eradication program which is nearing completion needs additional surveillance techniques and procedures to find the last vestiges of the infection in Louisiana, and complete eradication as quickly as possible.

This regulation will provide increased surveillance of cattle herds which are normally not tested or for which surveillance is lacking.

The effective date of this emergency rule is October 1, 1994, and it shall remain in effect for 120 days.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXI. Disease of Animals

#### Chapter 117. Livestock Sanitary Board

#### Subchapter B. Cattle

#### §11735. Livestock Auction Market Requirements

All cattle which are sold or offered for sale in livestock

auction markets must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements.

#### A. Brucellosis

\* \* \*

8.a. All nonbrucellosis vaccinated heifer calves, between four and 12 months of age offered for sale at a Louisiana livestock auction market shall have a blood sample drawn for brucellosis testing. This blood sample shall be drawn prior to the heifer being sold and shall be submitted to the state/federal brucellosis laboratory for testing.

b. A brucellosis testing fee of \$1 for each heifer calf tested shall be collected by the Louisiana livestock auction markets from the sale proceeds and remitted to the Louisiana Department of Agriculture and Forestry. The fee shall be remitted monthly, no later than the tenth day of the month following the month in which the fee is collected by the Louisiana livestock auction markets.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1995), amended LR 11:615 (June 1955), LR 14:223 (April 1988), LR 14:697 (October 1988), LR 15:810 (October 1989), LR 20:

Bob Odom  
Commissioner

9408#007

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 746—Certification of School Personnel

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved the following amendment to be placed in front of Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Effective August 1, 1994, certification requirements will comply with the provisions of Act 1 of 1994 and Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment.

Emergency adoption will ensure that certification requirements will comply with the provisions of Act 1 of 1994 which are effective August 1, 1994 and Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment. The effective date of this emergency rule is August 1, 1994.

AUTHORITY NOTE: R. S. 17:6(A)(10); R.S. 17:7; ACT 1 of 1994.

Carole Wallin  
Executive Director

9408#040

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 746—Health Certification Requirements

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and approved as an emergency rule, continuation of the current certification requirements in health as specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Prior to this action, effective fall of 1994, teachers pursuing certification in health would be required to complete requirements for health and physical education. Maintaining the current health certification requirements will enable any secondary certified teachers to add this area of certification without physical education courses and will allow greater flexibility for teachers and school systems in providing the one-half unit in health education which is now a high school graduation requirement.

Emergency adoption is necessary for continuation of the current certification requirements in health. The effective date of this emergency rule is July 28, 1994.

AUTHORITY NOTE: R. S. 17:6(A),(10); R. S. 17:7

Carole Wallin  
Executive Director

9408#042

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 1794—Textbook Adoption Standards

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and re-adopted as an emergency rule, the proposed changes in the Textbook Program. This is an amendment to Bulletin 1794, Textbook Adoption Standards and Procedures and was printed in full on pages 383-386 of the April, 1994 issue of the *Louisiana Register*.

This amendment is being re-adopted as an emergency rule in order to continue the present emergency rule until it is finalized as a rule. The effective date of this emergency rule is August 23, 1994.

AUTHORITY NOTE: R.S. 17:6(a)(9)

Carole Wallin  
Executive Director

9408#044

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 1882—Administrative Leadership Academy Guidelines, 1994 (LAC 28:I.920)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved as an emergency rule, Revised Bulletin 1882, Administrative Leadership Academy Guidelines, 1994. The proposed revisions to Bulletin 1882 are designed to clarify academy requirements and procedures. Bulletin 1882 is also referenced in the Administrative Code as noted below.

The complete document may be seen in the Office of the Louisiana Register located on the Fifth Floor of the Capitol Annex, in the Office of Academic Programs, State Department of Education, or in the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, LA.

Emergency adoption is necessary in order that the revised guidelines are in place for the Fall Semester and the effective date of this emergency rule is July 28, 1994.

#### Title 28

#### EDUCATION

#### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §920. Administrative Leadership Academy Guidelines

##### A. Bulletin 1882

1. Bulletin 1882, Administrative Leadership Academy Guidelines, 1994, is adopted.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 20:

Carole Wallin  
Executive Director

9408#043

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 1943—Teacher Assessment—Grievance Procedure

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved Section X, Grievance Procedures as an addition to Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment.

The complete document may be obtained from the Office of the State Register, located on the fifth floor of the Capitol

Annex, 1501 North Third Street, Baton Rouge, LA; in the Bureau of Research and Development of the State Department of Education; or in the Office of the State Board of Elementary and Secondary Education located in the Department of Education building in Baton Rouge, LA.

Emergency adoption is necessary because all local education agencies, all public schools, assessors and assessor trainers must have copies of Section X, Grievance Procedures before schools open and assessments begin on new teachers. The effective date of this emergency rule is July 28, 1994.

AUTHORITY NOTE: R.S. 17:3881-3884, R.S. 17:3891-3896 and R.S. 17:3901-3904.

Carole Wallin  
Executive Director

9408#041

## DECLARATION OF EMERGENCY

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

Case Management Services for Optional Targeted  
Population Groups and Waiver Programs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for 120 or until adoption of the following provisions included in the notice of intent entitled Case Management Services for Optional Targeted Population groups and Waiver Programs, whichever occurs first.

The Bureau of Health Services Financing currently funds case management services to the following specific population groups:

1) mentally retarded or developmentally disabled individuals including developmentally disabled infants and toddlers (termed infants and toddlers with special needs under this proposed rule);

2) pregnant women in need of extra perinatal care (termed high-risk pregnant women under this proposed rule) (limited to the metropolitan New Orleans area);

3) HIV disabled individuals (termed persons infected with HIV under this proposed rule);

4) chronically mentally ill (termed seriously mentally ill individuals for adults and children/youth with emotional/behavioral disorders under this proposed rule);

5) participants in waivers which include case management as a service; and

6) ventilator-assisted children.

The bureau has adopted rules governing case management

services as the needs of the population groups for these services became apparent and in accordance with available funding. There has been a tremendous growth in interest on behalf of the public in providing these services to the Medicaid populations. In addition, as these services have been implemented and governed under specific program regulations over the past five years, the department now seeks to enhance the quality of these services to the optimal level while strengthening administrative oversight. The department has determined that the protection of the public health and welfare required adoption of an emergency rule on July 22, 1994 to ensure uniform standards for the quality of the services delivered to these persons with special physical and/or health needs and conditions which are published in this issue of the *Louisiana Register*. In addition, the department has determined that the following revised provisions concerning provider enrollment and staff coverage require adoption as an emergency rule to ensure that Medicaid case management providers maintain the level of effort deemed necessary to guarantee the availability of these services to persons who experience critical, ongoing and occasionally urgent needs for health and/or medical services.

### Emergency Rule

Effective August 13, 1994, the Bureau of Health Services Financing adopts the following revised requirements for optional targeted case management services concerning provider enrollment and staff coverage for the delivery of these services.

#### I. Standards of Participation

**Provider Enrollment Requirements.** Each case management agency must meet the enrollment requirements listed in the original emergency rule. Additionally, each case management agency must enroll each office site currently operated by the agency. Thereafter, in order to provide case management services in a region other than that in which currently enrolled, the agency must establish an office site in that region, staff the office, enroll, and receive a separate provider number for that region.

#### II. Standards of Payment

**Staff Coverage.** All case managers must be employed by the case management agency a minimum of 20 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Contracting of case manager staff is prohibited. Case management supervisors must be employed a minimum of eight hours per week for each full-time case manager (four hours a week for each part-time case-manager) they supervise and maintain on-site office hours at least 50 percent of the time. If the supervisor is not a full-time employee, the supervisor must be continuously available by telephone or beeper during normal business hours (8 a.m. to 5 p.m., Monday through Friday). The provider agency must ensure that case management services are available 24 hours a day, 7 days a week.

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

will be incorporated into the notice of intent on proposed final rulemaking for case management services and are to be included in the public hearing subsequent to the publication of the notice of intent. At the time of the public hearing all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing. Written comments will be received until 4:30 p.m. on the day following the public hearing.

Copies of this emergency rule are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest  
Secretary

9408#022

## DECLARATION OF EMERGENCY

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

Home Health Agencies

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, has adopted the following emergency rule as authorized by R.S. 40:2009.31-40. Regulations governing home health agencies were last revised effective January 1992 and referenced in the *Louisiana Register*, Volume 18, No. 1, page 57. These regulations are contained in the LAC 48:I.General Administration, Subpart 3., Licensing and Certification, Chapter 91. Since that time there has been a tremendous expansion of home health agencies as well as the growth in utilization of these services by Louisiana's citizens. Therefore, in order to ensure that the licensure standards for these agencies incorporate all necessary safeguards to protect and promote the health and welfare of persons in need of home health services, the following emergency rule has been adopted.

The effective date of this emergency rule is July 22, 1994 and this rule shall be in effect for 120 days or until adoption of the rule under the Administrative Procedure Act, whichever is occurs first.

### Emergency Rule

Effective July 22, 1994, the Bureau of Health Services Financing hereby adopts the following regulations which govern the licensure of home health agencies on or after July 22, 1994. The provisions of the Minimum Standards for Home Health Agencies currently in effect as revised on January 20, 1992 and referenced in the *Louisiana Register*, Volume 18, No. 1, page 57 and found at LAC: 48:I.Chapter 91 shall remain in effect and govern home health agencies issued licenses prior to July 22, 1994 and shall continue to regulate these agencies until July 22, 1995. On July 23, 1995, the provisions of this rule shall govern all home health agencies, regardless of date of issuance of license. Home

health agencies must deliver home health services in compliance with all federal and state laws and regulations.

Rose V. Forrest  
Secretary

9408#024

## DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for 120 days or until adoption of the rule under the Administrative Procedure Act, whichever occurs first.

The Bureau of Health Services Financing adopted a rule on the Mental Health Rehabilitation Program to incorporate the guidelines and interpretations of the Health Care Financing Administration on April 20, 1993. This rule was published in the *Louisiana Register*, Volume 19, No. 4. The following emergency rule establishes service limits for certain mental health rehabilitation services and revises the definition of treatment integration to ensure the inclusion of appropriate therapeutic principles and skills for this service component. This emergency rule is adopted to ensure the quality of these services to the target population. In addition this emergency rule is adopted to avoid a budget deficit in this area of the Medicaid Program. The Mental Health Rehabilitation Program under Medicaid was implemented in September 1992 and expenditures for state fiscal year 1993 were \$2,000,000. The total expenditures for the subsequent state fiscal year exceeded \$16,000,000 and it is anticipated that the program will continue growing at an escalated rate unless measures are undertaken to control costs. Adoption of this emergency rule is anticipated to reduce expenditures for state fiscal year 1995 by approximately \$9,000,000.

### Emergency Rule

Effective August 15, 1994 the Bureau of Health Services Financing adopts the following revisions in the Mental Health Rehabilitation Program. Daily and monthly service limits are established for individual counseling and therapy; group counseling and therapy; family counseling and therapy; treatment integration; and psychosocial skills training. The annual limitations for each area of treatment are by calendar year and are as follows:

- 1) Medical Assessment - 2 per year;
- 2) Psychological Evaluation - 2 per year;
- 3) Psychosocial Evaluation - 2 per year;

- 4) Other Evaluation - 10 per year;
- 5) Care Plan Development - 1 per year;
- 6) Care Plan Update - 5 per year;
- 7) Collateral Contact - 52 per year;
- 8) Counseling Therapy - (thirty minute units) - 208 per year (includes Individual Family and Group Counseling);
- 9) Treatment Integration - (30 minute units) - 1040 per year;
- 10) Psychosocial Skills Training (1 hour units) - 780 per year;
- 11) Medication Administration - 52 per year;
- 12) Medication Monitoring - 52 units per year;
- 13) Crisis Intervention (30 minute units) - 48 per year; and
- 14) Crisis Support (1 hour units) - 432 per year.

Specific limitations for daily and monthly limitations for each service are referenced in the Medical Services Manual for Mental Health Rehabilitation Services distributed by the fiscal intermediary. These limitations are based upon service utilization review and consultation with the professional staff of the Office of Mental Health regarding the appropriate service needs of the target population. In addition the definition for the service treatment integration has been revised as follows. Treatment integration is a secondary service to therapy services and psychosocial skills training. Services include integrating therapeutic principles and skills into the recipient's natural environment and daily routine; implementation of a person's behavior management plan; specialized 1:1 assistance within a group setting; and/or physical management of a person who is engaged in violent or other disruptive behavior. Treatment integration may be provided in conjunction with other mental health rehabilitation services except crisis services.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA, 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. At the public hearing all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. Written comments will be received until 4:30 p.m. on the day following the public hearing. Copies of this rule are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest  
Secretary

9407#017

## DECLARATION OF EMERGENCY

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

Private Hospitals Inpatient Hospital Services  
Disproportionate Share Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed or until adoption of the final rule, whichever occurs first.

The Medicaid Program previously reimbursed private hospitals and publicly owned or operated hospitals serving a disproportionate share of low income patients via twelve pools with payments based on Medicaid days. This payment methodology was implemented effective February 1, 1994 by means of emergency rulemaking to comply with the Health Care Financing Administration's policy on Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4). In addition, disproportionate share payments for indigent care based on free care days were made by establishment of a payment methodology which reimbursed providers for indigent care days based on a Medicaid per diem equivalent amount.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 of the Social Security Act by establishing individual hospital disproportionate share payment limits. To comply with these new provisions, the bureau implemented an emergency rule on disproportionate share payments which included provisions governing the qualifications applicable to private and public hospitals and payment methodology applicable to publicly owned or operated hospitals only on July 1, 1994 which was published in the *Louisiana Register*, Volume 20, No. 7. The following emergency rule continues in force the regulations adopted on March 30, 1994 which are still applicable to the private hospitals. In addition the qualification applicable to both public and private hospitals included in the July 1, 1994 emergency rule which requires a disproportionate share hospital to have a Medicaid inpatient utilization rate of at least one percent is incorporated in the following emergency rule.

Implementation of this rule will not decrease or increase expenditures as disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

### Emergency Rule

Effective July 28, 1994, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends its methodologies for calculating disproportionate share payments for inpatient hospital services

for Medicaid days and indigent care days provided by private hospitals. Qualification as a disproportionate share hospital shall be determined based upon the requirements outlined in the approved State Plan (Item 1, D.1. a-d) as well as the requirement that a hospital must have a Medicaid inpatient utilization rate of at least one percent (Item 1, D.1.a-e). Below are the following revised methodologies as modified in the State Plan, Attachment 4.19-A Items 1, 14, and 16 - Methodology for Disproportionate Share Adjustments.

#### **Disproportionate Share Payments - Medicaid Days Pool Payments (Private Hospitals)**

Qualification and payment adjustment for disproportionate share shall be based on the hospital's year end cost report for the year ending during April 1 through March 31 of the previous year. Example: Hospital has a fiscal year ending November 30, any disproportionate payment made after April 1, 1994 would be based on the November 30, 1993 cost report. Effective April 1995, payment would be made on the hospital's November 30, 1994 cost report. Hospitals which have not filed a cost report by March 31, 1994 will not participate in the disproportionate share payment pools from April 1, 1994 through March 31, 1995. Hospitals which meet the qualification criteria outlined in Item 1, D.1. a-e, based on the latest filed fiscal year end cost report as of March 31st of each year shall be included in not more than two of following six pools for calculation of disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization, but for purposes of disproportionate share hospital payment adjustments, the distinct part psychiatric units shall be placed in the psychiatric pools while the acute medical/surgical shall be included in the appropriate teaching or non-teaching pool. Hospitals must meet the criteria for the pool classification based on their latest filed fiscal year-end cost report as of March 31st of each year. These six pools are as follows:

1) *Private Rural Acute Hospitals*—privately owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are designated as a rural hospital under criteria specified below.

2) *Private Rural Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in a rural area under criteria specified below.

3) *Private Teaching Hospitals*—privately owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are recognized as approved teaching hospitals under criteria specified below.

4) *Private Urban Non-teaching Hospitals*—privately owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are designated as urban hospitals and not recognized as approved teaching hospitals, under criteria specified below.

5) *Private Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately owned distinct part psychiatric units/freestanding psychiatric hospitals

which meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

6) *Private Urban Non-teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in an urban area and do not meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

The definitions for hospital classifications applicable to the above Medicaid days pools are given below.

*Teaching Facility*—a licensed acute care hospital in compliance with the Medicare regulations regarding such facilities, or a specialty hospital that is excluded from the prospective payment system as defined by Medicare. A teaching hospital must have a written affiliation agreement with an accredited medical school to provide post graduate medical resident training in the hospital for the specialty services provided in the specialty hospital. The affiliation agreement must contain an outline of its program in regard to staffing, residents at the facility, etc. A distinct part or carve-out unit of a hospital shall not be considered a teaching hospital separate from the hospital as a whole. Teaching hospitals that are not recognized by Medicare as an approved teaching hospital must furnish copies of graduate medical education program assignment schedules and rotation schedules to the department.

*Urban Hospital*—a hospital located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification under Medicare.

*Rural Hospital*—a hospital that is not located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification for Medicare.

*Distinct Part Psychiatric Unit/Free-standing Psychiatric Hospital*—distinct part psychiatric units of acute care general hospitals or psychiatric units in long term care and rehabilitation hospitals meeting the Medicare criteria for PPS exempt units and enrolled under a separate Medicaid provider number and freestanding psychiatric hospitals enrolled as such.

Hospitals which qualify as of March 31st of each year under the provisions in the approved state plan with fiscal year-end cost reports which do not reflect twelve months of cost report data shall have Medicaid days annualized by the bureau for purposes of the above pools. This includes hospitals which have partial year fiscal year-end cost reports as well as hospitals which added beds during the year to ensure that these are equally represented in the pool for the period of time to which the DSH payments will apply. Hospitals which request annualization of Medicaid days for purposes of the above pools must submit sufficient documentation to the bureau.

Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's total Medicaid inpatient days for the applicable cost report as adjusted for annualization by the total Medicaid inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools and then multiplied by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total

Medicaid inpatient hospital days include Medicaid nursery days, but do not include SNF or swing-bed days.

Partial payments shall be made during federal fiscal year 1995 on dates as determined by the secretary of the Department of Health and Hospitals.

If at audit or final settlement of the cost reports on which the pools are based, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported or annualized, appropriate action shall be taken to recover any over payments resulting from the use of erroneous data. No additional payments shall be made if an increase in days is determined after audit. Recoupments of overpayments from reductions in pool days originally reported or annualized shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the State for the year in which the recoupment is applicable.

Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments.

#### **Disproportionate Share Payments - Indigent Care (Free Care) (Private Hospitals)**

In addition to the six pools based on Medicaid days described above, the bureau will continue to reimburse qualifying hospitals (hospitals which meet the qualifying criteria in Item 1.D.1 a-e) an additional disproportionate share adjustment payment based on the hospital's number of indigent care days provided under a indigent care plan approved by the bureau. Payment(s) shall be made during the federal fiscal year to qualifying disproportionate share hospitals for indigent care days based on the following criteria.

1) The indigent disproportionate share adjustment per diem payment will be limited to each hospital's total Medicaid per diem equivalent amount. The Medicaid per diem equivalent amount is the sum of the provider's base Medicaid per diem (cost based or prospective, as applicable) plus the provider's Medicaid disproportionate share per diem as established according to the Medicaid DSH pool in which the facility participates. For Federal Fiscal Year 1994, the indigent disproportionate share per diem amount will be each hospital's Medicaid per diem amount in effect as of March 1, 1994 and the Medicaid DSH pool per diem amount paid in accordance with the revised February 1994 pool amounts. For subsequent federal fiscal years, the indigent disproportionate share per diem amount will be the Medicaid per diem amount in effect the previous July 1st and the Medicaid DSH pool per diem amount as established for the federal fiscal year.

2) The indigent care payments will be determined based on each DSH hospital's (which qualified for DSH per the latest filed March 31st fiscal year-end cost report) indigent care days provided within the state fiscal year. Qualifying disproportionate share hospitals shall submit documentation of indigent care days provided during a state fiscal year within 120 days of the end of the state fiscal year in a format specified by the state and shall maintain documentation for all indigent care determinations for the same period Medicaid records for qualification for disproportionate share adjustment are maintained.

3) The department's Indigent Care Plan Criteria for recognition of indigent days in the Indigent Pool for additional disproportionate share payments are delineated below:

a) The annual family income for patients qualifying for indigent care may not exceed 200 percent of the Federal Poverty Income Guidelines for the period of time in which the services were provided.

b) The facility must advise the public of the availability of indigent care services and of its policies for qualifying patients for indigent care. The facility must post a written copy of its policy conspicuously in all patient treatment areas, admissions and provide individual written notices to patients and/or their family members upon admission.

c) The facility must provide a form for individuals to apply for indigent care services upon admission to the facility. These forms must be maintained on file and be available for audit in accordance with all state and federal rules and regulations. The application must be signed by the applicant except for patients deemed mentally unstable by the physician and for whom access for interview has been restricted by physician's orders. The facility must supply auditors with facility's procedures for verification of available payment sources for such patients. Documentation must be in the files to prove Medicaid eligibility resources have been exhausted (i.e. application denied) for recognition as an indigent care patient.

d) The facility must make a determination of the patient's eligibility for indigent care services within two working days after application, notify the patient properly of the decision, and keep a copy on file for audit in accordance with state and federal rules and regulations. Income verification should be attempted via review of pay stubs, W-2 records, unemployment compensation book, or collateral contact with employer etc. If income verification has not been completed within two working days, the facility may condition the determination of eligibility on income verification. The facility may also condition the determination of indigent care eligibility on application for Medicaid eligibility. The conditional determination must be completed within two working days of the request for indigent care.

e) The facility must maintain a log of indigent care services provided each fiscal year for audit purposes in compliance with state and federal rules and regulations. Patient identifying information such as patient name, social security number, date of birth, dates of service, medical record number, patient account number, number of free care days, and amount of indigent care charges must be included on the log.

f) An indigent day may be included in the indigent care days count only to the extent that the entire day is deemed to be an indigent care day. If indigence is determined on a sliding scale which is based on total charges, any day for which the patient is liable for more than 50 percent of the charges may not be considered as an indigent care day. Inpatient days denied for Medicaid recipients who had exhausted their Medicaid inpatient days may be recognized as indigent days provided that documentation of the reasons for denial demonstrates that the recipient is over the limit of days. Medicaid days denied for other reasons resulting from

failure to comply with Medicaid policies and procedures will not be recognized as indigent days. Inpatient days paid by Medicaid are NOT recognized as indigent days; Hill-Burton days that are utilized to meet an obligation under this program are NOT recognized as free care days. Medicare bad debt days are not allowable as indigent days. Days for accounts written off as bad debt are not allowable as indigent days.

4) If audit of the data submitted for indigent care days results in the hospital not meeting the disproportionate share qualification provisions in the approved state plan or the number of indigent inpatient days are reduced from those originally reported, appropriate action shall be taken to recover such overpayments. No additional payments shall be made if an increase in indigent days is determined.

Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH indigent care payments.

Disproportionate share payments/pool amounts shall be allocated based on consideration of the volume of days in each pool and allowable indigent days or the average cost per day for hospitals in each pool. Disproportionate share payments cumulative for all DSH payments under the pools or any other DSH payment methodology shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not invalidate the one remaining methodology.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule and providing information on a public hearing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest  
Secretary

9408#011

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

#### Standard Utility Allowance and Income Exclusions (LAC 67:III.1965, 1980-1981)

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 emergency rule in the Food Stamp Program effective August 1, 1994. This emergency rule shall remain in effect for a period of 120 days.

Pursuant to compliance with the revisions at 7 CFR 273.9(c)(11), emergency rulemaking is necessary to affect

changes regarding treatment of certain utility reimbursements in determining food stamp eligibility. Section 1981 will be repealed for the purpose of correctly relocating its language within §1965.

### Title 67

### SOCIAL SERVICES

### Part III. Office of Family Support

### Subpart 3. Food Stamps

### Chapter 19. Certification of Eligible Households

### Subchapter I. Income and Deductions

### §1965. Standard Utility Allowance (SUA)

A. The Food Stamp Program shall maintain the provision that allows households to use a single standard utility allowance or actual verified utility costs in calculating shelter costs. The SUA shall be available only to households which incur heating or cooling costs separate and apart from their rent or mortgage. To be qualified, the household must be billed on a regular basis for months in which the household is actually billed for heating or cooling costs. However, during the heating season a household that is billed less often than monthly, but is eligible to use the standard allowance, may continue to use the standard allowance between billing months.

The SUA is available to those households receiving energy assistance payments or reimbursements but who continue to incur heating or cooling costs that exceed the payment during any month covered by the certification period.

B. Any household living in a housing unit which has central utility meters and which charges the household for excess utility costs only, shall not be permitted to use the SUA. However, if a household is not entitled to the SUA, it may claim the actual utility expenses which it does pay separately.

C. Where the household shares a residence and utility costs with other individuals, the SUA shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household shall only be permitted to use its prorated share of the standard allowance, unless the household uses its actual costs.

D. Households can switch between the SUA and actual utility costs at each recertification and one additional time during each 12 month period following the initial certification.

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 20:

### §1980. Income Exclusions

Payments or allowances to provide energy assistance under any Federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, are excluded as income, and the expense is not deductible.

**AUTHORITY NOTES:** Promulgated in accordance with 7 CFR 273.9(c)(11).

**HISTORICAL NOTES:** Promulgated by the Department of Social Services, Office of Family Support, LR 20:

### §1981. Utility Allowance for Indirect Energy Assistance Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:953B., 7 CFR 273.9.



HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:486 (August 1986), amended LR 12:768 (November 1986), repealed by the Department of Social Services, Office of Family Support, LR 20:

Gloria Bryant-Banks  
Secretary

9408#008

## DECLARATION OF EMERGENCY

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

#### Plan Document—Dentists and Oral Surgeons Exclusion, Exceptions

In accordance with the applicable provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board hereby finds that imminent peril to the public health and welfare exists which requires the adoption of the following emergency rule relative to the exclusion of benefits for services rendered by a dentist or oral surgeon in order to avoid disruption or curtailment of services to state employees and their dependents who are covered by the State Employees Group Benefits Program. This emergency rule shall remain in effect for 120 days.

The purpose, intent, and effect of this amendment is to provide an additional exception to the general exclusion of benefits for services rendered by a dentist or oral surgeon. This exception to the exclusion will allow the State Employees Group Benefits Program to pay benefits for oral and maxillofacial surgeries performed by a dentist or oral surgeon when such services are shown to the satisfaction of the program to be medically necessary, non-dental, and non-cosmetic procedures.

Effective July 14, 1994, Article 3, Section VIII, Subsection KK of the Plan Document for the State Employees Group Benefits Program, is amended to read as follows:

No benefits are provided under this contract for:

\* \* \*

KK. Services rendered by a dentist or oral surgeon, except for covered dental surgical procedures (Article 3, Section V), dental procedures which fall under the guidelines of Article 3, Section I(F)(15), procedures necessitated as a result of or secondary to cancer, or oral and maxillofacial surgeries which are shown to the satisfaction of the program to be medically necessary, non-dental, non-cosmetic procedures; and

\* \* \*

James R. Plaisance  
Executive Director

9408#010

## DECLARATION OF EMERGENCY

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

#### Fall Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 1994 fall inshore shrimp season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi state line westward to the eastern shore of South Pass of the Mississippi River, at official sunrise Monday, August 15, 1994; 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, at official sunrise Monday, August 15, 1994; and

Shrimping is prohibited between official sunset and official sunrise in the inshore waters as described in R.S. 56:495 from the western side of the Atchafalaya River Channel out to Eugene Island to the western shore of Vermilion Bay not to include Southwest Pass at Marsh Island south of a line drawn from the following points: 92°00.43' longitude by 29°36.69' latitude and 92°00.30' longitude by 29°36.29' latitude.

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, at official sunrise Monday, August 22, 1994.

The commission also hereby sets the closing date for the 1994 fall inshore shrimp season at official sunset Sunday, December 18, 1994 and grants authority to the Secretary of the Department of Wildlife and Fisheries to change the closing date if biological and technical data indicates the need to do so or if enforcement problems develop.

John F. "Jeff" Schneider  
Chairman

9408#027

## DECLARATION OF EMERGENCY

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

#### Migratory Bird Hunting Seasons for 1994-95

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule:

The hunting seasons for migratory birds established during the early regulatory process for the 1994-95 hunting season shall be as follows:

##### 1994-95 Hunting Seasons for Early Migratory Birds

Dove: Split Season, Statewide, 60 days

September 3 (Saturday) - September 11 (Sunday) 9 days

October 15 (Saturday) - November 6 (Sunday) 23 days

December 10 (Saturday) - January 6 (Friday) 28 days

Daily bag limit 15, Possession Limit 30

Teal: September 17 (Saturday) - September 25 (Sunday) 9 days

Daily bag limit 4, Possession limit 8, Blue-winged, Green-winged and Cinnamon teal only. Federal and State waterfowl stamps required.

Rails: Split Season

September 17 (Saturday) - September 25 (Sunday) 9 days

November 12 (Saturday) - January 11 (Sunday) 61 days

King and Clapper: Daily bag limit 15 in the aggregate, Possession 30.

Sora and Virginia: Daily bag and possession 25 in the aggregate.

Gallinules: Split Season

September 17 (Saturday) - September 25 (Sunday) 9 days

November 12 (Saturday) - January 11 (Sunday) 61 days

Daily bag limit 15, Possession limit 30

Snipe: November 5 (Saturday) - February 19 (Sunday) 107 days

Daily bag limit 8, Possession limit 16

Woodcock: November 28 (Monday) - January 31 (Tuesday) 65 days

Daily bag limit 5, Possession limit 10

NOTE: This will be the set season for the future unless changes in the framework occur.

Shooting Hours:

Teal, Rail, Snipe, Woodcock and Gallinule: One-half hour before sunrise to sunset.

Dove: One-half hour before sunrise to sunset except noon to sunset on September 3-4, October 15-16 and December 10-11 when shooting hours will be 12 noon to sunset.

A declaration of emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned dates, bag limits and shooting hours will become effective September 1, 1994 and extend through sunset on February 28, 1995.

John F. "Jeff" Schneider  
Chairman

9408#029

## DECLARATION OF EMERGENCY

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

#### Oyster Season 1994-95

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:435.1, notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission, hereby declares:

1. The Public Oyster Seed Grounds not currently under lease, and the Bay Junope, and Bay Gardene Oyster Seed Reservations will open one-half hour before sunrise September 7, 1994.

2. The Hackberry Bay, and Sister Lake Oyster Seed Reservations will remain closed during the 1994-95 oyster season.

3. A designated sacking only area east of the Mississippi River will open one-half hour before sunrise on September 7, 1994. The sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from Mozambique Pt. to Pt. Gardner to Grace Pt. at the Mississippi River Gulf Outlet.

4. Those properly marked areas where shell was deposited for oyster cultch in Plaquemines Parish will be closed to oyster dredging for the 1994-95 oyster season.

5. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary, to close areas if oyster mortalities are occurring, or to delay the season, or to close areas where significant spat catch has occurred with good probability of survival or where it is found that there are excessive amounts of shell in seed oyster loads.

6. The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides.

7. The Calcasieu and Sabine Lake Tonging areas will open one-half hour before sunrise on November 1, 1994 and remain open until one-half hour after sunset on March 1, 1995, with the secretary having the authority to extend to compensate for the health closure days.

8. Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

John F. "Jeff" Schneider  
Chairman

9408#028

## DECLARATION OF EMERGENCY

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

#### Zone 1 Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allow the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and, pursuant to a resolution adopted by the Wildlife and Fisheries Commission on May 5, 1994 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1994 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary of the Department of Wildlife and Fisheries hereby orders that the 1994 Spring Inshore Shrimp Season shall be closed in most of Zone 1 at 6 a.m. Friday, July 15, 1994.

Small white shrimp have begun to show up in department samples in portions of Zone 1 and the secretary has determined that a large portion of Zone 1 should be closed to protect these emigrating white shrimp.

Those portions of Zone 1 which will remain open shall be the open waters of:

1. Lake Pontchartrain and Middle Ground;
2. Lake Borgne and the Mississippi Sound;

Not to include any of the passes or tributaries of these waterbodies.

These areas will remain open until 12:01 a.m. Saturday, July 30, 1994 (midnight Friday, July 29, 1994) or until the secretary determines a need to close these areas.

In addition to these areas, the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (Title 76, Part VII, Chapter 3, Section 307 D) shall remain open to shrimping until further notice.

Joe L. Herring  
Secretary

9408#012

## DECLARATION OF EMERGENCY

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

#### Zone 3 Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and 49:967 of the Administrative Procedure Act, which allow the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497, which provides that the commission shall fix no less than two

open seasons each year for all inside waters and, pursuant to a resolution adopted by the commission on May 5, 1994 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1994 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary of the Department of Wildlife and Fisheries hereby orders that the 1994 Spring Inshore Shrimp Season shall be closed in all of Zone 3 at 12:01 a.m., Sunday, July 31, 1994 (midnight Saturday, July 30, 1994).

Small white shrimp have begun to show up in department samples in Zone 3 and the secretary has determined that Zone 3 should be closed to protect these white shrimp.

Joe L. Herring  
Secretary

9408#009

# RULES

## RULE

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

#### Disposal of Dead Poultry (LAC 7:XXI.11771)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 3:2095, relative to the power of the Livestock Sanitary Board to deal with diseases of poultry, the Livestock Sanitary Board amends regulations concerning the disposal of dead poultry.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 117. Livestock Sanitary Board

#### Subchapter D. Poultry

#### §11771. Governing the Sanitary Disposal of Dead Poultry

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

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June

1985), amended LR 17:874 (September 1991), LR 18: 1355 (December 1992), LR 20: (August 1994).

Bob Odom  
Commissioner

9408#015

## RULE

### Department of Economic Development Board of Interior Designers

#### Certificate Reinstatement and Restoration (LAC 46:XLIII.703 and 704)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 37:3171 et seq., the Department of Economic Development, State Board of Examiners of Interior Designers has amended rules detailed below.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLIII. Interior Designers

#### Chapter 7. Issuance and Reinstatement of Certificates of Registration

##### §703. Reinstatement

A. When a certificate has become invalid through failure to renew by December 31, it may be reinstated by the board at any time during the remainder of the following calendar year on payment of the renewal fee, plus a late penalty restoration fee of \$75. In case of failure to reinstate within one year from the date of expiration, the certificate cannot be renewed or reissued except by a new application approved by the board and payment of the registration fee.

B. A licensee may reinstate his or her license only with proof that he or she has completed the continuing education units equal to that number required for each year in which his or her license was invalid.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 20: (August 1994).

##### §704. Restoration of Expired Certificates

A. A certificate expires on December 31 of each year. If the licensee fails to have the certificate reinstated within one year of the expiration date of the certificate, then the applicant may petition the board to have his certificate restored if he files the said petition within three years of the expiration of the certificate. If the board approves the restoration of the certificate, then the applicant must pay the sum of \$75 to the board for the restoration and file a new application with the board.

B. A licensee may reinstate his or her license only with proof that he or she has completed the continuing education

units equal to that number required for each year in which his or her license was invalid.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, State Board of Interior Designers, LR 17:1075 (November 1991), LR 20: (August 1994).

J. Daniel Bouigny  
Chairman

9408#016

## RULE

### Department of Economic Development Office of Commerce and Industry

#### Industrial Ad Valorem Tax Exemption Program (LAC 13:I.Chapter 15)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division is hereby amends the Industrial Ad Valorem Tax Exemption Program, Article VII, Part II, Section 21(F) of the Louisiana Constitution of 1974.

#### Title 13

### ECONOMIC DEVELOPMENT

#### Part I. Office of Commerce and Industry

##### Subpart 1. Finance

#### Chapter 15. Industrial Ad Valorem Tax Exemption Program

##### §1503. Time Limits for Filing of Advance Notifications and Applications (Rule 2)

A. An advance notification of intent to apply for tax exemption shall be filed with the Office of Commerce and Industry on the prescribed form prior to the beginning of construction or installation of facilities. The board may, in its discretion, extend the time for filing, for good cause shown by the applicant. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins. An advance notification fee of \$100 shall be submitted with the form. This paragraph applies to all applications other than those covered in §1505, miscellaneous capital expenditures.

B. Application for tax exemption and the Project Completion Report must be filed with the Office of Commerce and Industry on the forms prescribed not later than three months after the beginning of operations. If the construction is not complete at the time of filing the application, and operation of the project has begun, the applicant must file the Project Completion Report within 30 days after completion of construction (also, see §1525). The deadline for filing the application may be extended pursuant to §1523.

C. An application fee shall be submitted with the

application based on the amount equal to 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$200 and in no case shall a fee exceed \$5,000 per project.

D. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the fee submitted is incorrect or the form is filed incomplete or with incorrect information. The document may be resubmitted with the correct fee. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, or affidavits of final cost which have been accepted for eligible projects, shall not be refundable.

E. In order to include an application for the next scheduled meeting of the Board of Commerce and Industry, applications must be received a minimum of one month prior to the next scheduled Screening Committee meeting date. The authorized board representative, at his discretion, may accept certain applications beyond this date.

F. If applicant submits the application after the required due date established by Subsection B of this Section, the term of the initial contract of exemption may be reduced by one year for each year or portion thereof, that the application is filed late. The board may impose any other penalty for late submission that it deems appropriate.

G. Contractee's eligibility for exemption and the property exempted for the initial contract period will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered. The property exempted for the initial contract period may be increased or decreased based upon review of the application.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

#### **§1505. Miscellaneous Capital Additions (Rule 3)**

Tax exemption applications for miscellaneous capital additions totaling \$5,000,000 or less; or, accumulated capital additions totaling \$5,000,000 or less may be filed. Any dollar amount above the \$5,000,000 limit per application shall automatically be restricted from the total. This type application should be filed using the following guidelines:

1. Not later than March 31 of each year, with the exception of Orleans Parish (see Paragraph 4), applications for tax exemption shall be filed on the prescribed form with the Office of Commerce and Industry, listing the nature, the date and the amount of miscellaneous capital additions completed during the preceding calendar year, and deducting therefrom such replacements made, if any, at their original cost. Such amounts shall be clearly identifiable on the records of the manufacturer.

2. An application fee shall be submitted with the application based on the amount equal to 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an

application fee be smaller than \$200 and in no case shall a fee exceed \$5,000 per project.

3. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the fee submitted is incorrect or the form is filed incomplete or with incorrect information. The document may be resubmitted with the correct fee. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, or affidavits of final cost which have been accepted for eligible projects, shall not be refundable.

4. For Orleans Parish applications for tax exemption on miscellaneous capital additions should be filed not later than October 31 and should cover items completed since August 1 of the preceding year, and deducting therefrom such replacements made, if any, at their original cost. Such amounts shall be clearly identifiable on the records of the manufacturer.

5. The board may restrict the years of eligible exemption, on the initial contract, if applicant submits the application after the required due date established by §1505.1 and 4 which is relative to said location of new manufacturing establishment or addition. The term of the contract may be reduced by one year for each calendar month, or portion thereof, that the application is filed late. The board may impose any other penalty for late submission that it deems appropriate.

6. A miscellaneous capital addition is an accumulation, over a 12-month period of small capital outlay purchases totaling a maximum of \$5,000,000.

7. Contractee's eligibility for exemption and the property exempted for the initial contract period will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered. The property exempted for the initial contract period may be increased or decreased based upon review of the application.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended and promulgated, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

#### **§1507. Manufacturing Establishment Clarified (Rule 4)**

A. The terms "manufacturing establishment" and "addition" as used herein mean a new plant or establishment or an addition or additions to any existing plant or establishment which engage in the business of working raw materials into wares suitable for use or which give new shapes, qualities, or combinations to matter which already has gone through some artificial process.

B. The Board of Commerce and Industry shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §1517, Rule 9) and additions for existing manufacturing establishments within the state of Louisiana. Exemptions are granted to the actual owners of buildings which house a manufacturing operation, and/or facilities which are operated specifically in the

manufacturing of a product. The board recognizes two categories of ownership:

1. owners who engage in manufacturing at said facilities, and,

2. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:

a. buildings to house a manufacturing establishment, and/or,

b. facilities which consist of manufacturing equipment operated specifically in the manufacturing process.

C. If a property owner includes clauses in the lease agreement or correspondence relating to the Industrial Ad Valorem Property Tax Exemption Program ("the program"), that the lessors have joined in and ratified all actions of the lessees, and the lease provisions make it evident that the property owner contemplated and bargained for an actual role in the property renovations and improvements, the lessee could make application for the program.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

**§1509. Office Furniture and Fixtures (Rule 5)**

Office furniture and fixtures are eligible for tax exemption only when they are an integral part of the manufacturing operation and permanently located at the manufacturing establishment.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

**§1511. Portable Equipment (Rule 6)**

Portable equipment is subject to exemption if it is not removed from the exempted property and if such equipment is necessary to the continued maintenance or operation of the manufacturing process. Such property, therefore, is not to be rented, leased or used outside facility boundaries.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

**§1513. Relocations (Rule 7)**

A. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted the original location. Exemption may be granted at the new location on those costs of necessary replacements which are in excess of the original cost at the prior facility.

B. Capital additions for remodeling an existing manufacturing facility may be exempted. If replacements are made, only the capital expenditures in excess of original cost shall be eligible for tax exemption.

C. Exemption may be granted on the cost of rebuilding

partially or completely damaged facility, but only on the amount in excess of the original cost.

D. Original costs, deducted from replacements made or rebuilding, shall be clearly identifiable on the records of the manufacturer.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

**§1515. Used Equipment (Rule 8)**

Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

**§1517. Assessed Property (Rule 9)**

A. The Board of Commerce and Industry shall not consider for tax exemption any manufacturing establishment, or addition thereto, once such establishment or addition has been in operation for a period of six months unless the assessor of the parish in which the establishment or addition is located certifies in writing that said establishment or addition is not on the taxable rolls. If the establishment or addition is on the taxable rolls the Board shall consider granting tax exemption if the assessor and the Louisiana Tax Commission both agree in writing to remove the establishment or addition from the taxable rolls should the tax exemption be granted.

B. Under no circumstances shall the board consider for tax exemption any buildings, equipment and/or additions listed on an application submitted by a manufacturing establishment once ad valorem property taxes have been paid on the buildings and/or equipment listed on said application. Items listed on said application, where ad valorem property taxes have been paid, shall be considered as ineligible items and shall be restricted from the amount applied for.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

**§1519. Land (Rule 10)**

The land on which a manufacturing establishment is located is not eligible for tax exemption.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

**§1521. Inventories (Rule 11)**

Inventories of raw materials used in the course of manufacturing and inventories of finished products are not eligible for tax exemption. However, materials which are an

essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing facility. Some examples of these are: ammonia in a freezing plant, solvent in an extraction plant and catalyst in a manufacturing process.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

### **§1523. Extension of Time (Rule 12)**

The authorized board representative may, upon receipt of a written request, prior to the document due date, grant an extension of time for the submission of applications (§1503, Rule 2 only), project completion reports, or affidavits of final cost for a period not to exceed six months.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

### **§1525. Effective Date of Contract (Rule 13)**

A. The owner of a new manufacturing establishment or addition, shall carefully document the beginning date of effective operation, and also document the date that construction is essentially complete. The owner must file that information with the Office of Commerce and Industry on the prescribed Project Completion Report form not later than three months after the beginning of operations or 30 days after completion of construction, whichever occurs last. The authorized board representative shall indicate, with a return copy of that report, the effective date of the tax exemption contract, which shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever was sooner.

B. The assessment date for Orleans Parish is August 1. The effective date of contracts for a new manufacturing establishment or addition located in Orleans Parish shall be July 31 of the applicable year.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

### **§1527. Affidavit of Final Cost (Rule 14)**

Within six months after construction has been completed, and/or receipt of the fully executed contract whichever is later, the owner of a manufacturing establishment or addition shall file on the prescribed form an Affidavit of Final Cost showing complete cost of the exempted project. A fee of \$100 shall be filed with the Affidavit of Final Cost for an on-site inspection that shall be conducted by a representative of the Office of Commerce and Industry. Upon request by the Office of Commerce and Industry, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

### **§1529. Renewal of Tax Exemption Contract (Rule 15)**

A. If a renewal of the exemption is desired, a renewal application must be filed on the prescribed forms with the Office of Commerce and Industry not more than six months prior to and not later than the expiration of the initial contract. A fee of \$50 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of full compliance with the initial contract of exemption, the contract may be approved by the Board of Commerce and Industry for an additional period up to but not exceeding five years.

B. Contractee's eligibility for a renewal contract and the property exempted for the renewal period will be reviewed by the board using the same criteria that was used for the initial contract and based upon the facts and circumstances existing at the time the renewal application is considered. The property exempted for the renewal period may be increased or decreased based upon review of the renewal application. The term of the renewal contract may be reduced by one year for each calendar month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

### **§1531. Violation of Rules or Documents (Rule 16)**

On the board's initiative, or whenever written complaint on an alleged violation of terms of tax exemption rules or documents is received, the assistant secretary for the Office of Commerce and Industry may cause to be made a full investigation on behalf of the board and he shall have full authority for such investigation including, but not exclusively, authority to call for reports or pertinent records or other information from the contractees and complainants. Results of the investigation will be presented to the board.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

### **§1533. Reporting Requirements for Changes in Operations (Rule 17)**

A. The Office of Commerce and Industry is to be notified immediately of any change which affects the tax exemption contract. This includes any changes in the ownership or operational name of a firm holding a tax exemption contract. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure

to report any changes constitutes a breach of contract and, with approval by the board, shall result in restriction or cancellation of same.

B. The manufacturing establishment shall file annually with the assessor of the parish in which the manufacturing plant is located, a complete taxpayer's report on forms furnished by that assessor in order that the exempted property may be separately listed on the assessment rolls.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

### **§1535. Sale or Transfer of Exempted Manufacturing Establishment**

In the event a contractee should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contractee. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20: (August 1994).

R. Paul Adams  
Financial Incentives Director

9408#026

### **RULE**

#### **Department of Economic Development Polygraph Board**

#### **Continuing Education (LAC 46:LVI.101)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Polygraph Board, has adopted the following rule.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LVI. Polygraph**

#### **Chapter 1. Continuing Education Requirements**

#### **§101. Requirements**

Each certified polygraphist shall comply with the following continuing education requirements.

1. Beginning January 1, 1995, and thereafter, each holder of a certificate issued by the Louisiana State Polygraph Board shall be required to obtain at least 20 continuing education credits during a period of two consecutive calendar years.

2. Any holder of a certificate issued by the board is exempt from the requirement of continuing education for the calendar year in which the certification is initially issued.

3. Credit hours shall be granted as follows:

a. attendance at a seminar conducted by the board or its representative (hour for hour);

b. attendance at other seminars of professional conferences in which the subject matter is substantially related to the polygraph industry (hour for hour);

c. completion of college courses approved by the board in which the subject matter is substantially related to the polygraph industry (eight hours per semester hour);

d. presentation of a polygraph related paper for a seminar or conference (five hours per paper presented);

e. publication of a polygraph related paper in a board recognized professional journal (20 hours per paper);

f. other polygraph related educational programs approved by the board (hour for hour).

4. Each certificate holder shall provide the board secretary with proof of credit hours indicating topic, number of hours and date of program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2836.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Polygraph Board, LR 20: (August 1994).

Forrest M. Kavanaugh  
Chairman

9408#013

### **RULE**

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

#### **Bulletin 741—General Educational Development**

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 an amendment to Bulletin 741, Louisiana Handbook for School Administrators, Standard 1.124.03 as stated below:

#### **Standard 1.124.03**

To qualify for recommendation to take the General Educational Development (GED) Test, a student shall be a veteran or member of the Armed Forces or shall enroll in an adult education program and take the California Achievement Test or the Test of Adult Basic Education at the high school level. An average score of 12.9, with no subject matter area below 12.0, shall be attained by the individual to be authorized to take the General Educational Development (GED) Test.

**AUTHORITY NOTE:** R.S. 17:7(3); R.S. 17:14.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 20: (August 1994).

Carole Wallin  
Executive Director

9408#053



**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 741—Honors Curriculum—Nonpublic**

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted an amendment to the Board of Elementary and Secondary Education Honors Curriculum for the nonpublic students. In order to be consistent with the public school policy, this policy allows a "phase-in" of the new requirement which eliminates the Computer Literacy option for incoming freshmen of the 1994-95 school year.

\* \* \*

Computer Science/\*Computer Literacy ½ Unit

\*Computer Literacy may not be used for incoming freshmen 1994-95 and thereafter.

\* \* \*

**AUTHORITY NOTE:** R.S. 17:11

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 20: (August 1994).

Carole Wallin  
Executive Director

9408#050

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 741—Honors Curriculum—Public**

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted an amendment to the State Board of Elementary and Secondary Education Honors Curriculum. This is also an amendment to Bulletin 741, Louisiana Handbook for School Administrators.

\* \* \*

Computer Science/\*Computer Literacy ½ Unit

\*Computer Literacy may not be used for incoming freshmen 1994-95 and thereafter.

\* \* \*

**AUTHORITY NOTE:** R.S. 17:7

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 20: (August 1994).

Carole Wallin  
Executive Director

9408#049

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 741—Librarians—Nonpublic**

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and adopted an amendment to Bulletin 741, Louisiana Handbook for School Administrators, Standard 6.071.12 (Nonpublic).

**6.071.12** Elementary Schools with a centralized library are required to have a trained librarian for at least 20 hours per week. This librarian does not have to be a certified librarian, but must have earned at least a bachelor's degree from an accredited institution. Elementary schools with classroom collections are not required to have a librarian.

Librarians, who do not meet the above qualifications, may be retained in school provided they were employed prior to the 1993-94 school year as librarians.

A list of these librarians is to be maintained on file in the State Department of Education. Upon their retirement or replacement, these librarians must be replaced with properly qualified personnel under the nonpublic school standards. These individuals may not be transferred or employed by another school unless they meet the requirements stated in the above standard.

**AUTHORITY NOTE:** R. S. 17:7

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 20: (August 1994).

Carole Wallin  
Executive Director

9408#048

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 741—Math Requirements**

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted an amendment to the math requirements for high school graduation. This amendment will permit more flexibility in the math requirements and is an amendment to Bulletin 741, Louisiana Handbook for School Administrators. This amendment was also adopted as an emergency rule and printed in the April, 1994 issue of the *Louisiana Register* on page 378.

**AUTHORITY NOTE:** R.S. 17:7.

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 20: (August 1994).

Carole Wallin  
Executive Director

9408#051

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 1525—Principal Evaluation Committee Report  
(LAC 28:I.917.A)**

The State Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted the addition of the Principal Evaluation Committee Report (1994) as Appendix C of Bulletin 1525, Guidelines for Personnel Evaluation. Page ii of the Table of Contents was amended to include Appendix C - Principal Evaluation Committee Report, 1994. Page 22 of Bulletin 1525 was also amended, under Section 6.0, Evaluation Process Description, second paragraph, add: "For principal evaluation, the process must comply with the recommendations of the Principal Evaluation Committee Report presented in Appendix C."

These revisions to Bulletin 1525 were adopted as an emergency rule, effective March 24, 1994 and printed in the April, 1994 issue of the *Louisiana Register*. The *Louisiana Administrative Code*, Title 28 will be amended to include the Principal Evaluation Committee Report as Appendix C of Bulletin 1525 and as stated below:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§917. Personnel Evaluation Standards and Regulations**

**A. Bulletin 1525**

\* \* \*

3. Bulletin 1525 incorporates the Louisiana Components of Effective Teaching and selected pages of the Procedure Manual for the local teacher evaluation program.

4. Bulletin 1525 also includes the Principal Evaluation Committee Report as Appendix C, addendum 1994.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.5 et seq.

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 20: (August 1994).

Carole Wallin  
Executive Director

9408#052

**RULE**

**Board of Elementary and Secondary Education**

**1995-96 Vocational Education State Plan  
(LAC 28:I.939)**

The State Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted the Louisiana Program Plan for the Administration of Vocational Education, FY 1995-96. Adoption of this Plan for FY 1995-96 is an

amendment to the Administrative Code, Title 28 as noted below:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§939. Vocational Education State Plan**

A. The Louisiana Program Plan for the Administration of Vocational Education FY 1995-96 is adopted. This Plan meets the intent of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 which includes the use of a combination Pell Grant and JTPA formula. The Plan contains definitions, objectives, state board priorities, and planned use of federal funds. Fiscal control and accounting procedures are given as well as provisions for program evaluation. Assurance statements are provided as required by federal law. Duties and functions of the State Council on Vocational Education are given.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with P. L. 101-392

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 20: (August 1994).

The Program Plan may be seen in its entirety in the Office of the Louisiana Register, 1051 North Third Street, Baton Rouge, LA located on the Fifth Floor of the Capitol Annex; the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA; or in the Office of Vocational Education located in the Department of Education Building.

Carole Wallin  
Executive Director

9408#047

**RULE**

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

**Employment Opportunity Program  
Due Diligence Requirements (LAC 28:V)**

The Student Financial Assistance Commission amends the Louisiana Employment Opportunity (LEO) Loan Program Policy and Procedure Manual due diligence requirements.

The described items are amended as follows:

**4.2.4.B.** Add 110 days.

**4.2.4.C.** Consider that date to be the date on which repayment status begins and the first payment is due.

**4.2.7.A.1.b.** Send a properly completed LEO repayment schedule to the borrower and the employer 30 days prior to the date repayment begins.

**4.2.7.A.1.c.** The lender shall forbear and accrue interest from the date of disbursement through the first payment due date.

**5.3.F.** Forbearance may be granted for prior periods of

delinquency or future periods or a combination of both, not to exceed six months per agreement.

5.3.G. Thirty days prior to the end of the date of a forbearance the lender shall send the borrower and employer, if applicable, a new repayment schedule establishing the first payment due date not more than 30 days after the end date of the forbearance.

Jack L. Guinn  
Executive Director

9408#019

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Lender of Last Resort Program (LAC 28:V.Chapter 3)

The Student Financial Assistance Commission amends the Loan Program Policy and Procedure Manual policies and procedures for Lender of Last Resort (LOLR). Section 2.4 of the manual will be amended to read as follows:

#### Title 28

#### EDUCATION

#### Part V. Student Financial Assistance

#### Chapter 3. School Eligibility and Participation

#### Subchapter D. Lender of Last Resort

#### 2.4 Lender of Last Resort Policy

To ensure that students are afforded the opportunity to pursue post-secondary education at any institution eligible to participate in the Federal Family Education Loan Program (FFELP), LASFAC shall provide a Lender of Last Resort Program (LOLRP) which ensures that all students eligible to borrow from the Federal Stafford Loan Program have access to the loans provided by that program. Such loans shall not exceed educational need nor be less than \$200. LASFAC's LOLRP is structured to minimize the student's burden in obtaining a Federal Stafford Loan. Accordingly, students that are individually denied a Federal Stafford Loan by a program eligible lender, or those denied loans on the basis of the institution they attend, shall have access to loans in accordance with the procedures outlined herein.

##### 2.4.1 Student Eligibility

In order to qualify for a LOLRP loan, the student must:

A. be a Louisiana resident and/or attending a Louisiana institution;

B. meet Federal Stafford Loan eligibility requirements.

##### 2.4.2 Lender Eligibility

Lender of Last Resort Loans will be arranged directly by LASFAC.

LASFAC will enter into agreements with participating lenders who wish to participate in the LOLRP Program.

##### 2.4.3. Lender of Last Resort Program Procedures

###### A. Student Based Procedures

1. Initial application follows normal procedures:

a. the student completes the Stafford loan

application, indicating his lender of choice and forwards it to his school for certification;

b. the school certifies the loan and (i) sends the application to LASFAC, or (ii) transmits the data to LASFAC via IDEAL and sends the application to the lender;

c. LASFAC guarantees the loan and forwards the loan application (if applicable) and notice of guarantee to the lender of choice.

2. If the loan is denied, the lender returns the application to LASFAC along with a denial letter personally addressed to the borrower.

3. LASFAC will reissue the guarantee and forward the original application to the designated LOLRP participating lender.

4. LASFAC will send the borrower, no later than 60 days after the original application is filed:

a. the original lender's letter of denial;

b. notification that the loan has been approved under the LOLRP program;

c. counseling materials specifically outlining the borrowers repayment obligations.

5. LOLRP loans are subject to disbursement procedures applicable to other Stafford loans.

###### B. School Based Procedures

1. If a participating school has been notified in writing by lending institutions that comprised over 90 percent of LASFAC's volume for the prior federal fiscal year, that these lenders will not approve Federal Stafford loans for students attending the institution, the school may seek school based eligibility for LOLRP:

a. LASFAC will provide a list of lenders and their most recent annual volume/percent on request;

b. the school shall obtain and submit copies of the denial letters to LASFAC;

c. once lenders comprising 90 percent of the agency's volume have provided letters, LASFAC will grant the school LOLRP status for all eligible students in attendance;

d. school-based eligibility will be established annually;

e. lenders will be informed of the school's status.

f. the school will be provided a list of LOLRP lenders, along with their DE and suffix code and must assure that loans are assigned proportionately to each LOLRP lender.

2. The student will obtain a LOLRP application packet from the financial aid office at the school.

The student will complete the borrower section of the LOLRP student loan application and submit the completed information to the financial aid office. The school will certify the student loan application, making sure the correct DE/suffix codes have been included, and transmit the loan application to LASFAC through the IDEAL System and forward the completed application to the lending institution or the lender's designated servicer.

3. The school must maintain the original denial letters from lending institutions indicating that they will not make loans to students at that institution.

4. The lender of last resort (LOLR) or the LOLR's designated servicer will complete the lender section and upon receipt of LASFAC's electronically transmitted Notice of

Guarantee and Disclosure Statement, disburse the loan in accordance with applicable policies/procedures.

Jack L. Guinn  
Executive Director

9408#021

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

#### LEO Collection Due Diligence (LAC 28:V)

The Student Financial Assistance Commission amends the Louisiana Employment Opportunity (LEO) Loan Program Policy and Procedure Manual policies and procedures for Collection Due Diligence. Chapter 7 of the manual will be amended to read as follows.

Delete the text of 7.1.1 and replace it with the following:

#### 7.1.1 Due Diligence of Lender in Pursuing Delinquencies and Ineligible Borrowers

A. A lender shall pursue a borrower who becomes delinquent in payment of his LEO Loan and a borrower who is, subsequent to disbursement, determined to be ineligible for the loan. Collection due diligence required of the lender begins on the 16th day of delinquency, should be documented in the collection history, and includes completion of the following activities prior to sending the final demand letter:

1. four letters requesting payment with a tone increasing in intensity as the delinquency continues;

2. five attempts to contact the borrower by telephone. In the event the borrower has no phone, the phone is disconnected or phone number is unknown, telephone calls should be made to the references;

3. when the borrower has not been reached by phone, the lender shall attempt to contact each reference by phone in order to assist the lender in making a direct phone contact with the borrower;

4. no gap of more than 45 days must elapse between collection activities. Note that when a loan reaches 80 days of delinquency the lender may, and by the 210th day of delinquency must, submit a preclaims assistance request (see 7.2 for procedures);

5. after completion of the due diligence activities, no earlier than the 150th day, nor later than the 235th day, the lender must send a final demand letter to the borrower, allowing 30 days for a response prior to filing the claim. The final demand must inform the borrower that his credit will be severely impaired and that he is liable for court action.

B. Failure to comply with the practices outlined could result in the loss of the guarantee or delay the payment of claims and/or result in interest penalties. Improper disbursements made to ineligible borrowers due to lender negligence or improper conduct are not guaranteed by LASFAC.

Delete the current first sentence of 7.1.2 and replace the current second sentence with "The requirement to request Preclaim Assistance (PCA) is not satisfied until the Preclaim Section has received and acknowledged the lender's PCA request."

Delete 7.2.1 A 3 and replace it with "Request Preclaim Assistance when the account becomes no less than 80 nor more than 210 days delinquent."

Delete the 7.2.1 B title "Delinquency Due Diligence" and replace it with "Delinquency Begin Date".

Delete 7.2.3 A 1 and replace it with the following:

1. When a loan reaches 80 days of delinquency the lender is to submit a LASFAC PCA Request. This request must be filed no later than the 210th day of delinquency in order to allow Preclaims 60 days to prevent the default. The earlier the lender files, the more assistance he will receive in resolving the delinquency.

Delete "90th day" from the last sentence of 7.2.3 A 2 and replace it with "80th day."

Delete "90 days" from 7.2.3 B and replace it with "80 days."

Delete "90 days" from 7.2.3 F 1 and replace it with "80 days."

Delete both occurrences of "90 days" from 7.2.3 J and replace them with "80 days."

Delete "90 days" from the first sentence of 7.2.4 B 1 and replace it with "80 days."

Delete "180 days" from the first sentence of 7.2.4 B 2 and replace it with "235 days."

Jack L. Guinn  
Executive Director

9408#020

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Scholarship/Grant Application Deadline (LAC 28:V)

The Student Financial Assistance Commission, Office of Student Financial Assistance, amends the Scholarship and Grant Policy and Procedure Manual to revise III C.1)a.; IV C.1)a.; V C.1)a. and VI C.1)a. to read as follows:

"Submit the completed Free Application for Federal Student Aid (FAFSA) by the deadline for state student aid defined in Chapter IX, Section G, of this manual and in the instructions for the FAFSA."

and to add paragraph IX, General Scholarship/Grant Policy, G to read as follows:

"Application Deadlines. Applicants for the Louisiana Tuition Assistance Plan (TAP), T.H. Harris Scholarship, Paul Douglas Teacher Scholarship and Rockefeller State Wildlife Scholarship programs must:

1. for the 1994-95 award year, complete and mail

either the Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by April 1, 1994. As proof of compliance with this requirement, OSFA will accept the following:

a. ESAR record indicates that the original 1994-95 application was received by the processor prior to April 16, 1994;

b. verbal or written verification, by federal processor staff to OSFA staff, that the original 1994-95 application was received by the processor prior to April 16, 1994;

c. a certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated April 1, 1994, or prior;

d. other forms of verification, including notarized or certified statements, will not be accepted as proof of compliance with the deadline requirement;

2. for the 1995-96 and subsequent award years, complete and mail either the Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by March 15, to be received at the address on the FAFSA by April 1, or the next business day if the first falls on a weekend or holiday. As proof of compliance with this requirement, OSFA will accept the following:

a. a certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to March 16;

b. ESAR record indicates that the original application was received by the processor by April 1;

c. verbal or written verification, by federal processor staff to OSFA staff, that the original application was received by the processor by April 1;

d. other forms of verification, including notarized or certified statements, will not be accepted as proof of compliance with the deadline requirement."

Jack L. Guinn  
Executive Director

9408#018

## RULE

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

#### Emission Reduction Credits Banking (LAC 33:III.Chapter 6) (AQ85)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2051 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 by the adoption of LAC 33:III.Chapter 6, (AQ85).

These changes will address some of the following: The original language in §621.B.1 was changed to read that ERCs which have already been used or for which a permit application has been submitted (either for netting or offsetting purposes) shall not be reduced in quantity or confiscated under any circumstances. A sentence was added to read that a 30-day comment period will be allowed for the affected facility(ies) to respond to the department's confiscation or to submit an alternative emissions reduction proposal. B.4 was added to read "Refunding of Unused ERCs...If all of the ERCs withheld for the reasonable further progress demonstration are not utilized, then the department shall refund the unused ERCs to the generating sites on a pro rata basis. Refunds will be in a direct proportion to a site's individual contribution to the amount of ERCs withheld for reasonable further progress. The period of time that an ERC was held by the department will not count toward the contemporaneous period for netting nor the ten-year life for offsetting purposes."

Section 615.A was changed to read "after adoption of the final rule, shall be submitted on March 1, following the year in which the reductions occur. Thereafter, the bank balance (and the applicant's certification) should be submitted annually on March 1."

Section 615.B was changed to read "prior to adoption of the final rule, shall be submitted within six months after adoption of the final rule. Thereafter, the bank balance (and the applicant's certification) should be submitted annually on March 1."

Section 617.I was changed to handle requests for recalculation of ERCs.

Section 623.A was changed to allow a provision for partial withdrawal of ERCs.

Section 182(b)(1) of the CAAA requires all ozone nonattainment areas classified as moderate and above to submit a Reasonable Further Progress Plan by November 15, 1993 which describes how the area will achieve an actual VOC emission reduction of at least 15 percent during the first six years after enactment of the CAAA. The 1996 target level of emissions is the maximum amount of ozone season VOC emissions that can be emitted by an ozone nonattainment area in 1996 for that nonattainment area to be in compliance with the 15 percent Reasonable Further Progress Plan requirements.

The Banking Rule is part of the Contingency Measures for the 15 percent VOC Reduction RFP.

### Title 33

## ENVIRONMENTAL QUALITY

### Part III. Air

## Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits Banking

### §601. Background and Purpose

#### A. Background

1. *Federal Register*, Vol. 51, No. 233, Thursday, December 4, 1986, contained EPA's Emissions Trading Policy Statement; General Principles for Creation, Banking and Use of Emission Reduction Credits. This Policy Statement replaced the original bubble policy (44 FR 71779, December 11, 1979) and describes emissions trading and sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act and applicable federal regulations. Emissions trading includes bubbles, netting, and offsets as well as banking (storage) of emission reduction credits (ERC) for future use. These alternatives do not alter overall air quality requirements; they give states and industry more flexibility to meet those requirements. EPA endorses emissions trading and encourages its sound use by states and industry to help meet the goals of the Clean Air Act more quickly and inexpensively. This regulation does not alter new source review requirements nor exempt owners or operators of stationary sources from compliance with applicable preconstruction permit regulations in accord with 40 CFR 51.18, 51.24, 51.307, 52.21, 52.24, 52.27, and 52.28. Interested parties should, however, be aware that bubble trades are not subject to preconstruction review or regulations where these trades do not involve construction, reconstruction, or modification of source within the meaning of those terms in the regulations listed above.

2. *Federal Register*, Vol. 58, No. 34, Tuesday, February 23, 1993, sets forth proposed Economic Incentive Program (EIP) Rules. Pursuant to sections 182(g)(3), 182(g)(5), 187(d)(3), and 187(g) of the 1990 Clean Air Act Amendments (CAAA), the use of EIPs is mandated for ozone nonattainment areas classified as severe or extreme. It is optional in ozone nonattainment areas classified as marginal, moderate, or serious. EIPs, or ERCs also serve to demonstrate that the state can meet certain emission reduction milestones required in the 15 percent VOC Reduction Reasonable Further Progress (RFP) Plan for Ozone Nonattainment Areas.

3. An Emission Reductions Credits Program has been identified as a contingency measure for Louisiana's 15 percent VOC Reduction RFP Plan. As such, sources are prohibited from withdrawing any ERCs below the amount claimed by the LDEQ in its three percent contingency measure.

#### B. Purpose

1. This rule establishes the means of enabling sources to identify and preserve or acquire emission reductions for NSR offsets as well as for use in netting purposes. The pollutants to which this rule applies are nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC). Interpollutant trading, for example, using a NO<sub>x</sub> credit to offset a VOC emission, is not allowed.

2. Act 570 of the 1993 Regular Legislative Session mandates the enactment of rules, by September 1, 1994, that provide for a vehicle scrappage program within the serious nonattainment area in exchange for emission reduction credits, banking, and trading criteria established by rule.

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: (August 1994).

### §603. Applicability

The only geographical areas in which eligible sources may participate in the emissions banking program are the federally designated ozone nonattainment areas. The following sources are eligible to participate in the emissions banking program for a designated ozone nonattainment area: any stationary point source, any area source, and any mobile source registered in the designated ozone nonattainment area. The rule shall apply to the following pollutants: NO<sub>x</sub> and VOC. Other sources in areas being redesignated ozone attainment may participate in the emissions banking program on a voluntary basis.

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: (August 1994).

### §605. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations except as defined within the separate Subchapters or as follows:

*Actual Emissions*—the actual rate of emissions of an air contaminant from a source operation, equipment, or control apparatus. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the selected time period. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data is not available;

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the assistant secretary, Office of Air Quality and Radiation Protection), source tests (only if suitable emission factors are not available), waste disposal records, emission reports previously submitted to the department such as emission inventory reports, SARA Title III, or MACT compliance

certifications, and other methods specifically approved by the administrative authority.

**Air Contaminant**—any substance, other than water or distillates of air, present in the atmosphere as solid particles, liquid particles, vapors, or gases.

**Allowable Emission/Potential to Emit**—the rate at which an air contaminant may be emitted into the outdoor atmosphere. This rate shall be based on the maximum rated capacity of the equipment and 8760 hours per year of operation, unless the equipment is subject to federally enforceable limits which restrict the operating rate, hours of operations, or both. In such cases this rate is based on the most stringent of the following:

- a. applicable national standards of performance for new stationary sources (NSPS) as set forth in 40 CFR Part 60;
- b. applicable national emission standards for hazardous air pollutants (NESHAP) as set forth in 40 CFR Part 61;
- c. applicable emission, equipment, and operating standards as set forth in this Chapter, including those with a future compliance date;
- d. applicable emission limitations specified in a federally enforceable permit, including limitations (best available control technology [BACT] and lowest achievable emission rate [LAER] requirements) with a future compliance date;
- e. any emission limitation in an applicable state implementation plan (SIP); and
- f. applicable acid rain SO<sub>2</sub> and NO<sub>x</sub> control requirements as defined under Title IV of the 1990 Clean Air Act Amendments and subsequent regulations.

**Alter**—to effect an alteration of equipment or control apparatus.

**Alternative Fuel**—with respect to any source operation, any fuel whose use is not authorized by any permit or, for a source operation without a permit, any fuel not used in the source operation since December 31, 1976.

**Bankable Emission Reductions**—emission reductions of pollutants and their precursors for which ambient air quality standards exist and which meet the provisions of this rule. Such reductions may be deposited in the ERC bank. Once banked and certified, the emission reductions become ERCs.

**Bank**—the repository for ERCs and includes the ERC banking register/database.

**Bank Balance Sheet**—the form that is completed and submitted along with supporting information to the department to request recognition and certification of potentially bankable emission reductions. A banking application is submitted by the owner(s) of the source creating bankable emission reductions or the owner's designated representative.

**Banking**—a system for quantifying, recording, storing, and preserving ERCs so that they may be used or transferred for use at a future date.

**Banking Register/Database**—the document/database that records all ERC deposits, withdrawals, transfers, and transactions.

**Baseline**—that level of emissions below which any additional reductions may be counted (credited) for use in trades.

**Baseline Emission Level**—the quantity of emissions during the defined baseline period that is used in calculating ERCs.

**Baseline Period**—the period of time over which the historical emissions of a source are averaged. This period shall be a time period of at least two consecutive years within the five years immediately preceding the date the emission reduction occurred that is determined by the department to be representative of normal source operation. The baseline period may be determined on either a calendar year or consecutive 12-month or consecutive 365-day basis.

**Bubble**—an alternative emission control plan where two or more existing emission points are regarded as being placed under a hypothetical dome, which is then regarded as a single emission point. Stationary sources under a bubble may reallocate emission decreases and increases, so long as the net effect results in the same or better ambient air quality and the same or less air emissions. Bubbles need not be confined to a single stationary source. Bubbles must meet all the requirements contained in the Federal Emissions Trading Policy Statement (51 FR 43814, December 4, 1986) or other applicable regulations.

**Criteria Pollutant**—ozone (O<sub>3</sub>), PM-10, sulfur oxides measured as sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOC) measured as nonmethane hydrocarbons, carbon monoxide (CO), or lead (Pb), or any other air contaminant for which national ambient air quality standards have been adopted.

**Emissions Averaging**—defined in section 112(d) of the 1990 CAAA; involves the reduction of hazardous air pollutants within a facility by at least as much as would otherwise occur if the source were controlled point by point.

**Emission Offset**—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing facility, which reduction is used to offset the increase in allowable emissions of air contaminants from a new or altered facility.

**Emission Reductions**—the decreases in emissions associated with a physical change or change in the method of operation at a facility.

**Emission Reduction Credit**—an emission reduction certified by the administrative authority in accordance with the requirements of the current regulations that represents a decrease in the quantity of a pollutant discharged from a source. To be valid, emission reduction credits must be surplus, enforceable, permanent, and quantifiable.

**Emission Reduction Credit Certificate**—a document certifying title to a defined quantity and type of ERCs issued by the department to the owner(s) identified on the certificate.

**Enforceable**—each transaction that revises any emission limit must be approved by the state and be federally enforceable. Means of making emission limits federally enforceable include SIP revisions, EPA-approved generic emissions trading regulations, and permits issued by states under EPA-approved SIP regulations, as well as permits issued by EPA or by states under delegation. ERCs due to trading activities should be incorporated in an enforceable compliance instrument which requires recordkeeping based on the averaging period of the emission limit, so that compliance may easily be determined for any single averaging period.

**Equipment**—any device capable of causing the emission of an air contaminant into the open air and any stack, chimney,

conduit, flue, duct, vent or similar device connected or attached to or serving the equipment.

**Facility**—the combination of all structures, buildings, equipment, and other operations located on one or more contiguous or adjacent properties owned or operated by the same person.

**Federally Enforceable**—as applied to emission reductions, all limitations and conditions which are enforceable by the U. S. EPA administrator, including the following:

a. requirements contained in 40 CFR Parts 60 and 61 (New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants);

b. requirements within any applicable SIP;

c. any requirements contained in permits issued pursuant to 40 CFR 52.21 (Prevention of Significant Deterioration) or comparable state regulation (LAC 33:III.509);

d. any requirement contained in permits issued pursuant to 40 CFR 52.24 (Nonattainment New Source Review) or comparable state regulation (LAC 33:III.504);

e. requirements contained in operating permits issued pursuant to Louisiana permitting programs approved by EPA as meeting the requirements of Title V of the 1990 Clean Air Act Amendments; and

f. requirements contained in a Louisiana regulation, a Louisiana operating permit, or a Louisiana-issued enforcement instrument which is submitted to EPA and approved as a source-specific SIP revision. ERCs must be federally enforceable before they are allowed as banked emissions credits.

**Fugitive Emissions**—any emissions of an air contaminant into the open air which do not pass through any stack or chimney.

**Hazardous Air Pollutant Offset**—the use of an ERC, which is equal or greater in quantity, and which is considered to be more hazardous, to compensate for emission increases of a hazardous air pollutant from a source to avoid being considered a modification according to the requirements of section 112(g) of the 1990 CAAA.

**Minimum Offset Ratio**—the minimum acceptable ratio of emission offsets from an existing facility to increases in allowable emissions from a new or altered facility.

**Mobile Emission Reduction Credits (MERCs)**—real, quantified emission reductions generated by a mobile source, approved by the department.

**Netting**—use of an ERC created at an existing facility to compensate for emission increases associated with a proposed modification at the same facility and to, thus, avoid the requirements of new source review. ERCs used for netting are always internal to the source seeking credit.

**Nonpermitted Emissions**—those emissions of an air pollutant into open air from nonpermitted emission sources that are not required to have air pollution permits. Nonpermitted emissions may include emissions from mobile sources, exempt equipment, and "grandfathered" sources that were never required to be permitted under the state's new source review rule.

**Offset**—use of an ERC obtained from an existing source or emissions unit to compensate for the increase in emissions

from a new or modified source or emissions unit in a nonattainment area in order to ensure that reasonable further progress is maintained. ERCs used for offsetting may be either internal or external to the source seeking credit but must meet the requirements specified in Section 182 of the 1990 Clean Air Act Amendments.

**Permanent**—a reduction shall be guaranteed through an enforceable permit limitation confirming the amount and duration of the decrease or other enforceable mechanism including, but not limited to, permanently dismantling the emissions unit or surrendering the permit. The department may consider an emission reduction whose quantity varies with time to be permanent by converting it to an annual equivalent emission reduction. Only permanent reductions in emissions can qualify for credit.

**Quantifiable**—in reference to emission reductions, the amount, rate, and characteristics of the emission reduction can be estimated through a reliable method. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process parameters, production inputs, modeling, or other reasonable measurement practices. The same method of calculating emissions should generally be used to quantify emission levels both before and after the reduction.

**Reasonable Further Progress**—annual incremental reductions in emissions of a given air pollutant (including substantial reductions in the early years following approval or promulgation of a SIP and regular reductions thereafter) that are sufficient in the judgment of the U.S. EPA to provide for attainment of the applicable ambient air quality standard within a specified nonattainment area by the attainment date prescribed in the SIP for such area.

**Scrapping**—the process by which a motor vehicle is permanently removed from service.

**Shutdown**—the cessation or permanent curtailment of operations or emissions. The date of the emission reduction created by the shutdown is the date of the last actual emissions from the source.

**Shutdown Credits**—credits resulting from the shutdown of a source.

**Stack or Chimney**—a flue, pipe, tube, conduit, channel or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.

**Surplus Emission Reductions**—emission reductions that are voluntarily created for an emissions unit and have not been required by any local, state, or federal law, regulation, order, or requirement and are in excess of reductions used to demonstrate attainment of federal and state ambient air quality standards.

**Transfer**—the conveyance of an ERC from one entity to another. All "banking" transactions shall be recorded in the ERC banking register/database and shown as debits and credits for the appropriate entity(ies).

**Unpermitted Sources**—those sources which emit air pollutants into the ambient air and which are not required to have air permits. Unpermitted sources may include, but are not limited to, mobile sources, area sources, and small sources not required to obtain air permits.



**Vehicle Scrapage Program**—a program in which old vehicles are scrapped in exchange for MERCs.

**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: (August 1994).

### §607. Stationary Point Source Emission Reductions

#### A. Pollutants

1. Reductions in the following types of air emissions are eligible for banking pursuant to this rule:

- a. volatile organic compounds (VOCs) in marginal or above ozone nonattainment areas; and
- b. nitrogen oxides (NO<sub>x</sub>) in moderate or above ozone nonattainment areas.

2. The applicant may choose to speciate the pollutants according to individual compounds upon application to bank the ERCs.

**B. Eligible Sources.** Sources that may create and bank emission reductions include, but are not limited to, the following permitted and unpermitted source types, regardless of the size of the source or the level of emissions:

1. stationary sources, including point sources, fugitive emission sources, and off-shore sources;
2. mobile sources, including on-road and off-road sources and marine vessels; and
3. area and indirect sources, including nonpoint sources and agricultural sources.

**C. Acceptable Methods of Creation.** Methods of reducing emissions to receive credit under this rule include, but are not limited to the following:

1. enforceable installation of add-on control equipment (an actual emission reduction resulting from the installation of a level of control greater than that which is required by regulation, permit, or SIP provision if the applicant accepts a permit provision specifying a lower level of emissions);

2. enforceable change in process(es);

3. enforceable change in process inputs, formulations, products or product mix, or raw materials (an actual emission reduction resulting from more effective operation and maintenance of abatement and process equipment if the applicant accepts a permit provision specifying a lower level of emission);

4. enforceable reduction in actual emission rate(s);

5. enforceable shutdown of emitting units or facilities (an actual emission reduction resulting from a permanent shutdown of equipment after January 1, 1990, and which causes a loss of capability to produce emissions that were reported in the 1990 or later emissions inventory);

6. enforceable production curtailment(s);

7. enforceable reductions in operating hours;

8. other enforceable methods that might be applicable to eligible source types; and

9. enforceable reduction in emissions from area and mobile source types.

**D. Timing of the Emission Reduction.** In order to be eligible for banking, emission reductions must occur after December 31, 1989. Creditable emission reductions made prior to December 31, 1989, are not eligible for banking and can only be used for netting.

**E. Geographic Areas.** Each bank is limited to a designated nonattainment area and separate accounts shall be maintained for NO<sub>x</sub> and VOCs.

#### F. Criteria for ERC Approval

1. Emission reductions shall be recognized as ERCs only after the approval of the department has been obtained. The department shall certify emission reductions as ERCs that are determined to be:

- a. surplus;
- b. permanent;
- c. quantifiable; and
- d. enforceable.

2. Removal of Emission Reduction Credits either for use by a facility or to meet the 15 percent VOC RFP Plan (Section 182 (b)(1)(A) of the CAAA) will be done in accordance with Section 621.

**G. Procedures for Calculating the Emission Reduction.** The following procedures shall be used in calculating the quantity of creditable air emission reductions:

1. define the baseline period. The applicant shall first determine the two-year baseline period, as defined in LAC 33:III.605, over which the emission reductions are to be calculated;

2. quantify baseline emissions. The baseline emissions shall be calculated by determining the actual emissions during each year of the baseline period. The actual emissions for each year of the baseline period shall be averaged to determine the average baseline emission level;

3. calculate allowable future emissions. The applicant shall calculate the allowable future emissions for the source. The allowable emissions shall be based on the maximum emissions capacity of the source except that physical and operational limitations, including air pollution control equipment, restrictions on hours of operation or the type of material combusted, stored, or processed or other emission restrictions that will be included in a federally enforceable air permit or applicable rules and regulations may be considered in calculating the allowable future emissions; and

4. calculate the emission reduction credit. The ERC shall be calculated by subtracting the allowable future emissions from the baseline emission level.

**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: (August 1994).

### §609. Area Source Emission Reductions - Reserved

### §611. Mobile Sources Emission Reductions - Reserved

### §613. ERC Bank Balance Sheet

**A. ERC Bank Balance Sheet.** For each applicable pollutant (VOC and NO<sub>x</sub>), each owner or operator shall maintain an ERC Bank Balance Sheet which shall include the minimum information of company name, physical location, pollutant, date of latest transaction, permit numbers affected, date of ERC transaction, date of emissions increase/decrease, ERCs deposited (TPY), ERCs relied upon for netting (TPY) ERCs used for offsets (TPY), ERCs available for netting (TPY) and ERCs available for offsets (TPY).

**B. Netting and Offsets.** In order to keep track of all transactions and the ERC balances and to prevent an ERC

from being used for both netting and offsets, the following procedures shall be followed:

1. each ERC that is created is assigned an item number;
2. each transaction is shown on a separate line under the appropriate item number;
3. ERCs that are relied upon for netting are deducted from the balance available for offsets but not from the balance available for netting (since all emission increases and decreases are included in the contemporaneous period); and
4. ERCs that are used for internal or external offsets are deducted from both balances.

C. Recordkeeping Requirements. Each owner or operator shall maintain records on all ERCs deposited in the ERC banking database. This information shall be available, upon request, for inspection by the administrative authority. The records shall be maintained for the life of the ERC and shall include the minimum information: permit number, date permit issued, date of start-up of the increase/decrease, emissions (actual) before the start-up (TPY), emissions (allowable) after the project (TPY), emission change for the project, creditable increases/decreases (TPY), brief description of project, and creditability of project. Creditability of projects shall be defined by all applicable regulations (RACT, NSPS, etc.), emissions before the project (baseline period, hours/year average, percentage of capacity, fuel usage), and emissions after the project (lower of potential or allowable emissions).

D. Schedule. All applications for banking ERCs where the emission reductions occurred prior to the date this banking rule was adopted shall be submitted within six months after the date of promulgation of the final rule. All applications for banking ERCs where the emission reductions occurred after the date this banking rule was adopted shall be submitted on March 1 following the year in which the reduction occurred. The larger of the two balances (i.e., the balance available for netting or the balance available for offsets) from the ERC Bank Balance Sheets of Subsection A of this Section shall be submitted to the department on March 1 of each year together with the certification specified in Subsection E of this Section. All emission reductions must meet the timing restrictions set forth in LAC 33:III.607.D in order to be eligible for banking as ERCs.

E. Certification. A certifying statement is to be signed by the owner(s) or operator(s) and shall accompany each ERC bank balance that is submitted to attest that the information contained in the balance is true and accurate to the best knowledge of the certifying official. The certification shall include the full name, title, signature, date of signature, and telephone number of the certifying official.

F. Inclusion of ERC Bank in the Emissions Inventory. The administrative authority shall be responsible for including the banked ERCs in the current emissions inventory so that the credits are considered to be "in the air" for air quality planning purposes. Any failure by the regulatory agency to fulfill this responsibility shall not affect the validity of the ERCs in any manner.

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: (August 1994).

#### **§615. Schedule for Submitting Applications**

A. All bank balance sheets for banking emission reductions where the emission reductions occurred after adoption of the final rule shall be submitted on March 1 following the year in which the reductions occurred. Thereafter, the bank balance and the applicant's certification should be submitted annually on March 1.

B. All bank balance sheets for banking emission reductions where the emission reductions occurred prior to adoption of the final rule shall be submitted within six months after adoption of the final rule. Thereafter, the bank balance and the applicant's certification should be submitted annually on March 1.

C. Owner(s) or operator(s) of major sources in nonattainment areas with VOC or NO<sub>x</sub> emission reductions not identified through the process described in Subsection B of this Section will be confiscated. A notification of confiscation will be sent by the department at such time that a permit modification or renewal is submitted using "unbanked" VOC or NO<sub>x</sub> emission reductions described in Subsection B of this Section as offsets or for netting purposes.

D. Bank balance sheets for banking emission reductions which are to be made as part of a project which includes an increase of emissions and for which the reduction will serve to net out or offset the increase may be submitted as part of the permit application for the proposed increase. Such reductions will be reviewed for applicability as an ERC concurrently with the review of the permit application.

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: (August 1994).

#### **§617. Review and Approval of ERC Bank Balance Sheets**

A. Determination of a Complete Application. An ERC bank balance sheet shall be deemed complete when the department has determined that sufficient information is available to evaluate the ERC bank balance sheet. The department shall determine whether an ERC application is complete not later than 30 calendar days following receipt of the application, or after a longer time period agreed upon in writing by both the owner(s) or operator(s) and the department. Upon determination that the application is complete, the department shall notify the owner(s) or operator(s) in writing.

B. Submittal of Additional Information. If the department determines that the bank balance sheet is not complete, the owner(s) or operator(s) shall be notified in writing of the decision, specifying the additional information that is required. The owner(s) or operator(s) shall have 90 days to submit the requested information. Upon receipt of all requested information, the department shall have 30 days to determine whether the application is complete. If no data is submitted or the application is still incomplete, the department may cancel the ERC bank balance sheet with written notification to the owner(s) or operator(s). Upon determination that the

application is complete, the department shall notify the owner(s) or operator(s) in writing.

C. Preliminary Decision on the Approval or Disapproval of the Bank Balance Sheet. Upon determining that a bank balance sheet is complete, the department shall have 60 days to perform an initial assessment of the bank balance sheet and render a preliminary decision as to whether to approve or to disapprove the ERC. Upon completion of this initial assessment, the department shall provide written notice of such preliminary decision to the owner(s) or operator(s) and the public. The public notice shall include the name and address of the applicant; the proposed quantity and type of emission reductions to be approved or disapproved; an explanation of the department's initial assessment; the opportunity and time periods to submit written public comments concerning the application; and the name and address of the person to whom public comments and requests for public hearings should be sent. A period of 30 days after the date of publication will be allowed for owner or operator and public comment. The department's preliminary decision relates only to the banking of the emission reductions and not to the use of the ERCs.

D. Issuance of ERC Certificate. Upon conclusion of the 30 day owner(s)' or operator(s)' comment period provided for, the department shall have 30 days to render a decision as to whether the department approves, conditionally approves, or disapproves the application. This decision shall be promptly delivered in writing by registered mail to the owner(s) or operator(s). If the department decides to approve the ERC bank balance sheet application, the department shall issue an ERC certificate to the owner(s) or operator(s). A copy of the ERC certificate shall be retained by the department, and the original shall be delivered to the owner(s) or operator(s). Delivery by the department of the ERC certificate to owner(s) or operator(s) shall be accomplished by registered mail. The issued ERC certificate shall be recorded in the banking register/database.

E. Appeals. The owner(s) or operator(s) may appeal the department's decision following provisions specified in R.S. 30:2024.

F. Cancellation of ERC Bank Balance Sheet. Withdrawal of a bank balance sheet by an owner or operator shall result in the cancellation of the bank balance sheet. If an owner or operator resubmits the application, the application shall be treated as a new application, and the review and approval process will start over as if the applicant had submitted the bank balance sheet for the first time.

G. Governing Rules. ERC bank balance sheets shall be reviewed in accord with federal and state rules in effect at the time of the submittal of the ERC bank balance sheet.

H. Request for Recalculation of ERCs. Anytime after the original ERC application is submitted, the applicant may request the recalculation of the ERCs for the purpose of using alternative baseline emissions, an alternative baseline period or availability of more accurate emissions data (i.e., performance test data, etc.). The review and approval of this recalculation request shall follow the same schedule as set forth in 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 Radiation Protection, Air Quality Division, LR 20: (August 1994).

### **§619. Registration of Emission Reduction Credit Certificates**

A. Banking Register/Database. The department shall maintain a banking register/database that shall consist of a record of all information concerning titles, interest, and other matters such as liens, encumbrances, changes of records, deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. All data in the banking register/database shall be available to the public upon request. It is the goal of the department to establish a computerized database which will allow the public to ascertain the amount of reductions which are registered or banked in each designated ozone nonattainment area. In lieu of a computerized database, a paper copy of the amount of reductions that are registered or banked will be available at the department.

B. ERC Certificates. Certificates will be issued at the point of trade. A record of each ERC certificate issued shall be retained by the department. Each ERC certificate shall contain, at minimum:

1. be numbered consecutively;
2. bear the date of issuance;
3. be signed by the assistant secretary of the Office of Air Quality and Radiation Protection;
4. bear the seal of the state;
5. include the owner(s) name(s), address(es), and phone number(s);
6. state the address where the emission reduction occurred;
7. indicate the method of ERC creation;
8. show the quantity of the ERC and type of pollutant; and
9. show when the emission reduction occurred.

C. Multiple ERC Certificates and Multiple Ownership. Single or multiple ERC certificates may be issued. At the owner(s) or operator(s) request, multiple ERC certificates shall be issued for each owner's proportional share.

D. Duplicate Copy of the ERC Certificate. The department may reissue a lost, mutilated, or destroyed ERC certificate after the ERC certificate title bearer vouches that the original has been lost, mutilated, or destroyed. The word Duplicate, will appear on the reissued certificate.

E. Inclusion of ERC Bank in the Emissions Inventory. The department shall be responsible for including the banked ERCs in the current emissions inventory so that the credits are considered to be "in the air" for air quality planning purposes. Any failure by the department to fulfill this responsibility shall not affect the validity of the ERCs in any manner.

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: (August 1994).

### **§621. Protection of Banked ERCs**

A. ERCs are valid for 10 years from the date of certificate issuance by the department. ERCs can be used for netting only during the contemporaneous period as specified in LAC

33:III.504, but they can be used for internal or external offsets (with the appropriate offset ratio) for their entire life.

B. ERCs may be used by the ERC certificate owner(s) or operator(s) or by any entity to whom the ERC certificate has been transferred, except that the department may reduce the quantity of ERCs under the following circumstances:

1. Adjustments for Attainment Planning Purposes. The department will maintain a bank balance (of VOC reductions which have not been designated for either netting or offset purposes) sufficient to demonstrate the commitments made in the reasonable further progress plan which may be a reduction identified to satisfy the 15 percent VOC Reasonable Further Progress Plan or the contingency measures associated with the same plan. The department shall confiscate only those ERCs from the bank that are needed for attainment purposes either as a support to the 15 percent VOC RFP or when a milestone of that plan has been missed. ERCs which have already been used or for which a permit application has been submitted (either for netting or offsetting purposes) shall not be reduced in quantity or confiscated under any circumstance.

2. Prior notification and comment opportunity. The department shall notify the owner(s) of reduction credits, in writing, its plans to confiscate in order to meet the 15 percent VOC RFP or contingency measures. A 30-day comment period will be allowed for the affected facility(ies) to respond to the department's confiscation or to submit an alternative emissions reduction proposal.

3. Refunding of Unused ERCs. If all of the ERCs withheld for the reasonable further progress demonstration are not utilized, then the department shall refund the unused ERCs to the generating sites on a pro rata basis. Refunds will be in a direct proportion to a site's individual contribution to the amount of ERCs withheld for reasonable further progress. The period of time that an ERC was held by the department will not count toward the contemporaneous period for netting nor the ten-year life for offsetting purposes.

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: (August 1994).

### **§623. Withdrawal, Use, and Transfer of Emission Reduction Credits**

A. Withdrawal of ERCs. An ERC certificate may be withdrawn in whole or in part. The ERC owner must submit a written request to withdraw and use the ERCs. The assistant secretary of the Office of Air Quality and Radiation Protection shall have 30 calendar days to review the request. Upon such request to withdraw ERCs from the bank, the department shall be responsible for recalculating the quantity of available ERCs for that entity and for providing that entity with an adjusted bank balance sheet. In the case of a partial withdrawal, the assistant secretary shall issue a new certificate reflecting the available credits remaining.

B. Use of ERCs. ERCs shall be used in accordance with applicable regulations. ERCs may be used anytime after the issuance of an ERC certificate. After the ERC has been used, the ERC owner shall relinquish title to the ERC, and the banking register shall indicate that the ERC has been used. After an ERC is applied to an air permit or a project or

otherwise used, the quantity shall not be changed for any reason. An ERC may be used:

1. to offset increased emissions from new or modified sources in nonattainment or attainment areas in accordance with LAC 33:III.504;

2. for netting under nonattainment new source review or prevention of significant deterioration programs in accordance with LAC 33:III.504 and 509;

3. where allowed, to establish alternative emission limits (which have been approved by both the department and the U.S. EPA; and

4. in another manner deemed appropriate and in accordance with applicable state and federal law.

C. Transfer of ERCs. An ERC certificate may be transferred in whole or in part. The role of the department in the transfer of an ERC certificate shall be limited to providing information to the public, documenting ERC transfers, and registering ERC certificates. The assistant secretary of the Office of Air Quality and Radiation Protection shall be notified within 30 days of any transfer of the credit to another party. The old certificate shall be submitted to the assistant secretary who shall then issue a new certificate within 30 days indicating the new owner. In the case of a partial transfer, the assistant secretary shall issue a new certificate to the new owner as well as a revised certificate within 30 days to the current owner reflecting the available credits to each owner. The original ERC certificate shall be canceled. The banking register/database shall indicate the transfer to the new owner (and reduction of credits when a partial transfer takes place) and the invalidation of the original ERC certificate.

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: (August 1994).

### **§625. Application and Processing Fees**

Fees will be assessed when the application process does not coincide with a permit application, permit modification, required initial reporting or required annual reporting.

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: (August 1994).

James B. Thompson, III  
Assistant Secretary

9408#060

## RULE

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

#### Mobile Sources Emissions Reduction (LAC 33:III.611) (AQ91)

Under the authority of the Louisiana 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 by the adoption of LAC 33:III.611, (AQ91).

This section provides a mechanism for interested entities to purchase older, higher-emitting vehicles for VOC and NO<sub>x</sub> emissions credits. Accelerated vehicle scrappage programs have been suggested as a possible means to clean the air in urban areas.

R.S. 30:2054.B.(8)(b)(v) requires the DEQ to establish this program by September 1, 1994 in the six-parish ozone nonattainment area surrounding and including East Baton Rouge. This rule will also allow the ozone nonattainment area of Calcasieu Parish to participate. Additionally, the 1990 Clean Air Act Amendments encourage the use of market-based incentive programs for attaining required emissions reductions.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

### Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits Banking

#### §611. Mobile Sources Emission Reductions

A. Pollutants. Reductions in the following types of air emissions are eligible for banking pursuant to this rule:

1. volatile organic compounds (VOCs); and
2. nitrogen oxides (NO<sub>x</sub>).

B. Eligible Sources. To qualify as emission reduction credits, mobile source emission reductions must meet the same criteria as stationary source emission reductions. The emission reductions from mobile sources must be real, quantifiable, enforceable, surplus, and permanent. Eligible credit-generating vehicles must have been registered and insured by the owner (without change of ownership) at an address within the nonattainment area continuously for at least the previous 12 months prior to the date the vehicle is purchased by the program to be eligible for credit. Eligible vehicles are required to be operable (capable of being used or operated) and driven to the designated intake site by the owner or his/her legal representative (or in the case of corporate-owned vehicles, a certified agent), on a day pre-arranged by the department. In addition, eligible vehicles must undergo a physical inspection, in accordance with Subsection D of this Section, designed to ensure that major body components have not been removed and that the vehicle could be readily used for normal transportation purposes. The site may be owned or leased by a certified automobile crusher who is licensed and certified by the Used Motor Vehicle and Parts Commission. Vehicle model years 1981 and pre-1982, light-duty gas

vehicles (LDGVs), and light-duty gas trucks (LDGTs) up to 10,000 pounds gross vehicle weight rating (GVWR) will be considered for mobile emission reduction credits (MERCs).

#### C. Calculating Credits

1. Mobile emission reduction credits (MERCs) for VOCs and NO<sub>x</sub> shall be issued each year according to the following:

a. the formula below includes emission factors estimated by the department, using the latest version of EPA's mobile-source emissions model (MOBILE):

$$MERC = \frac{[(SCRAP - REPLACE) \times MILESC \times 0.000001102]}{DF}$$

where:

MERC = mobile emission reduction credit (pounds per year of pollutant);

SCRAP = emission rate of scrapped vehicle in grams per mile, based on the model-year of the scrapped vehicle;

REPLACE = average in-use vehicle emission rate in grams per mile for year in which vehicle is scrapped;

MILESC = annual mileage corresponding to model-year of scrapped vehicle;

0.000001102 = conversion factor (grams to tons);

DF = discount Factor, equal to 1.2; or

b. mobile emission test results certificate or other state-certified/EPA-approved program.

2. MERC calculations for all model years will be provided, annually, by the department for the method described in Subsection C.1 of this Section. MERCs shall be valid for a period of three years and shall not be traded.

D. Vehicle Visual Inspection. In order to be eligible for MERCs, each vehicle to be scrapped shall be subjected to a visual inspection prior to scrapping. Inspections shall be conducted by a licensed automobile crusher and information recorded on a form designed by and submitted to the Department of Environmental Quality. The physical presence of the following elements shall be included in the inspection and shall be required for approval:

1. exhaust system;
2. bumpers;
3. doors;
4. fenders;
5. side and quarter panels;
6. hood and trunk lid;
7. windshields and windows;
8. seats;
9. instrumentation and gauges; and
10. date of safety inspection sticker.

E. Automobile Scrappage. All retired vehicles must be scrapped by a certified automobile crusher who is licensed and certified by the Used Motor Vehicle and Parts Commission. Recycling of vehicle parts must be done by a recycler/dismantler who is licensed by the Used Motor Vehicle and Parts Commission. Solid, liquid, and gaseous waste generated by vehicle scrappage must be disposed of or recycled in accordance with applicable federal, state, and local laws. At a minimum, scrapping shall entail the permanent destruction or recycling of the following vehicle components:

1. fuel metering system:

- a. carburetor and internal parts (or fuel injection system);
- b. air/fuel ratio feedback and control system; and
- c. cold start enrichment system;
2. air induction system:
  - a. controlled hot air intake system;
  - b. intake manifold;
  - c. heat riser valve and assembly; and
  - d. turbocharger systems;
3. ignition system:
  - a. distributor and internal parts;
  - b. spark advance/retard system;
  - c. spark plugs;
  - d. ignition coil and/or control module; and
  - e. ignition wires;
4. evaporative control systems:
  - a. vapor storage canister;
  - b. vapor-liquid separator; and
  - c. fuel tank and filler cap;
5. positive crankcase ventilation (PCV) system:
  - a. PCV; and
  - b. oil filler cap;
6. exhaust gas recirculation (EGR) system:
  - a. EGR valve body, and carburetor spacer if applicable; and
  - b. EGR rate feedback and control system;
7. air injection system:
  - a. air pump;
  - b. valves affecting distribution of flow; and
  - c. distribution manifold;
8. catalyst or thermal reactor system:
  - a. catalytic converter and constricted fuel filler neck;
  - b. thermal reactor;
  - c. exhaust manifold; and
  - d. exhaust portliner and/or double walled exhaust pipe;
9. engine:
  - a. cylinder block;
  - b. pistons;
  - c. connecting rods;
  - d. crankshaft;
  - e. valve train; and
  - f. cylinder head;
10. transmission:
  - a. all components housed within the transaxle;
  - b. torque converter;
  - c. clutch related components, including flywheel, pressure plate, friction disc, and throw-out bearing; and
  - d. all components housed within the transmission case;
11. miscellaneous items used in systems and components listed in Subsection E.1-10 of this Section:
  - a. hoses, clamps, fittings, tubing, sealing gaskets or devices, and mounting hardware;
  - b. pulleys, belts, and idlers;
  - c. vacuum-, temperature-, and time-sensitive valves and switches; and
  - d. electronic controls; and
12. vehicle frame.

**F. Recordkeeping Requirements.** The following information shall be recorded on a form prepared by the

participating automobile crusher and submitted to the department in duplicate:

1. name, address, license number, and telephone number of the automobile crusher, and name of person(s) conducting vehicle visual inspection;
2. vehicle make, vehicle model, vehicle model-year, vehicle license plate number, vehicle identification number, vehicle mileage, checklist of vehicle components scrapped, and date of scrapping;
3. scrapped vehicle owner's name, address, and telephone number, and vehicle owner's insurance company and policy number;
4. copy of Louisiana certificate of title for each scrapped vehicle;
5. copy of proof of insurance for each scrapped vehicle; and
6. a duplicate copy of the permit to dismantle vehicle and the notice of acquisition.

**G. Compliance Auditing and Enforcement.** The department may audit any files and/or records created to comply with recordkeeping requirements. The department shall reserve the right to inspect facilities, including automobile crushers, for compliance with the requirements specified in this rule during regular business hours, Monday through Friday. Department inspectors shall be afforded immediate access to scrapping/dismantling facilities on request. LDEQ will notify the Louisiana Used Motor Vehicle and Parts Commission of any inspections of automobile crushers. Violation of any provisions of this rule, including falsification of information in reports, shall be grounds for the department to disallow or void any MERCs resulting from or associated with the violation and shall be subject to the penalties specified in R.S. 30:2025.

**H. Geographic Areas.** Each bank is limited to a designated ozone non-attainment area, and separate accounts shall be maintained for NO<sub>x</sub> and VOCs. Ozone nonattainment areas designated as marginal and above may participate.

**I. Participation in Mobile Source Emission Reductions Program**

1. Point-source Facilities Obtaining MERCs. Any stationary point-source facility in ozone nonattainment areas designated marginal and above may request the purchase of MERCs. The department will develop and maintain a directory of automobile year models/types available and the owners wishing to scrap their vehicles. The facility wishing to purchase MERCs will contact the department and indicate the amount of VOC and/or NO<sub>x</sub> emission reduction credits they are seeking. The department will release to that facility the names and telephone numbers of owners sufficient to meet all or part of the desired number of emission reduction credits. It will be the responsibility of the facility to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the department signed by both the facility agent and the owner(s) of the vehicle(s) to be scrapped. A check from the facility to the vehicle owner will be submitted with the written statement of negotiation to the department. Upon receipt of the written statement of negotiation and the facility's check to the vehicle owner, the department will arrange for a

licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the facility's check to the vehicle owner. The purchased MERCs will be transferred to the facility's ERC bank balance. In the event that vehicle scrapping does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the facility the facility's check upon demand.

2. Private Entities. (Any private entity wishing to participate in the mobile source emission reduction program without benefit of a list of owners wishing to scrap their vehicles.) It will be the responsibility of the private entity to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the department signed by both the private entity agent and the owner(s) of the vehicle(s) to be scrapped. A check from the private entity to the vehicle owner will be submitted with the written statement of negotiation to the department. Upon receipt of the written statement of negotiation and the private entity's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the private entity's check to the vehicle owner. In the event that vehicle scrapping does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the private entity the private entity's check upon demand.

J. Uses of MERCs. Credit for the emission reductions are applicable for only three years. MERCs can be used as an alternative method of compliance with VOC and NO<sub>x</sub> regulations.

K. Application and Processing Fees. All fees shall be assessed in accordance with the provisions of LAC 33:III.Chapter 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 Radiation Protection, Air Quality Division, LR 20: (August 1994).

James B. Thompson, III  
Assistant Secretary

9408#059

## RULE

### Department of Environmental Quality Office of Water Resources Water Quality Management Division

#### Surface Water Quality Standards (LAC 33:IX.Chapter 11) (WP12)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2074.B.(1), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Office of Water Resources, LAC 33:IX.Chapter 11, Surface Water Quality Standards (Log WP12).

The water quality standards establish provisions for the protection of instream water quality and consist of policy statements, water use designation, and numerical and narrative criteria which set limits for various water quality parameters. This proposed revision to the 1989 standards would consist of amending much of that current document, with some sections receiving more detailed revision than other sections. The revision includes (1) the addition of five new definitions, (2) the clarification of designated uses and water body exception language, (3) the addition of language for allowing variances and compliance schedules, (4) the addition of a subcategory of limited fish and wildlife propagation use, (5) additional narrative statement for biological and aquatic community integrity, (6) revision of the numerical criteria with current data, (7) revision of mixing zones and flow application, and (8) revision of numerical criteria and designated uses table. The water quality standards described in the document are applicable to the ambient surface waters of streams and other waterbodies of the state and do not apply to effluents or groundwaters.

Federal law governing water quality standards requires that states review and revise as appropriate their water quality standards every three years [Water Quality Act of 1987 PL 100-4 Section 303(c)].

Copies of this regulation can be obtained from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802 by referencing document number 9408#061 and is also available at the following DEQ locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

9408#061

## RULE

### Department of Health and Hospitals Office of Public Health

#### Sanitary Code—Shellfish (Chapter IX) Food, Drug and Cosmetic Regulations (Chapter 4, Part I)

*(Editor's Note: The following portion of a rule, published in the May 20, 1994 issue of the Louisiana Register, pages 547-548, is being republished to correct a typographical error.)*

#### Sanitary Code Chapter IX. Seafood

##### 9:052 Refrigeration of Shell-Stock Oysters, Clams and Mussels

Shell-stock shall be placed under mechanical refrigeration at a temperature not to exceed 45°F within three hours after docking of harvesting vessels, and shall be maintained at or below that temperature throughout all levels of commerce. Shell-stock, other than for delivery to an in-state certified shellfish shipper located within 50 miles or one hour of docking area shall be transported in mechanically refrigerated trucks at a temperature not to exceed 45°F. During the time period April 1 through November 30, all shell-stock fishermen without effective on-board mechanical refrigeration capability shall be responsible for having their shell-stock delivered to dockside for unloading no later than 12 midnight each day. The use of ice as a means of refrigerating shell-stock shall be prohibited. If fishermen elect to harvest shell-stock for bedding purposes during the April 1 - November 30 time period, the one-day harvesting requirement may be waived under the following conditions:

A. That the sacking or containerizing of shellfish shall be prohibited during the time period when shell-stock are harvested, transported and bedded.

B. That the storage of empty sacks or other shellfish containers aboard an authorized harvesting vessel shall be prohibited during the time period when shellfish are harvested, transported and bedded. Shell-stock not refrigerated in accordance with the aforementioned requirements shall be deemed adulterated and shall be seized and destroyed, or bedded on a Department of Wildlife and Fisheries managed seed reservation at the violator's expense.

##### 9:053 Checking on Condition of Molluscan Shellfish in Growing Waters Closed by the State Health Officer

No person shall engage in the business of checking on the condition of molluscan shellfish in growing waters closed by the state health officer prior to obtaining a permit for that purpose from the state health officer. Applications shall be completed and submitted with a fee of \$50, which shall be paid by cashier's check or money order and filed not less than 14 days prior to the beginning of such proposed checking activities. One-day permits shall be granted only during the first two weeks of each calendar month.

##### 9:053-1

A \$1,000 performance bond consisting of a bank cashier's check or property bond made payable to the Department of Health and Hospitals shall be submitted with each completed application. In addition to the bond, a permittee, at his own

expense, shall secure the services of either a bonded security guard from an agency licensed by the state of Louisiana, or a commissioned municipal, parish, or state police officer for the purpose of monitoring all checking activities. In order to satisfy the monitoring requirement, all checking of shellfish in closed waters must take place in the direct line of sight of an agent approved by the Department of Health and Hospitals or the Department of Wildlife and Fisheries.

##### 9:053-2

Permits shall be granted at the discretion of the Department of Health and Hospitals with the following restrictions:

A. No permittee, boat captain or crew member may serve on any vessel subject to this permit who has been cited or found guilty of violations relative to the harvesting of shellfish from closed areas within three years of the application date; provided, however that said permittee, crew member or boat captain may receive a waiver of this condition with regard to those citations which did not result in a conviction upon the appropriate showing being made to the Department of Wildlife and Fisheries.

B. That sacking of shellfish and storage of empty shellfish sacks on board permitted or authorized vessel utilized in the checking of shellfish shall be strictly prohibited. No more than one bushel of shellfish may be on board an authorized vessel at any given time.

C. That culling of shellfish shall be strictly prohibited.

D. That only five leases in the closed growing waters shall be utilized in the checking of shellfish.

E. That the permittee shall be responsible for notifying the Department of Wildlife and Fisheries prior to leaving port to check shellfish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling 1-800-442-2511.

F. That all activities relative to the checking of shellfish in closed growing waters shall be permitted only during daylight hours with all activities completed no later than 30 minutes after official sunset.

G. That only one vessel may be utilized and both sides of the permitted vessel shall be marked with the permit number in at least 6-inch high letters on a contrasting background so as to be visible from a low flying aircraft or from any vessel in the immediate vicinity.

H. That a copy of the shellfish checking permit and applicable rules shall be on board the authorized vessel at all times on the active day of permit.

##### 9:053-3

Failure to comply with any of the permitting requirements specified in Sections 9:052 - 9:052-2 shall result in the following administrative actions:

A. The shellfish checking permit and all applicable privileges shall be immediately suspended by the Department of Wildlife and Fisheries or the Department of Health and Hospitals.

B. If said charges are upheld in an administrative hearing, the following additional penalties shall be imposed:

1. Shellfish checking and shellfish transplant permitting privileges shall be denied for a period of three years.

2. The \$1,000 cash or property bond posted by the permittee shall be forfeited and retained by the state.



**Food, Drug and Cosmetic Regulations**

**Chapter 4, Part I**

**Shellfish Depuration Regulations**

**49:6.1230 Depuration - Harvesting Permit**

A. Any person, firm or corporation engaging in the business of harvesting shellfish for depuration purposes from areas not approved by the state health officer for direct market harvesting shall be required to have an unsuspended or unrevoked harvesting-for-depuration permit issued by the Department of Health and Hospitals. Growing waters to be utilized for harvesting purposes must meet or exceed the Department of Health and Hospitals' criteria for restricted area classification. A fee of \$50 shall be charged for each 30-day permit.

B. Harvesting-for-depuration permits shall be granted only to responsible individuals with no recent history of illegal harvesting violations under the following conditions:

1. No permittee, vessel captain or crew member may serve on any vessel subject to this permit who has been cited or found guilty of violations relative to the harvesting of shellfish within three years of the application date; provided, however that said permittee, crew member or vessel captain may receive a waiver of this condition with regard to those citations which did not result in a conviction upon the appropriate showing being made to the Department of Wildlife and Fisheries.

2. A \$5,000 cash performance bond consisting of a bank cashier's check or money order made payable to the Department of Health and Hospitals shall be posted by each permittee.

3. Harvesting and transporting of shellfish to depuration plants shall be permitted only during daylight hours with all activities completed no later than 30 minutes after official sunset each day.

4. The permittee shall be responsible for notifying the Department of Wildlife and Fisheries prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip each day. The Department of Wildlife and Fisheries shall be notified by calling 1-800-442-2511.

5. All leases utilized for harvesting-for-depuration purposes shall be "red flagged" so that they may be easily spotted by both aircraft and boat. "Red flagged", as used in this paragraph, means that the four outside corners of a lease must be marked with poles with red flags attached.

6. The sacking of shellfish and the storage of empty shellfish sacks aboard permitted vessels is prohibited.

7. All harvesting and transporting of shellfish for delivery to a depuration plant shall be done in the direct line of sight of a commissioned municipal, parish, or state police officer, or bonded security guard from a state licensed agency. The payment of the surveillance officers salary and expenses shall be the responsibility of the permittee.

8. A maximum of five harvest boats may be included on one permit under the following conditions:

(a). The permittee, vessel captain and crew members shall all be held liable for rule violations.

(b). All vessels must be in direct line of sight of state approved surveillance officer during harvesting and transporting of shellfish to depuration plant.

(c). Each permitted vessel shall have the permit number in at least 6-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other enforcement vessel in the immediate area.

9. Failure to comply with any of the permitting requirements specified in this Section shall result in the following administrative actions:

(a). The harvesting-for-depuration permit and all permitting privileges shall be immediately suspended by the Department of Wildlife and Fisheries or the Department of Health and Hospitals.

(b). All shellfish harvested-for-depuration purposes shall be returned to the original growing waters at permittee's expense.

(c). If said charges are upheld in an administrative hearing, the following additional penalties shall be imposed:

1. Harvesting-for-depuration and transplant permitting privileges shall be denied for a period of three years.

2. The \$5,000 cash bond posted by the permittee shall be forfeited and retained by the state.

Rose V. Forrest  
Secretary

9408#057

**RULE**

**Department of Health and Hospitals  
Office of the Secretary**

**Case Management Licensing Standards  
(LAC 48:I.Chapter 49)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of the Secretary, under the authority vested in R.S. 28:380-451, adopted the following revised licensing standards for Department of Health and Hospitals (DHH) case management providers. This rule in no way alters the current licensing requirements for Department of Social Services providers.

The purposes of these revisions is to enhance the quality and cost effectiveness of case management services funded through DHH and provided to eligible individuals. This rule supersedes all rules previously promulgated related to licensing of DHH case management only.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 49. Case Management/Service Coordination**

**§4901. Personnel Standards**

**A. Staff qualifications**

1. Case managers hired or promoted on or after August

20, 1994 must meet the following criteria for education and experience:

a. bachelor's degree in a human services related field including but not limited to psychology, education, rehabilitation counseling, or counseling from an accredited institution; and one year of paid experience in a human services field providing direct consumer services or case management or

b. a licensed registered nurse; and one year of paid experience as a registered nurse in public health or a human services related field providing direct consumer services or case management; or

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education;

d. thirty hours of graduate level course credit in a human services related field may be substituted for the one year of required paid experience. Experience may be obtained before or after completion of the degree or obtaining licensure;

e. all case managers must be employees of the provider. Contracting for case managers is prohibited.

2. Case management supervisors hired or promoted on or after August 20, 1994 must meet the following qualifications for education and experience:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education with certification in special education, occupational therapy, speech or physical therapy from an accredited institution; and two years of paid post-degree experience in a human services related field providing direct consumer services or case management; and one year of this experience must be in providing direct consumer services to the targeted population to be served; or

b. a bachelor's degree in social work from a social work program accredited by the Council on Social Work Education; and three years of paid post-degree experience in a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services to the targeted population to be served; or

c. a licensed registered nurse; and three years of paid post-licensure experience as a registered nurse in public health or a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services or case management to the target population to be served; or

d. a bachelor's degree in a human services field including but not limited to psychology, education, rehabilitation counseling, or counseling from an accredited institution; and four years of paid post-degree experience in a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services to the targeted population to be served;

e. thirty hours of graduate level course credit in the human services field may be substituted for one year of experience.

**B. Training. Case managers must receive necessary**

orientation and periodic training on the provision of case management services arranged or provided through their agency.

1. Orientation of at least 16 hours shall be provided by the agency to all staff, volunteers and students within five working days of employment which shall include, at a minimum:

a. policies and procedures of the provider

b. confidentiality

c. documentation in case records

d. consumer rights protection and reporting of violations

e. abuse and neglect policies and procedures

f. professional ethics

g. emergency and safety procedures

h. infection control including universal precautions.

2. For newly hired or promoted case managers who will provide services primarily to a specific population or subgroup, a minimum of eight hours of the orientation training must cover orientation to each target population to be served including but not limited to specific service needs and resources.

3. Routine supervision cannot be considered training.

4. In addition to the minimum 16 hours of orientation, all case managers must receive a minimum of 16 hours of training during the first 90 calendar days of employment which is related to the target population to be served and specific knowledge, skills and techniques necessary to provide case management to the target population. This training must be provided by an individual with demonstrated knowledge of the training topic and the target population. This 16 hours of training must include, at a minimum:

a. assessment techniques

b. service planning

c. resource identification

d. interviewing techniques

e. data management and record keeping

f. communication skills

5. No new case manager employee can be given sole responsibility for a consumer until this training is satisfactorily completed and the employee possesses adequate abilities, skills and knowledge of case management.

6. A case manager must complete a minimum of 40 hours of training per calendar year. For new employees, the orientation training cannot be counted toward the 40 hour minimum annual training requirement. The 16 hours of training for new case managers required in the first 90 days of employment may be counted toward the 40-hour minimum annual training requirement. Appropriate updates of topics covered in orientation and training for a new case manager must be included in the required 40 hours of annual training. The following is a list of suggested additional topics for annual training:

a. the nature of the illness or disability, including symptoms and behavior

b. pharmacology

c. potential array of services for the population/available local resources

d. building natural support systems

- e. family dynamics
- f. developmental life stages
- g. crisis management
- h. first aid/CPR
- i. signs and symptoms of mental illness, alcohol and drug addiction, and mental retardation/ developmental disabilities, head injuries and/or HIV
- j. recognition of illegal substances
- k. monitoring techniques
- l. advocacy
- m. behavior management techniques
- n. developmental life stages
- o. value clarification/goals and objectives
- p. stress management/time management
- q. accessing special education services
- r. cultural diversity
- s. pregnancy and prenatal care
- t. health management
- u. team building/interagency collaboration
- v. transition/closure
- w. age-appropriate preventive health care
- x. facilitating team meetings
- y. computer skills
- z. legal issues

7. A case management supervisor must satisfactorily complete 40 hours of training per year. A new supervisor must satisfactorily complete a minimum of 16 hours on all of the following topics prior to assuming case management supervisory responsibilities:

- a. professional identification/ethics
- b. process for interviewing, screening, and hiring staff
- c. orientation/in-service training of staff
- d. evaluating staff
- e. approaches to supervision
- f. managing caseload size
- g. conflict resolution
- h. documentation

8. Documentation of all training must be placed in the individual's personnel file. Documentation must include an agenda and the name, title, agency affiliation of the training presenter(s) and other sources of training.

### C. Supervision

1. Each case management provider must have and implement a written plan for supervision of all case management staff. Supervision must occur at least once per week per case manager. Supervisors must review at least 10 percent of each case manager's case records each month for completeness, compliance with these standards, and quality of service delivery.

2. Supervision of individual case managers must include the following:

- a. direct review, assessment, problem solving, and feedback regarding the delivery of case management services;
- b. teaching and monitoring of the application of consumer centered case management principles and practices;
- c. assuring quality delivery of services;
- d. managing assignment of caseloads;
- e. arranging for or providing training as appropriate.

3. Supervision must be accomplished by a combination

of more than one of the following means:

- a. individual, face to face sessions with staff to review cases, assess performance and give feedback;
- b. sessions in which the supervisor accompanies an individual staff member to meet with consumers. The supervisor assesses, teaches and gives feedback regarding the staff member's performance related to the particular consumer;
- c. group face to face sessions with all case management staff to problem solve, provide feedback and support to case managers.

4. Each supervisor must maintain a file on each case manager supervised and hold supervisory sessions on at least a weekly basis. The file on the case manager must include, at a minimum:

- a. date and content of the supervisory sessions; and
- b. results of the supervisory case review which shall address, at a minimum, completeness and adequacy of records, compliance with standards, and effectiveness of services.

5. Case managers must be evaluated at least annually by their supervisor according to written policy of the provider on evaluating their performance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: (August 1994).

### §4903. Caseload Size Standards

A. Each full-time case manager may only have a maximum of 60 consumers in a caseload unless a lower ratio exists in DHH or other applicable controlling state or federal regulations.

B. Each case management supervisor may only have a maximum of five full-time case managers or a combination of full-time case managers and other human service staff under their direct supervision.

C. A supervisor may carry one-fifth of a caseload for each case manager supervised less than five. For example, a supervisor of three case managers may carry two-fifths of the maximum caseload.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: (August 1994).

### §4907. Application Procedure

The applicant shall submit a copy of a request for licensure to the Department of Health and Hospitals, Health Standards Section, P. O. Box 3767, Bin #27, Baton Rouge, Louisiana 70821-3767. The request shall include descriptions of:

- 1. the target populations to be served;
- 2. geographical areas (regions) to be served;
- 3. address(es) of the office site(s) to be used;
- 4. administrative file as described under §4943;
- 5. the provider's policies and procedures manual;
- 6. the requested program and services to be provided as outlined in §4953;
- 7. the provider's plan for staffing as outlined in §4959.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: (August 1994).

#### §4909. Review of Applications

The complete application request with the required fee must be received by the Health Standard Section at least 60 days prior to the date for which licensing is sought. A written response will be provided to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: (August 1994).

#### §4910. Types of Licenses and Expiration Dates

A. A license must be issued to an agency by geographical location (DHH region) where records and minutes of formal meetings are maintained and staff reports. When an agency has three or more staff providing case management services in another region, the agency must establish an office site in that region and request a separate license for that geographical location (unless these services are provided in parishes contiguous to the region where the agency is licensed).

B. Temporary licenses may be issued to new providers, providers who have substantially changed—either in ownership or in the services offered or in the location of the office site, or to a provider who has an identified licensing deficiency and the provider's license is expiring within 60 days. Temporary licenses expire on the date specified on the license.

C. Regular licenses expire on the date specified on the license, which will be one calendar year from the date of issue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4911. Issuance of a License

The agency will not be recognized by DHH until the applicant's enrollment by geographical location (region) is approved by DHH Health Standards Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4915. Reapplication

When a provider changes its ownership or makes any substantial changes in the services offered as outlined in §4910 or changes the location of the licensed agency, the provider must reapply for a license, beginning with a request for licensure. In the event of a change of ownership, the old license must be immediately returned to the DHH Health Standards Section. If no such changes have occurred, the regular annual reapplication must be made at least 60 days prior to the expiration of the current license. The application must be on a form prescribed by the DHH Health Standards Section and must be accompanied by the required fee. A license cannot be transferred to any location or provider other than those specified in the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4917. Refusal, Revocation, and Fair Hearing

A license may be revoked or refused when applicable licensing requirements are not met, as determined by the DHH Health Standards Section. Licensing decisions are subject to appeal and fair hearing in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4919. Terms of the License

If the provider is in compliance with the requirements of these standards, a license as a client care case management provider will be issued by the DHH Health Standards Section along with a letter enumerating that the agency is permitted to provide case management/service coordination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4925. Licensing Inspections

Licensing inspections must generally be completed annually, but may occur at any time. No advance notice may be given. Licensor must be given access to the provider office site, staff members or consumers, and all relevant files and records. Licensor must explain the licensing process in an initial interview and must report orally on any deficiencies found during the inspection prior to leaving the agency. A written report of findings must be forwarded to the provider. The provider must respond to the deficiencies cited with a plan of corrective action acceptable to the secretary within 15 working days of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4929. General Waiver

A. The Office of the Secretary of DHH (the secretary) must determine the adequacy of quality and protection in accordance with the provisions of these standards.

B. If, in the judgment of the secretary, application of the requirements stated in these standards would be impractical in a specified case, such requirements may be modified by the secretary to allow alternative arrangements that will secure as nearly equivalent provision of services as is practical. In no case will the modification afford less quality or protection, in the judgment of the secretary, than that which would be provided with compliance of the provisions contained in these standards.

C. At the time of each subsequent revisit, such requirement modification must be reviewed by the secretary and either continued or cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4931. Case Management/Service Coordination Services

Case management must consist of services to assist consumers in gaining access to the full range of needed services, including medical, social, educational and other

support services. These must be ongoing services which must be accomplished through the following activities.

1. Intake, which must include determination of a consumer's eligibility for case management services as part of a targeted group of consumers and the determination of need for case management services. All consumers must be interviewed within 14 calendar days of referral to the provider.

2. Assessment/reassessment, which must include the collection and integration of formal/professional and informal information concerning a consumer's social, familial, medical, developmental, legal, educational, vocational, psychiatric and economic status, as appropriate, to assist in the formulation of a comprehensive, individualized written service plan.

a. The assessment process must include input from the consumer/guardian, and may include input from family members, friends, professionals, and service providers, as appropriate.

b. The assessment must focus on the individual's strengths and needs. The case manager must make a face-to-face contact with the consumer as part of the assessment process.

c. The consumer's status must be reassessed on an ongoing basis.

3. Service planning, which must include the development of a comprehensive, individualized written plan based on the needs and strengths of the consumer identified during the assessment process.

a. The consumer/guardian must actively participate with the case manager in development of the service plan with input from family members, professionals and service providers, as needed.

b. The objective of service planning must be to promote consistent, coordinated, timely and quality service provision.

c. The service plan must include, at a minimum: consumer strengths and needs; specific measurable goals and objectives with anticipated time-frames.

d. The service plan must be completed within 45 calendar days of the intake interview for case management services.

e. The written service plan must be reviewed at least 90 days to assure goals and services are appropriate to the consumer's needs identified in the assessment/reassessment process.

D. Linkage, which must assure that the consumer has access to and is receiving the most appropriate services available to meet needs as outlined in the service plan. Linkage must include, but is not limited to:

1. contacting the individual's support network including family, neighbors and friends to mobilize assistance for the individual; and

2. locating or assisting the consumer in locating formal and informal service providers;

3. advocacy, which may occur on behalf of the consumer when needed to assure the consumer has access to and receives appropriate services.

E. Monitoring/follow-up, which must include ongoing interaction with the consumer/guardian, family members and

professionals (as appropriate), and service providers to ensure that the agreed upon services are provided in a coordinated and integrated manner and are adequate to meet the needs and stated goals of the service plan. The case manager must make at least monthly face-to-face contacts with the consumer/guardian as part of the linkage and monitoring/follow-up process.

F. Transition/closure, which must be a joint decision made by the case manager, consumer and/or family member, when appropriate. Closure must occur upon completion of all case management goals identified on the service plan except when case management is a required component of a service or a required service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

### **§4933. General Requirements**

A. The provider must allow representatives of the state licensing authority, in the performance of their mandated duties, to inspect all aspects of the provider's functioning which impact on consumers and families and to interview any staff member or consumer (if the consumer or family agrees to said interview).

B. The provider must make available to the state licensing authority any information which the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements.

C. The provider must make available to DHH any information required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

### **§4935. Governing Body**

A. The provider must have an identifiable governing body with responsibility for and authority over the policies and activities of the agency.

B. The provider must document, in writing, all members of the governing body; their addresses; their terms of membership; officers of the governing body; and terms of office of any officers.

C. When the governing body does not include consumer and family representation, written policy and procedures must be implemented to ensure consumer and family input.

D. When the governing body is comprised of more than one person, the governing body must hold formal meetings at least semi-annually to discuss agency operations, including programmatic operations.

E. When the governing body is composed of more than one person, the provider must have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

### **§4937. Governing Body Responsibilities**

The governing body must:

1. ensure the provider's compliance and conformity with its articles of incorporation or charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the provider shall be adequately funded and fiscally sound;
4. review and approve the provider's annual budget;
5. ensure the review and approval of an annual external audit;
6. designate a person to act as chief administrator and delegate sufficient authority to this person to manage the agency;
7. formulate and annually review, in consultation with the chief administrator, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;
8. annually evaluate the chief administrator's performance, including evaluation in the areas of quality assurance and disposition of grievances;
9. have the authority to dismiss the chief administrator;
10. notify the designated representatives of DHH prior to initiating any substantial changes in the services provided;
11. ensure that a continuous written Quality Improvement Program is in effect;

12. ensure that services are provided in a culturally sensitive manner as evidenced by staff trained in cultural awareness and related policies and procedures;

13. ensure that all business practices and staff activities conforms to the *Code of Governmental Ethics*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4939. Accessibility of Executive

The chief administrator or a person authorized to act on behalf of the chief administrator must be accessible to staff or designated representatives of DHH during agency hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4941. Documentation of Authority to Operate

A provider must have documentation of its authority to operate under state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4943. Administrative Files

The provider's administrative files must include at a minimum:

1. documents identifying the governing body;
2. list of members and officers of the governing body, their addresses and terms of membership;
3. minutes of formal meetings and bylaws of the governing body, if applicable;
4. documentation of the provider's authority to operate under state law;

5. functional organizational chart which depicts lines of authority;
6. all leases, contracts and purchase-of-service agreements to which the provider is a party;
7. insurance policies;
8. annual budgets and audit reports;
9. master list of all service providers used by the provider;
10. the provider's policies and procedures
11. Documentation of corrective action taken as a result of external or internal reviews.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4945. Organizational Communication

A. The provider must establish procedures to assure adequate communication among staff to provide continuity of services to the consumer.

B. The provider must establish procedures which facilitates participation and feedback from staff, consumers, families, and when appropriate, the community at large. This will be used in areas such as policy-making, planning, and program development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4947. Financial Management

A. The provider must establish a system of financial management and staffing to assure maintenance of complete and accurate accounts, books and records in keeping with generally accepted accounting principles.

B. The provider must demonstrate fiscal accountability through regular recording of its finances and an annual external audit conducted by a certified public accountant.

C. The provider must not permit public funds to be paid, or committed to be paid, to any person to which any of the members of the governing body, administrative personnel, or members of the immediate families of 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 provider. The provider shall have a written disclosure of any financial transaction with the provider in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

D. The provider must be capable of reporting fiscal data from July 1 through June 30.

E. The provider must have adequate and appropriate general liability insurance for the protection of its consumers, staff, facilities, and the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### §4949. Confidentiality and Security of Records

A. A provider must have written procedures for the maintenance, security, and confidentiality of records. This

must include specifying who must supervise the maintenance of records, and who must have custody of records. This procedure must also state to whom records can be released and the procedure for doing so. Records, including consumer as well as administrative, must be the property of the provider and the provider, as custodian, must secure records against loss, tampering, or unauthorized use.

B. Employees of the provider must not disclose or knowingly permit the disclosure of any information concerning the agency, the consumers or his/her family, directly or indirectly, to any unauthorized person.

C. The provider must safeguard the confidentiality of any information from which the consumer or his/her family might be identified, releasing such information only under the following conditions:

1. by court order;
2. by the consumer's written, informed consent for release of information;
  - a. when the consumer has been declared legally incompetent, the individual to whom the consumer's rights have devolved provides written consent.
  - b. when the consumer is a minor, the parent or legal guardian provides written consent.
  - c. in compliance with the Federal Confidentiality Law of Alcohol and Drug Abuse Patients Records (42 CFR, Part 2).

D. A provider must, upon request, make available information in the case records to the consumer or legally responsible person. If, in the professional judgement of the administration of the agency, it is felt that information contained in the record would be damaging to a consumer, that information (only) may be withheld from the consumer except under court order. The provider may charge a reasonable fee for providing the above records.

E. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge or the provider's services, or similar educational purposes, provided that names are deleted and other similar identifying information is disguised or deleted.

F. A system must be maintained that provides for the control/location of all consumer records. Consumer records must be located at the licensed site.

G. A system must be maintained that secures all records from unauthorized access and provides reasonable protection against fire, water damage, tampering, and other hazards.

H. A designated staff member must be responsible for the storage and protection of consumer records.

I. There must be a written process by which the consumer may gain access to his/her own records and receive copies upon written request.

J. Consumer records must be available to appropriate state and federal personnel at all reasonable times.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### **§4951. Records - Administrative and Consumer**

A. All provider records must be maintained in an

accessible, standardized order and format and must be retained and disposed of in accordance with state laws.

B. A provider must have sufficient space, facilities and supplies for providing effective record keeping services.

C. Upon agency closure, all provider records must be maintained according to applicable laws, rules and regulations.

D. A provider must have a written record for each consumer which must minimally include:

1. identifying data recorded on a standardized form including the following:

- a. name
- b. home address
- c. home telephone number
- d. date of birth
- e. sex
- f. race or ethnic origin
- g. closest living relative
- h. education
- i. marital status
- j. name and address of current employment, school, or day program, as appropriate
- k. date of initial contact

1. court and/or legal status, including relevant legal documents

m. names, addresses, and phone numbers of other persons or providers involved with the consumers's service plan. This shall include the consumer's physician;

- n. other identifying data as indicated;
- o. date the information was gathered;
- p. signature of the staff member gathering the information.

2. Interdiction Status. A notation on the inside of the front cover that the consumer has been interdicted if this information is known.

3. Limited health records including a description of any serious or life threatening medical condition of the consumer. This must include a description of any current treatment or medication necessary for the treatment of any serious or life threatening medical condition or known allergies.

E. A provider must ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

F. Entries must be made in consumer records when services are provided to and/or on behalf of consumer in accordance with the following:

1. All entries and forms in the consumer's record that are completed by the provider must be in ink, are legible, be dated, be signed and shall include the functional title of the person making the entry.

2. An error in the consumer's record made by staff must be corrected by drawing a line through the erroneous information. The word "error" must be written beside the correction, and the correction must be initialed.

3. Correction fluid must never be used in a consumer's record.

G. Consumer record material must be organized in a manner which encourages staff to use it as a communication tool.

1. The location of documents within the record must be consistent among all the provider's records.

2. The record must be appropriately thinned so that current material shall be easily located in the record.

H. Each record must document the need for case management services and the following, at a minimum:

1. medical, social, psychiatric, psychological and other pertinent information regarding the consumer's disability, illness, or condition which will document eligibility for case management services for the targeted population;

2. necessary assessments and other information concerning the consumer's medical, social, familial, cultural, developmental, legal, educational, vocational, psychiatric and economic status, as appropriate, to support the initial service plan, and modifications in the service plan;

3. documentation of the need for ongoing case management and other identified services;

4. written service plan signed and dated by the case manager and the consumer and/or guardian shall be placed in the consumer's record;

5. description of all contacts, services delivered and/or action taken identifying the persons involved in service delivery, the date and place of service, the content of service delivery and the duration of the contact;

6. progress notes written at least monthly to document progress towards specified goals;

7. summary of services provided and progress towards goals, as well as the reason for the closure of the case at the time of termination; and,

8. any joint agreement with the consumer for closure.

I. The provider must utilize the tracking and/or data system for the Program Office of the targeted population being served or a comparable system which tracks the same data elements and allows reporting of data to the program office.

J. The provider must sign an agreement with the appropriate Program Office regarding the exchange of consumer-related data.

K. The record must contain at least six months of current information.

L. Information older than six months may be kept in storage but shall be available for review.

M. The records are maintained until audited and all audit questions answered or for three years from the time of payment, whichever is longer.

N. When a consumer transfers to another provider, at a minimum, copies of the following information must be sent to the requesting provider upon receipt of a release of information signed by the consumer:

1. most current service plan;
2. current assessments upon which service plan is based;
3. number of services used in the calendar year; and
4. last quarter's progress notes;

O. A nonredisclosure clause must accompany all information released to the requesting provider on all Office of Alcohol and Drug Abuse consumers;

P. The receiving provider must bear the cost of copying which shall not to exceed the community's competitive copying rate.

Q. A written policy must govern the disposal of consumer records and confidentiality of consumer information must be protected at the time of disposal.

R. A provider must have a written record for each employee which includes:

1. the application for employment and/or resume'
2. references
3. any required medical examinations
4. all required documentation of appropriate status which

includes:

a. valid driver's license for operating provider vehicles or transporting consumers.

b. verification of professional credentials/certification required to hold the position including the following:

- i. current licensure
- ii. relevant licensure
- iii. relevant education
- iv. relevant training
- v. relevant experience

5. periodic, at least annual, performance evaluations.

6. employee's starting and terminations dates along with salary paid.

S. An employee must have reasonable access to his/her personnel file and must be allowed to add any written statement he/she wishes to make to the file at any time.

T. A provider must not release a personnel file without the employee's written permission except in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:308-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

### **§4953. Program Description**

A. The provider must have a clear, concise written program description, available to the public, detailing:

1. the overall philosophy of the program;
2. the long and short term goals of the program;
3. the types of consumers to be served;
4. the intake and closure criteria;
5. there must be written eligibility criteria for each of the

services/programs provided;

6. the services to be provided;

7. a schedule of any fees for service which will be charged to the consumer;

8. a method of obtaining feedback from the consumer regarding consumer satisfaction with services;

9. an inventory of existing resources (both formal and informal) has been completed that identifies services within the geographic area to address the unique needs of the population to be served. This inventory must be updated at least annually;

10. demonstrated evidence that the program coincides with or is in agreement with existing state, regional, and local comprehensive service coordination and planning for the target population.

B. The provider must make every effort to ensure that service and planning for each consumer must be a comprehensive process involving appropriate staff, representatives of other agencies, the consumer, and where appropriate, the legally responsible person, and any other person(s) significantly involved in the consumer's care on an ongoing basis.



**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### **§4955. Transportation**

A. The provider must ensure that any vehicle used by the agency staff to transport consumers must be properly maintained, inspected, and licensed according to state laws and carries a sufficient amount of liability insurance.

B. Any staff member using a vehicle to transport consumers must be properly licensed to operate that vehicle according to state laws.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### **§4959. Staff Plan and Staff Coverage**

A. A provider must have a written plan for recruitment, screening orientation, ongoing training, development and supervision and performance evaluation of staff members.

B. Sufficient staffing must be provided to ensure a safe environment and adequacy of programming with consideration given to the geography of the setting, the number and needs of individuals served, the intensity of services needed. Staff coverage must be documented.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### **§4961. Nondiscrimination**

A provider must have a written policy to prevent discrimination and must comply with all state and federal employment practices, laws.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### **§4963. Recruitment**

A provider must actively recruit and, whenever possible, employ qualified persons of both sexes representative of the cultural and racial groups served by the provider. This must include the hiring of qualified persons with disabilities.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### **§4971. Program Evaluation**

A. The provider must develop and implement a continuous Quality Improvement Plan that is designed to objectively assess and improve the quality of services for consumers which includes the following components:

1. the capability to identify, assess, and correct problems, a time line for correction of deficiency and follow-up on the results of corrective action;

2. procedures to allow immediate response to identified problems.

B. Pertinent findings of quality improvement activities must be reported to the governing body, executive/provider director.

C. The chief administrator must have the responsibility for

the implementation and coordination of the quality improvement process. Duties must be specified.

D. Administrative review and any required corrective action must be conducted as required.

E. The Quality Improvement Plan and process must be reviewed at least annually to determine the need for and the mechanisms for improving the plan.

F. A program evaluation system must be maintained to identify the results of services and the effects of services on the consumer which meets the following criteria:

1. measures outcomes of programs and services;

2. regularly measures the progress of the consumers in relation to the program goals; and

3. evaluates post-discharge information, if applicable;

4. information gained from the system must be used to improve the program.

5. there must be a means to determine when performance is less than acceptable which includes the following:

a. the reasons must be identified when performance falls below the acceptable level;

b. management must take prompt action to improve program performance to an acceptable level; and

c. follow-up and monitoring of corrective actions must be performed at specific times with results documented.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### **§4973. Personnel Practices**

A. The provider must have written employment and personnel policies which include:

1. job descriptions for all positions, including volunteers and students, that specify duties, qualifications, and competencies;

2. a description of hiring practices, which includes a policy against discrimination based on race, color, religion, sex, age, national origin, handicap, political beliefs, disabled veteran, veteran status or any other nonmerit factor; and

3. a description of procedures for: employee evaluation, promotion, disciplinary action, termination, and hearing of employee grievances.

B. There must be a written grievance procedure that allows employees to make complaints without fear of retaliation.

C. Grievances must be periodically reviewed by the governing body in an effort to promote improvement in these areas.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

#### **§4975. Abuse Reporting**

A. A provider must have abuse reporting procedures which require all employees to report any incidents of abuse or mistreatment be that abuse or mistreatment is done by another staff member or professional, family member,, the consumer, or any other person.

B. There must be written policies and procedures regarding abuse and neglect as defined by state and federal law.

1. The requirement that such action, as defined, must be strictly prohibited

## 2. Reporting Procedures

a. Every agency employee, consultant or contractor who witnesses, learns of, is informed of, or otherwise has reason to suspect that an incident of abuse or neglect has occurred must report such incident in accordance with state Child Protection laws and Adult Protection laws and fully cooperate with the investigation of the incident.

b. Proper authorities in the agency, community, and state must be identified.

c. Every employee must be informed of his or her reporting responsibilities and trained in the procedures for reporting.

3. Any allegations of abuse and neglect by agency personnel must be investigated internally.

a. Individuals under investigation must not be part of the investigation.

b. The Agency takes appropriate disciplinary action in the case of validated abuse.

c. The results of such investigations must be reviewed at an appropriate higher level and reported to the governing body.

d. Appropriate measures must be taken to assure that the individual is protected from further abuse.

4. Every employee, consultant, and contractor must be given a written copy of the agency's policies and procedures on consumer abuse and neglect.

a. Documentation of policy review by each employee must be maintained in the employee's personnel file.

b. Policies and procedures must be made available to others upon request.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

### §4977. Basic Rights

A. All case managers must conform to applicable state laws and DHH policies and procedures relative to consumer rights, including but not limited to those concerning confidentiality of consumer information and grievance procedures and consumer's right to appeal department decisions on service eligibility, planning, and delivery.

B. All case managers must conform to applicable state laws and DHH policies and procedures regarding consumer health and safety including but not limited to those concerning transporting consumers and abuse/neglect reporting.

C. There must be written policies and procedures that protect the consumer's welfare including the means by which the protections will be implemented and enforced.

D. The consumer, consumer's family or legal guardian, where appropriate, must be informed of their rights both verbally and in writing in language the consumer is able to understand.

E. The written policies and procedures, at a minimum, must address the following protections and rights:

1. to human dignity;
2. to acceptance of chosen life style;
3. to impartial access to treatment regardless of race, religion, sex, ethnicity, age or handicap;
4. cultural access is evidenced through provision of:

a. interpretive services

b. translated material

c. use of native language and staff when possible

d. staff trained in cultural awareness

5. access to persons with special needs is evidenced through sign language interpretation and mechanical aids and devices that assist those persons in achieving maximum benefit from services;

6. to privacy;

7. to confidentiality and access to consumer records including:

a. requirement for the consumer's written, informed consent for release of information

b. emergency unauthorized release

c. internal access to consumer records

d. external access to consumer records

e. conditions for consumer access to his/her records

8. to a complete explanation of the nature of services and procedures to be received including risks, benefits and available alternative services;

9. to participate, actively, in services including assessment/reassessment, service plan development, and transition/closure;

10. to refuse specific services;

11. to complaint/grievance procedures;

12. to be informed of the financial aspects of services;

13. to be informed of the need for parental or guardian consent for treatment or services, if appropriate;

14. to manage, personally, financial affairs unless legally determined otherwise;

15. to give informed written consent prior to being involved in research projects;

16. to refuse to participate in any research project without compromising access to services;

17. to protection from harm including any form of abuse, neglect, or mistreatment;

18. to receive services in a safe and humane environment;

19. to receive the least intrusive services appropriate and available;

20. to contact any advocacy resources as needed, especially during grievance procedures;

21. to be informed of the right to freely choose providers from those available.

F. A provider must ensure that consumers are provided all rights available to them be they interdicted or not.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

### §4979. Self-Advocacy

A provider must make every effort to ensure that a consumer understands his/her rights in matters such as access to services, appeal, grievances, and protection from abuse.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

**§4981. Advocacy**

A provider must ensure that an advocate is provided to the consumer whenever the consumer rights or desires may be in conflict or jeopardy with the provider.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

**§4983. Grievance Procedures for Consumers**

A. A provider must have a written grievance procedure for consumers designed to allow consumers to make complaints without fear of retaliation.

B. Grievances must be periodically reviewed by the governing body in an effort to promote improvement in these areas.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:308-451.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 20: August 1994).

Rose V. Forrest  
Secretary

9408#045

**RULE**

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

**Narcotics and Controlled Substances (LAC 48:I.3903)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended the rule concerning narcotics and controlled substances under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to R.S. 40:961-1036 and 46:51. In 1992, the department adopted a rule governing the licensing and certification of parties authorized to engage in the manufacture, distribution, or dispensing of controlled dangerous substances. This rule removes the provision for the issuance of a temporary license and mandates possession of a permanent license from the applicable governing board prior to issuance of a license by the department for the manufacture, distribution or dispensing of controlled dangerous drugs.

**Title 48**

**PUBLIC HEALTH - GENERAL**

**Part I. General Administration**

**Subpart 1. General**

**Chapter 39. Controlled Dangerous Substances**

**§3903. Licensing Procedure as follows:**

A. - B. ...

1. Temporary licenses/permits shall not be issued.

\* \* \*

G. Practitioners (dentists, optometrists, physicians, podiatrists, veterinarians) must possess a verifiable valid permanent license in good standing issued by the professional governing board of the state of Louisiana of competent

jurisdiction in order to be issued and maintain a Louisiana controlled dangerous substances license.

1. Physicians who possess a verifiable valid permanent license in good standing issued by the Louisiana State Board of Medical Examiners may be issued a controlled dangerous substances license authorizing the prescribing of the following Schedule I Substances, unless restricted by the Board of Medical Examiners, for therapeutic use by patients clinically diagnosed as suffering from glaucoma, symptoms resulting from the administration of chemotherapy cancer treatment, and spastic quadriplegia:

- a. marijuana;
- b. tetrahydrocannabinols;
- c. a chemical derivative of tetrahydrocannabinols.

2. Practitioners who possess a restricted permanent license issued by the governing board of the state of Louisiana of competent jurisdiction may be issued a restricted Louisiana controlled dangerous substances license adhering to the restrictions of their board license.

A Louisiana controlled dangerous substances license shall not be issued to applicants who possess temporary and/or provisional licenses and/or permits.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:961-1036 and 46:51.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:962 (September 1992), repromulgated LR 18:1132 (October, 1992), amended LR 20: (August 1994).

Rose V. Forrest  
Secretary

9408#046

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
Medical Disclosure Panel**

**Informed Consent (LAC 48:I.2400-2428)**

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991 and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Louisiana Medical Disclosure Panel, has adopted rules by adding §§2400-2428 to Chapter 23, Informed Consent, requiring which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing such treatment or procedure.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part I. General Administration**

**Chapter 23. Informed Consent**

**§2400. Esophageal Dilation/Esophagogastroduodenoscopy**

- A. Infection;
- B. Bleeding which may require transfusion and/or surgery;

C. Perforation of esophagus, stomach, intestinal wall which may require surgery;

D. Respiratory arrest;

E. Cardiac arrhythmias (irregular heartbeats).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2404. Diagnostic and Therapeutic ERCP (Endoscopic Retrograde Cholangio Pancreatogram)**

A. Infection;

B. Bleeding which may require transfusion;

C. Perforation of esophagus, stomach, intestinal wall or ducts which may require surgery;

D. Cardiac arrhythmias (irregular heartbeats);

E. Pancreatic inflammation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2406. Colonoscopy**

A. Infection;

B. Bleeding which may require transfusion and/or surgery;

C. Perforation of colon or rectal wall which may require surgery;

D. Cardiac arrhythmias (irregular heartbeats).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2408. Sigmoidoscopy/Proctoscopy**

A. Infection;

B. Bleeding which may require transfusion and/or surgery;

C. Perforation of colon or rectal wall which may require surgery.

D. Cardiac arrhythmias (irregular heartbeats).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2410. Esophageal Manometry**

A. Esophageal perforation which may require surgery;

B. Aspiration pneumonia;

C. Cardiac arrhythmias (irregular heartbeats).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2412. Percutaneous Needle Biopsy of the Liver**

A. Bleeding requiring transfusion and/or surgery;

B. Lung collapse which may require surgery;

C. Internal leakage of bile which may require surgery;

D. Puncture of other organs which may require surgery;

E. Aspiration pneumonia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2414. 24-Hour PH Monitoring**

A. Aspiration pneumonia;

B. Cardiac arrhythmias (irregular heartbeats).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2416. Gastrectomy or Vagotomy and Pyloroplasty**

A. Infection in incision or inside abdomen;

B. Bleeding which may require transfusion;

C. Leakage from stomach (fistula);

D. Inability to maintain weight;

E. "Dumping syndrome" (chronic vomiting after eating);

F. Inability to eat large amount of food, especially early after surgery;

G. Diarrhea;

H. Need for vitamin B-12 injections for life if total gastrectomy is needed;

I. Recurrence of condition for which surgery was originally done.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2418. Colon Resection**

A. Infection in the incision;

B. Intra-abdominal infection (abscess) requiring additional surgery and prolonged hospitalization;

C. Leakage from colon (fistula) requiring additional surgery and possible colostomy (colon empties into bag worn on the abdomen);

D. Injury to other organ or blood vessel requiring additional surgery or blood transfusion;

E. Diarrhea, sometimes permanent;

F. Hernia in incision requiring additional surgery for repair;

G. Recurrence of cancer (if surgery is done for cancer).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2420. Appendectomy**

A. Infection in the incision;

B. Bleeding from or into incision;

C. Intra-abdominal infection (abscess) requiring additional surgery and prolonged hospitalization;

D. Leakage from the colon (fistula) requiring additional surgery and/or colostomy (colon empties into bag worn on the abdomen);

E. Hernia in the incision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2422. Hernia Repair**

- A. Infection in the incision, possibly requiring additional surgery to remove mesh if used for repair;
- B. Bleeding into incision or scrotum resulting in marked swelling with pain, possibly requiring additional surgery;
- C. Recurrence of hernia;
- D. Injury to or loss of testicle(s) or spermatic cords(s), possibly causing sterility;
- E. Nerve injury resulting in numbness or chronic pain in groin area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2424. Hemorrhoidectomy or Excision of Anal Fistula or Fissure**

- A. Bleeding at operative site;
- B. Post-operative pain, especially with bowel movements;
- C. Temporary/permanent difficulty controlling bowel movements or passage of gas;
- D. Recurrence of hemorrhoids or fistula or fissure;
- E. Narrowing of anal opening requiring additional surgery or repeated anal dilatations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2426. Excisional Breast Biopsy**

- A. Infection;
- B. Blood clot (hematoma);
- C. Failure to obtain accurate diagnosis;
- D. Disfiguring scar;
- E. Failure to locate and remove abnormality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

**§2428. Lumpectomy (partial excision of breast) with Axillary Dissection**

- A. Infection;
- B. Blood clot (hematoma);
- C. Disfiguring scar;
- D. Fluid collection in axilla (arm pit);
- E. Numbness to arm;
- F. Swelling of arm on side of surgery;
- G. Damage to nerves of arm or chest wall, resulting in pain, numbness, weakness;
- H. Local recurrence of cancer;
- I. Complication of irradiation;

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (August 1994).

Rose V. Forrest  
Secretary

9408#023

**RULE**

**Department of Labor  
Office of Labor**

**Minor Labor Law (LAC 40:VII.103)**

Under the authority of R.S. 23:1 and R.S. 23:153 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Labor, Office of Labor, has amended LAC 40:VII.103 relative to the regulations of conditions under which minor labor may be used.

This rule establishes additional guidelines permitting the secretary of the Department of Labor to issue temporary waivers to the hour and time standard for minors under 16 years of age when employed in commercial motion pictures, films, or video productions.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part VII. Conditions Under Which Minor  
Labor May Be Used**

**Chapter 1. Minimum Age Standards for  
Nonagricultural Employment**

**§103. Employment Standards for Minors Under 16  
Years of Age**

\* \* \*

**A. Hours and Time Standards**

**1. - 9.d. ...**

e. applications for waivers for any exception to the foregoing provisions of this Paragraph 9 may be made to the secretary of the Department of Labor.

f. the secretary of labor may grant a waiver only under the following circumstances:

i. written notification through a listing of specific dates and times that the minor(s) shall be employed and/or present for either studio production or location production.

ii. written acknowledgement that the minor's parent(s), tutor, or custodian have been fully informed of the circumstances and have granted advance consent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 23:251.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:45 (February 1981), amended LR 15:1086 (December 1989), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 20: (August 1994).

Gayle F. Truly  
Secretary

9408#034

**RULE**

**Department of Social Services  
Office of Community Services**

**Children's Trust Fund; Plan for Child Abuse and  
Neglect Prevention (LAC 67:V.401)**

The Department of Social Services, Office of Community Services, has adopted a plan for preventing child abuse and neglect in Louisiana for 1994-1996.

**Title 67**

**SOCIAL SERVICES**

**Part V. Community Services**

**Subpart 1. General Administration**

**Chapter 4. Children's Trust Fund**

**§401. Plan for Preventing Child Abuse and Neglect in  
Louisiana**

A. In accordance with R.S. 46:2406, the Louisiana Children's Trust Fund Board has adopted a plan for preventing Child Abuse and Neglect in Louisiana for 1994-96, which establishes criteria for grant awards and other activities of the Louisiana Children's Trust Fund. The plan became effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

A copy of the plan is available for review by the public at the Louisiana Children's Trust Fund Office, 333 Laurel, Suite 735, Baton Rouge, LA 70804. Interested persons may call the office at (504) 342-2245 to make arrangements to review the plan.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2406.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Services, LR 20: (August 1994).

Gloria Bryant-Banks  
Secretary

9408#055

**RULE**

**Department of Social Services  
Office of Community Services**

**Reimbursement Rates for Residential Facilities  
(LAC 67:V.3503)**

The Department of Social Services, Office of Community Services, has adopted the rule entitled "Reimbursement Rates for Residential Facilities." The current rate setting methodology has been changed.

**Title 67**

**SOCIAL SERVICES**

**Part V. Office of Community Services**

**Subpart 5. Foster Care**

**Chapter 35. Payments, Reimbursables, and  
Expenditures**

**§3503. Reimbursement Rates for Residential Facilities**

A. The rate setting methodology consists of four

components of level of care: administration, basic care, supervision, and intervention. Costs associated with administration and basic care will reflect averages of allowable costs for facilities of three size groupings. Costs associated with supervision will reflect the costs for direct care workers and their immediate supervisors, when the supervisors are not included in the administration component. Costs associated with intervention will reflect the costs of professional social workers, psychologists and psychiatrists and related costs. The rate will be the sum of the four components appropriate to the care being delivered to the client.

B. Facilities receiving reimbursement under this rate methodology will be required to submit audited cost reports to the Office of Community Services on an annual basis. The audit must be conducted by a certified public accountant, must determine whether the cost report conforms to the requirements of HIM-15, and must contain the opinion of the certified public accountant that the costs shown in the cost report are accurate and allowable. Facilities which submit cost reports after the date specified by the Office of Community Services will lose a portion of the administrative component of their rates for the following rate year, according to a schedule developed by the Office of Community Services.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1084.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20: (August 1994).

Gloria Bryant-Banks  
Secretary

9408#056

**RULE**

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

**Food Stamp Recovery (LAC 67:III.2005)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 3, the Food Stamp Program.

Pursuant to compliance with the recent amendment of federal regulation 7 CFR 273.18 (d)(4)(i), it is necessary to change the period of time which is allowed for households to elect a repayment method for food stamps that were overissued because of inadvertent household error. The Office of Family Support will now provide the household 20 days, instead of 10, to choose a method of repayment before taking action to recover the benefits.

The section is also being revised, in its entirety and with no substantive changes, to conform with the intent of the Administrative Procedure Act, that is, some inappropriate or outdated language is being removed or reworded.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 3. Food Stamps**

**Chapter 19. Certification of Eligible Households**

**Subchapter P. Recovery of Overissued Food Stamp Benefits**

**§2005. Collection Methods and Penalties**

A. The Food Stamp Program maintains provisions relating to the disqualification penalties for intentional program violations. These provisions are aimed at deterring Food Stamp Program abuse and improving recovery of overpayments.

B. The basis for disqualification is expanded to include the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as, the commission of any act that constitutes a violation of any state food stamp statute. Mandatory disqualification periods of six months for the first offense, 12 months for the second, and permanently for the third offense will be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or through a court of law. The Office of Family Support, hereinafter referred to as the "agency," will not increase the benefits to the household of a disqualified person because of the disqualification.

C. The household of the disqualified individual, rather than the household member guilty of an intentional program violation, is held responsible for repaying the resultant overissuance and must agree to repayment in cash or to a reduction in its allotment. In cases not the result of program violation or agency error, the agency is required to collect overissuances from those persons still participating in the program by reducing further allotments if the household does not agree to a repayment schedule. The amount by which the agency can reduce the household's monthly allotment in the collection of overissuances not the result of intentional program violation or agency error is limited to 10 percent of the allotment or \$10 per month whichever will result in faster collection.

D. The agency may collect any type of overissuance by using means other than allotment reduction or cash repayment. Before the agency takes action to reduce a household's allotment in order to recover overissued benefits, the household may elect to repay the benefits.

1. The household responsible for overissuance due to an intentional program violation is allowed 10 days to choose between cash repayment or a reduced allotment.

2. The household responsible for overissuance due to an inadvertent error by the household is allowed 20 days to choose between cash repayment or a reduced allotment.

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273, 276 and 277.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of

Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20 (August 1994).

Gloria Bryant-Banks  
Secretary

9408#058

**RULE**

**Department of Social Services  
Office of the Secretary**

**Title IV-A At-Risk Child Care Program  
(LAC 67:I.101-103)**

The Department of Social Services, Office of the Secretary adopts the following rule in the Child Care Assistance Program effective September 1, 1994.

This rule implements the Title IV-A At-Risk Child Care program, which adds an additional funding source for assisting low-income working families with the costs of child care.

**Title 67**

**SOCIAL SERVICES**

**Part I. Office of the Secretary**

**Chapter 1. Child Care Assistance Program**

**§101. Eligibility Requirements**

A. General Requirements: Child Care and Development Block Grant and Title IV-A At-Risk Child Care

1. Household income does not exceed 75 percent of the state median income for a household of the same size.

a. Income is defined as gross earnings from all sources of employment. Earnings must be verified, using a minimum of four check stubs from the most recent four pay periods, or the program's standard verification form from the employer.

b. Medical expenses are deducted from the household's total earned income to determine income eligibility if they are:

- i. verified by the applicant,
- ii. regular and incurred at least once each month,
- iii. nonreimbursable by insurance or other sources,
- iv. not covered by Medicaid, and
- v. \$35 or more each month

Verification can consist of receipts from a drugstore or a doctor's office, etc., but must be sufficient to satisfy the criteria listed above. Deductions shown on check stubs for hospitalization or dental insurance are deducted as medical expenses.

c. A household is defined as a group of persons who share income and living expenses, with one or more adults acting as parents to the dependent children. The household must reside in Louisiana to be eligible for Child Care Assistance. Homelessness does not preclude being considered a "household."

2. The family includes a child in need of child care services who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or under court supervision. If the child is not already placed

with a child care provider, care must be scheduled to begin no later than 12 weeks following the date of application.

3. The child customarily resides full-time with a parent(s) or guardian(s) who is applying for child care services.

4. The child for whom application is being made is not eligible for or receiving child care benefits through the Aid to Families with Dependent Children (AFDC) program (including AFDC child care, Project Independence child care, Transitional Child Care, etc.). A parent or guardian can apply for Child Care Assistance 12 weeks prior to the termination of the child's eligibility for Transitional Child Care (TCC); if otherwise eligible, the applicant's name is placed on the waiting list until TCC eligibility is exhausted.

5. The family requests child care services, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state.

6. Eligible cases are assigned a certification period of up to six months, beginning with the first month in which the eligibility determination is made. The parent or guardian of a child is required to report any changes that could affect eligibility or benefit amount within 10 days of knowledge of the change. Specifically, parents or guardians must report:

- a. address changes;
- b. household composition changes;
- c. employment or earned income changes;
- d. changes in attendance at training or educational programs;
- e. changes in regular medical expenses;
- f. changes in child care providers;
- g. receipt of Aid to Families with Dependent Children (AFDC);
- h. absences from child care of five or more consecutive working days; and
- i. changes in the number of days or hours that a child is attending.

Failure to report a change that affects eligibility or benefit amount can result in action to recover ineligible benefits.

#### B. Child Care and Development Block Grant

1. One of the following two conditions is met:

a. the parent(s) or guardian(s), regardless of age, as well as all household members 18 years of age and older, is:

- i. employed at least 20 hours per week (parent(s) or guardian(s) must also be earning gross wages equivalent to the federal minimum wage multiplied times 20 hours per week), or

- ii. attending a job training or educational program that is legally authorized by the state for at least 20 hours per week (attendance at a job training or educational program must be verified, including the date of completion), or

- iii. some combination of employment and training or education as defined in §101.B.1.a. that equals at least 20 hours per week, or

b. the child is in need of or receiving protective services, in which case the parent(s) or guardian(s) and all adult members of the household are not required to be employed or attending a job training or educational program. Protective services status must be verified by the Office of Community Services.

C. Title IV-A At-Risk Child Care. The parent(s) or guardian(s), regardless of age, as well as all household members 18 years of age and older, is employed at least 20 hours per week (parent(s) or guardian(s) must also be earning gross wages equivalent to the federal minimum wage multiplied times 20 hours per week).

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and Parts 255 and 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 19:1440 (November 1993), LR 20:459 (April 1994), LR 20: (August 1994).

#### §103. Waiting Lists

A. A limited amount of funding is available each year through the Child Care and Development Block Grant and the Title IV-A At-Risk Child Care Program. As each child is determined eligible and authorized for services, anticipated agency expenditures on his behalf for 12 months are deducted from the total allocation for that year, to assure that expenditures can be made. Each regional office is responsible for tracking obligations of the funds allocated to that region.

B. When all the funds for the current year have been obligated, no payments can be made for any additional children determined eligible. Instead, a waiting list is maintained for each region. Eligible children are assigned a priority code for removal from the waiting list according to the following criteria:

1. children in need of protective services (Child Care and Development Block Grant only);
2. special needs children;
3. children whose eligibility for Transitional Child Care has terminated;
4. all other children.

Within each priority group identified above, the waiting lists are maintained in chronological order by date of application

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and Parts 255 and 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:1441 (November 1993), LR 20:460 (March 1994), LR 20: (August 1994).

Gloria Bryant-Banks  
Secretary

9408#054

#### RULE

Department of Transportation and Development  
Board of Registration for Professional Engineers and  
Land Surveyors

Engineering—Industrial Operations (LAC 46:LXI.105)

In accordance with the R.S. 49:950 et seq., the Board of Registration for Professional Engineers and Land Surveyors has amended LAC 46:LXI.105 as follows:



Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS

Part LXI. Professional Engineers and Land Surveyors  
Subpart 1. Rules

Chapter 1. General Provisions

§105. Definitions

\* \* \*

J. *Under the Supervision and Charge of a Professional Engineer*—as it applies in Louisiana Revised Statute 37:701(C) only, shall mean:

1. the work performed by a professional engineer, duly registered under the provisions of this Chapter; or
2. the work reviewed and approved by a professional engineer, duly registered under the provisions of this Chapter, who is authorized to direct changes to the engineering work; or
3. the work performed in accordance with a system of engineering practices approved by a professional engineer, duly registered under the provisions of this Chapter.

K. *Employees*—for purposes of Louisiana Revised Statute 37:701(C) only, shall mean:

1. any and all persons to or for whom a person, firm or corporation engaged in industrial operations pays salary or other compensation, withholds taxes, provides benefits or pays workers' compensation and/or liability insurance, including without limitation all persons covered by the definition of *Bona fide employee* as set forth in the rules of the board; or
2. any and all persons whose conduct a person, firm or corporation engaged in industrial operations has the right to control, including the right to hire, fire or directly supervise, the right to set the person's work schedule and job duties, or the right to set the terms and conditions of employment, including without limitation individuals supplied through an employment agency or consultant firm;

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688, 37:689, and 37:701.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4: 298 (August 1978), amended LR 5:110 (May 1979). LR 7:643 (December 1981). LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20: (August 1994).

Paul L. Landry, P.E.  
Executive Secretary

9408#014

# NOTICES OF INTENT

## NOTICE OF INTENT

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

Equine Infectious Anemia Testing  
(LAC 7:XXI.11765)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of horses, notice is hereby given that the Louisiana Livestock Sanitary Board advertises its intent to amend the regulations concerning diseases of horses.

### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 117. Livestock Sanitary Board

#### Subchapter C. Horses, Mules and Asses

#### §11765. Equine Infectious Anemia and Livestock Auction Market Requirements

\* \* \*

#### B. Equine Required to be Tested

1. - 2 ...

3. All equine sold or purchased in Louisiana shall have been officially tested negative for EIA within six months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase. The official test shall be conducted at an approved laboratory. The official test record shall accompany the horse at the time of the sale or purchase. The official test shall be conducted at an approved laboratory. The official test record shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test. Exceptions are:

\* \* \*

5. All equine domiciled within the state of Louisiana shall be maintained with a negative current official test for Equine Infectious Anemia. A negative current official test is a written result of a test conducted by an approved laboratory where said official test was performed not more than 12 months earlier. An equine is domiciled within the state when the equine has been pastured, stabled, housed, or kept in any fashion in the state more than 30 consecutive days. Written proof of a negative current official test shall be made available in the form of negative results from an approved laboratory upon request by an authorized representative of the Louisiana Livestock Sanitary Board.

\* \* \*

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1985), amended LR 11:615 (June 1985), LR 14:223 (April 1988), amended LR 14:697 (October 1988), LR 20:406 (April 1994), LR 20:

Interested parties may comment on the proposed policy, in writing, until 4:30 p.m., September 9, 1994, at the following address: Dr. Maxwell Lea, Jr., State Veterinarian, Department of Agriculture and Forestry, Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Bob Odom  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Equine Infectious Anemia Testing

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change is expected to produce an additional 16,000 tests per year for the state diagnostic lab. The test will cost the office \$1.50 each for a total cost of \$24,000 per year; however, in the current fiscal year there is a surplus of the laboratory supplies needed for the test so the office will not be required to purchase any additional materials (and therefore have no additional costs) until the next fiscal year. The costs incurred in future fiscal years will be offset by the additional revenues generated by the rules change. It is anticipated that existing personnel will be able to handle the increased workload.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the state diagnostic lab will conduct up to 16,000 additional tests for Equine Infectious Anemia (EIA). The charge to producers of \$5 per test minus \$1.50 cost for materials equals a profit of \$3.50 per test or a total of \$56,000 per year.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In addition to the state diagnostic laboratory, Louisiana accredited veterinarians and 17 privately-owned laboratories approved to conduct this test will also benefit from the proposed rule change.

The approved privately-owned laboratories will conduct the same EIA test as the state lab on approximately 162,000 additional horses each year. It is anticipated that they will charge \$4 per test resulting in an annual profit of approximately \$405,000.

The Louisiana accredited veterinarians will gather the samples necessary for the private labs to run the EIA tests. It is estimated that they will charge \$14 per horse for a total gross income of \$2,268,000; their costs, and therefore, the net profit, are indeterminable at this time.

Horse owners will benefit economically by greatly decreasing the chances of their horses becoming infected with EIA, a viral disease with no treatment or vaccine, through contact with a horse that is infected but has not been tested.

It is estimated that this rule change will cost Louisiana horse

owners an average of \$18 a horse per year to have their horses tested for this disease.

#### 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.

Richard Allen  
Assistant Commissioner  
9408#035

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

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

Livestock Fairs, Shows, Sales and Rodeos  
(LAC 7:XXI.11775)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of swine, notice is hereby given that the Louisiana Sanitary Board advertises its intent to amend the regulations concerning swine.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 117. Livestock Sanitary Board

#### Subchapter E. Swine

#### §11775. Admittance of Livestock to Fairs, Livestock Shows, Breeders' Association Sales and Rodeos

\* \* \*

C. Swine Brucellosis. All breeding age swine moving within the state to fairs, livestock shows, or breeders' association sales must show an official negative card test for brucellosis within 60 days prior to arrival at the fairgrounds or livestock show grounds, and within 30 days prior to arrival at breeders' association sale grounds. Swine moving to shows within the state that were purchased from validated or monitored herds are exempt from this testing requirement. Proof of purchase and validated/monitored herd numbers of the swine herd will be required.

D. Pseudorabies Requirements. All swine moving within the state to fairs, livestock shows, or breeders' association sales must show an official test for pseudorabies within 60 days prior to arrival at the fairgrounds or livestock show grounds, and within 30 days prior to arrival at breeders' association sale grounds. Swine moving to shows within the state that were purchased from qualified or monitored herds are exempt from this testing requirement. Proof of purchase and qualified/monitored herd numbers of the swine herd will be required.

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 16:392 (May 1990), amended LR 20:

Interested parties may comment on the proposed policy, in writing, until 4:30 p.m., September 9, 1994, at the following address: Dr. Maxwell Lea, Jr., State Veterinarian, Department of Agriculture and Forestry, Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Livestock Fairs, Shows, Sales and Rodeos**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There will be no cost or savings to state or local governmental units to implement this proposed rule.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
It is estimated that there will not be any effect on revenue collections of state or local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**  
It is estimated that the approximately 50 accredited veterinarians that test swine for brucellosis or pseudorabies would lose \$800 yearly in revenues.  
Louisiana swine producers would benefit economically by not having to test their swine prior to going to shows or fairs at an average cost of \$10 per hog times 4,000 hogs tested annually or \$40,000.
- 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.

Richard Allen  
Assistant Commissioner  
9408#032

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

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

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 3:2095, relative to the power of the Louisiana Livestock Sanitary Board to deal with diseases of swine, notice is hereby given that the Louisiana Sanitary Board advertises its intent to amend the regulations concerning swine.

**Title 7  
AGRICULTURE AND ANIMALS  
Part XXI. Diseases of Animals  
Chapter 117. Livestock Sanitary Board  
Subchapter E. Swine  
§11776. Quarantining, Vaccinating and Testing of  
Swine for Brucellosis/Pseudorabies  
\* \* \***

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

1. All swine positive to an official pseudorabies test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days; all swine, over six months of age and a random sampling of any growing/finishing swine which remain in the herd, must be test negative 30 days or more after removal of reactors. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole Herd Depopulation. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

C.1. All swine positive to an official brucellosis test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days. All swine over six months of age which remain in the herd, must be tested according to an "approved" herd plan. A herd may be released from quarantine upon completion of three negative complete herd tests(CHT). The first test must be completed at least 30 days after removal of the last reactor. A second CHT must be conducted 60-90 days following the first CHT. A third CHT is required 60-90 days following the second CHT. A fourth CHT is required six months after the third CHT.

2. Whole Herd Depopulation. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

\* \* \*

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

\* \* \*

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 16:392 (May 1990), amended LR 18:839 (August 1992), amended LR 20:

Interested parties may comment on the proposed policy, in writing, until 4:30 p.m., September 9, 1994, at the following address: Dr. Maxwell Lea, Jr., State Veterinarian, Department of Agriculture and Forestry, Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Quarantining, Vaccinating and Testing of Swine**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no cost or savings to state or local governmental units to implement this proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that there will not be any effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Swine producers whose herds are found to be infected with brucellosis, who do not opt for federal depopulation at fair market value, would lose up to \$30 a head on any animals they choose to sell while under the testing program.

Swine producers whose herds are infected with brucellosis or pseudorabies would greatly benefit economically by eliminating these diseases that cause abortions, stillbirths, and deaths in piglets. Pseudorabies causes encephalitis in older swine, cattle, sheep, dogs and cats. Brucellosis is transmissible to man.

All Louisiana swine producers will benefit economically by eradicating these diseases from the swine herds in the state by moving forward in the program thus having less restrictions on the movement of swine into and out of our state.

**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.

Richard Allen  
Assistant Commissioner  
9408#033

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 741—Health Education**

In accordance with the Louisiana Revised Statutes 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to the BESE Honors Curriculum in Bulletin 741 and related changes regarding health education requirement for high school graduation, effective for 1994-95 incoming freshmen, and printed below.

**Bulletin 741, page 76 - BESE Honors Curriculum**

\*\*\*

|                    |          |
|--------------------|----------|
| Physical Education | 1½ units |
| Health Education   | ½ unit   |

\*\*\*

(All other requirements remain the same.)

**Bulletin 741, page 84**

**Health Education**

2.105.13A minimum of 90 hours of health instruction shall be taught.

Procedural Block. Cardiopulmonary Resuscitation (CPR) shall be taught.

**AUTHORITY NOTE:** R.S. 17:6(A),(10)

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education LR 20:

These changes are necessary in order to bring Bulletin 741 standards in line with the previous adoption of the ½ unit Health Education requirement. Two standards are affected with the changes. One standard adds the health education requirement to the honors curriculum while the second change in standards clarifies that a minimum of 90 hours of health instruction shall be taught.

Interested persons may submit comments on the proposed amendments until 4:30 p.m., October 8, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 741—Health Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be a minimal state cost for printing as a result of this rule change. Costs for printing will be approximately \$100 to be paid by state funds. There will be no increased savings as a result of incorporating the recommended changes. The "90-hours of continuous instruction" for the new 1/2 credit Carnegie course, entitled "Health Education", was mandated in October 1993. The change within the regulations separates Health and Physical Education into two distinct course requirements, one

for "Health Education" and for "Physical Education". The change adds the 90-hours of instruction, an increase from the original hours, and also clarifies the 1/2 unit of Health for the students in the Honors Curriculum. 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 \$70. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional costs or impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no additional costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no additional costs or impact on employment.

Marlyn Langley  
Deputy Superintendent  
9408#075

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 741—Instructional Time

The Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and approved for advertisement, an amendment to Bulletin 741, Louisiana Handbook for School Administrators to add Standard 1.009.17 and amend the definition of instructional time as stated below. Effective date for implementation of this amendment is the 1995-96 school year.

#### Standard 1.009.17

The minimum required instructional day shall consist of 330 minutes (six period day) or 350 minutes (seven period day) and shall include the scheduled time within the regular school day devoted to teaching courses outlined in the program of studies and identified in the SBESE approved parish pupil progression plan.

For elementary schools, local school systems may include as instructional time in their adopted school calendar a maximum of four regular school days for formal, school-wide parent/teacher conferences for the purpose of assessing the students' progress or the students' programs of study and/or staff development.

For middle and secondary schools, local school systems may include as instructional time in their adopted school calendar a maximum of four regular school days for formal, school-wide parent/teacher conferences for the purpose of assessing the students' progress or the students' programs of study, and/or semester or grading period testing and the evaluation of students, and/or staff development.

For both elementary and secondary parent/teacher

conferences, all parents must be formally notified and their participation in the conferences must be sought.

Add as a procedural block under Standards 2.037.12 and 2.037.13:

"Refer to standard 1.009.17 for instructional days requirements."

Instructional time: shall include not only the scheduled time within the regular school day devoted to teaching courses outlined in the program of studies and identified in the SBESE approved parish pupil progression plan but also staff development, school-wide parent/teacher conferences for the purpose of assessing the students' progress or the students' programs of study, and/or semester or grading period testing and the evaluation of students in accordance with policy number 1.009.17.

AUTHORITY NOTE: 17.7

HISTORICAL NOTE: LR 20:

Interested persons may submit comments on the proposed policies until 4:30 p.m., October 8, 1994 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 741—Instructional Time

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only cost to state or local governmental units is \$100 to update and disseminate the changes to Bulletin 741.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
9408#072

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 921—Education Majors Program

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 approved for advertisement, the amended guidelines for the Education Majors Scholarship Program. Regulations for the Education Majors Scholarship Program are incorporated into Bulletin 921, 8(g) Policy and Procedure Manual and referenced in the Administrative Code, Title 28 as noted below:

#### Title 28

#### EDUCATION

#### Part I. Board of Elementary and Secondary Education

#### Chapter 9. Bulletins, Regulations, and State Plans

#### §921. Quality Education Support Fund (g)

##### A. Bulletin 921: Policy Manual

\* \* \*

##### E. Education Majors Program

This program will provide scholarships to academically talented students who will obtain a bachelor's degree in education which will qualify them to become certified classroom teachers. Regulations for the program are incorporated into Bulletin 921.

AUTHORITY NOTE: R. S. 17:3042.1

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20:

The Guidelines for the Education Majors Scholarship Program, FY 94-95 may be seen in their entirety in the Office of the State Register, located on the Fifth Floor of the Capitol Annex, in the office of Continuing Education, State Department of Education, Baton Rouge, or in the office of the State Board of Elementary and Secondary Education located in the Education Building.

Interested persons may submit comments on the proposed policy/regulations changes until 4:30 p.m., October 8, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Amendment to Guidelines for Education Majors Scholarship Program

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs associated with the adoption of this rule. 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 \$100. Funds are available.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Collection of monetary repayments will be facilitated through (1) elimination of certain deferment categories and (2) restriction of deferment extensions.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Deferment policy changes will prohibit scholarship recipients from prolonging the fulfillment of their repayment obligation to the program. Also, changes in reinstatement policy will cancel funding (of \$1,000 per semester) to recipients who fail to regain eligibility following one semester of deferment.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is that former recipients must obtain teaching employment in the state in fulfillment of their repayment obligations without the delays afforded through previous deferment policy.

Marilyn Langley  
Deputy Superintendent for Management  
and Finance  
9408#077

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 1196—Food and Nutrition Program (LAC 28:I.913)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq. and approved for advertisement, revised Bulletin 1196, Food and Nutrition Programs, Policies of Operation. This Bulletin is referenced in the Administrative Code, Title 28 as noted below:

#### Title 28

#### EDUCATION

#### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

#### §913. School Food Service Standards and Regulations

##### A. Bulletin 1196

1. Bulletin 1196, Food and Nutrition Programs, Policies of Operation, Revised 1994 is adopted, as revised.

\* \* \*

AUTHORITY NOTE: R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20:

This Bulletin may be seen in its entirety in the Office of the State Register located on the Fifth Floor of the Capitol Annex, in the Bureau of Food and Nutrition Services, State Department of Education, or in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, Louisiana.

Interested persons may submit comments on the proposed policies/regulations until 4:30 p.m., October 8, 1994 to:

Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Food and Nutrition Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no mandated costs to state or local governmental units. The new Cafeteria Enhancement section allows School Food Service funds to be used to upgrade cafeterias. In the past, the general fund had to absorb this expense. A minimal savings by local systems will occur due to changing some monthly reports to annual reports.  
The implementation cost for FY 1994-95 will be for printing and mailing to School Food Authorities which is approximately \$708.75. The estimated expense will be provided by FY 1994-95 federal funds. No additional appropriation will be required. There is no implementation cost for state or local agencies other than printing and mailing of the revised bulletin. BESE's cost for printing in the *Louisiana Register* is \$40.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no estimated effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There should be a minimal savings to local school food authorities due to the revision on the costing formula for school system employees meals. With the new revision all costs are recouped in the school employees meal price. The revised Bulletin was formulated to assist school food service employees in upgrading food service and to serve nutritionally adequate, attractive and moderately priced meals while providing Louisiana's children with learning experiences that will improve their eating habits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
9408#079

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1452—Handbook for Supervisors of Child Welfare and Attendance and School Social Workers (LAC 28:I.901)

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq. and approved for

advertisement, Bulletin 1452, The Handbook for Supervisors of Child Welfare and Attendance and School Social Workers. Bulletin 1452 will be referenced in the Louisiana Administrative Code, Title 28 as noted below:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Section 901. School Approval Standards and  
Regulations**

\* \* \*

**K. Bulletin 1452**

1. Bulletin 1452, Revised 1993, The Handbook for Supervisors of Child Welfare and Attendance and School Social Workers is adopted.

2. This bulletin contains the standard operation procedures for child welfare and attendance supervisors, related Louisiana statutes affecting compulsory school attendance and discipline of students, related court cases and decisions, opinions of the attorney general and departmental attorneys regarding school attendance and discipline, BESE policies, guidelines for the home study program, implementation of the Exceptional Children's Act, and other related documents. The handbook is compilation of the policies and regulations to which the supervisors of child welfare and attendance and school social workers must adhere.

AUTHORITY NOTE: R.S. 17.7

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 20

The complete bulletin may be seen in the Office of the State Register located on the Fifth Floor of the Capitol Annex, in the Bureau of Students Services in the Department of Education, or in the office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Interested persons may submit comments on the proposed policies/regulations until 4:30 p.m., October 8, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 1452—Handbook for Supervisors of  
Child Welfare and Attendance and School Social Workers**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The estimated cost of the Child Welfare and Attendance Program to state and local governmental units is \$4,859,443. The cost to the Department of Education is \$48,173. This includes \$20,472 to cover 50 percent of the state supervisor's salary and related benefits, \$1,500 to cover travel expenses and \$24,600 for salary and related benefits of one full-time program secretary. \$1,601 is included to print and disseminate the Child Welfare and Attendance Handbook to the 88 Parish Supervisors of Child Welfare and Attendance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The cost to local school systems is \$4,811,270. This includes salaries and related benefits for 88 Parish Supervisors of Child Welfare and Attendance and funds to cover travel expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn J. Langley  
Deputy Superintendent  
9408#080

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1822—Competency Based Postsecondary Curriculum Guides**

In accordance with the Louisiana Revised Statutes 49:950 et seq., The Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary approved for advertisement, an amendment to Bulletin 1822, Competency Based Postsecondary Curriculum Guides which changed the title and length of the courses listed below:

**Recommended Revisions:**

| Course Title                      | Length                      |
|-----------------------------------|-----------------------------|
| Residential Air Conditioning      | 1872 Hrs., 18 mos., 6 qtrs. |
| Domestic Refrigeration            | 1248 Hrs., 12 mos., 4 qtrs. |
| Band & Circular Saw Filing        | 1872 Hrs., 18 mos., 6 qtrs. |
| Barber-Styling                    | 1500 Hrs., 15 mos., 5 qtrs. |
| Cosmetology                       | 1500 Hrs., 15 mos., 5 qtrs. |
| Dietary Manager                   | 1560 Hrs., 15 mos., 5 qtrs. |
| Forest Technology                 | 1872 Hrs., 18 mos., 6 qtrs. |
| Horticulture                      | 1560 Hrs., 15 mos., 5 qtrs. |
| Industrial Maintenance Technician | 2496 Hrs., 24 mos.          |
| Nondestructive Testing            | 1248 Hrs., 12 mos., 4 qtrs. |
| Respiratory Care Technician       | 1872 Hrs., 18 mos., 6 qtrs. |
| Television Production             | 1872 Hrs., 18 mos., 6 qtrs. |

**Outlines Only**

| Outline Title                | Length                      |
|------------------------------|-----------------------------|
| Agricultural Mechanics       | 1560 Hrs., 15 mos., 5 qtrs. |
| Electromechanical Technology | 2496 Hrs., 24 mos., 8 qtrs. |
| Fitter-Fabricator            | 624 Hrs., 6 mos.            |
| Heavy Equipment Mechanic     | 1248 Hrs., 12 mos., 4 qtrs. |
| Heavy Equipment Operator     | 624 Hrs., 6 mos., 2 qtrs.   |
| Office Equipment Repair      | 2184 Hrs., 21 mos., 7 qtrs. |
| Pipefitting                  | 1248 Hrs., 12 mos., 4 qtrs. |
| Power Line Technician        | 1248 Hrs., 12 mos., 4 qtrs. |
| Homemaker's Aide             | 624 Hrs., 6 mos., 2 qtrs.   |

AUTHORITY NOTE: R. S. 17:6(A),(10), R. S. 17:7

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20:

Interested persons may submit comments on the proposed amendments until 4:30 p.m., September 7, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1822, Competency Based Postsecondary Curriculum Outlines**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In 1983, the Board of Elementary and Secondary Education adopted the implementation of uniform course titles and time requirements. The amendments to this bulletin are updates on title names, course lengths and content. The cost to implement this change would be approximately \$300. This would be for printing and postage to mail out the revisions. This amount also includes extra cost for the implementation of a new course.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This amendment is an update to Bulletin 1822, "Competency-Based Postsecondary Curriculum Outlines." When updates occur, the length of attendance for various courses may be increased or decreased. As courses are increased, the technical institutes will realize additional revenue and as they are decreased, will realize a decrease in revenue. As new courses are added, the potential for greater enrollment is better thus providing additional revenue for the technical institutes. With this update no decrease in enrollment is expected. There should not be any significant impact on self-generated revenues because of these updates and no future increase in cost is expected due to the change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As courses are increased or decreased in length, the technical institute students will realize an increase or decrease in the amount of tuition costs. However, a more adequately trained worker will be available for employment in business and industry. The changes to the curriculum are made in response to what business and industry demands. There is no anticipation that any individual will be denied an opportunity to enroll.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All technical education students will receive the same minimum curriculum from each technical institute attended. If a student transfers from one institute to another, there will be no lost time. The technical institutes will be producing better products as a result of up-to-date curricula.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
9408#074

John R. Rombach  
Legislative Fiscal Officer



**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Migrant Education State Plan—FY 1995  
(LAC 28:I.933)**

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved for advertisement, the Migrant Education State Plan, FY-95. The Migrant Education FY-95 State Plan is a description of the Louisiana program for delivery of instructional and support services to children of migratory agricultural and fishing workers. It includes definitions of eligibility, scheme for identification and recruitment, instructional objectives, criteria for personnel, data requirements, parental involvement, requirements, provisions for health, nutrition, and other support services, and plan for evaluation and reporting.

This is also an amendment to the Administrative Code, Title 28 as noted below:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§933. Migrant Education State Plan**

A. The Migrant Education State Plan, FY-95 is adopted, as revised.

\* \* \*

AUTHORITY NOTE: P.L. 100-297

HISTORICAL NOTE: LR 20:

Complete text of this plan may be viewed in its entirety at the Office of the State Register, Capitol Annex, 1050 North Third Street, Room 512, Baton Rouge, LA 70802, at the Bureau of Migrant Education, State Department of Education, and in the office of the State Board of Elementary and Secondary Education located in the Education Building, Baton Rouge, LA.

Interested persons may submit comments on the proposed policies/regulations until 4:30 p.m., October 8, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**Carole Wallin  
Executive Director**

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Migrant Education State Plan FY 1995**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The FY-95 migrant education allocation is expected to be \$2.3 million, down from an FY-94 allocation of \$2.5 million, thus effectively reducing the state expenditures (all federal funds) by \$200,000.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$70. Funds are available.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The migrant program will collect and thus expend \$200,000 less in FY-95 than FY-94.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There is no estimated cost and/or no economic benefit to the directly affected persons.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

Two full-time employees in local operating agencies have retired and been replaced with contract people. Two others have not been renewed.

**Marlyn Langley  
Deputy Superintendent  
9408#078**

**John R. Rombach  
Legislative Fiscal Officer**

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Teacher Tuition Exemption (LAC 28:I.921)**

The Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq. and repealed the current regulations for the tuition exemption program for teachers (FY 93-94), since the board is no longer funding the teacher tuition exemption program which was established by R.S. 17:7.3. Two new professional development programs will be funded with the 8(g) funds previously allocated to the tuition exemption program.

Repeal of these regulations was adopted as an emergency rule in order for the colleges, universities, and teachers to be apprised of the action. Effective date of emergency rule was June 23, 1994 and was published in the July, 1994 issue of the *Louisiana Register*.

This action is also an amendment to the Administrative Code, Title 28 as noted below:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§921. Quality Education Support Fund 8(g)**

\* \* \*

B. Teacher Tuition Exemption Program, FY 93-94  
Repealed.

\* \* \*

AUTHORITY NOTE: R.S. 17:7.3

HISTORICAL NOTE: Repealed in accordance with the Board of Elementary and Secondary Education, LR 20:

Interested persons may comment on the proposed policy changes in writing until 4:30 p.m., October 8, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**Carole Wallin  
Executive Director**

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Teacher Tuition Exemption Guidelines**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The State Board of Elementary and Secondary Education (SBESE), on June 23, 1994 repealed the current teacher tuition exemption regulations (FY 93-94) which had been a \$2-3 million plus 8(g) expenditure. The SBESE adopted two new professional development programs which will be funded with 8(g) monies, which have been included in the budget. They are the (1) tuition exemption basic program for \$2,000,000 and the (2) innovative professional development program for \$2,005,000.  
BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There have been some revisions relative to the populations eligible for participation under the two new programs. Those not eligible in the "Basic" program are speech therapists, librarians, and counselors unless they are teaching in a classroom two or more classes per day. The "innovative" program, which includes both credit and noncredit programs, expanded the eligible participant population to include speech therapists, librarians, counselors, and instructional administrators in the credit program. The noncredit program also includes school social workers, school psychologists, assessment teachers and paraprofessionals.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect.

Marlyn Langley  
Deputy Superintendent  
9408#073

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Waivers of Minimum Standards (LAC 28:I.313)**

The Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq. and approved for advertisement, a revision to LAC 28:I.313 as stated below:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education**

**Chapter 3. Rules of Procedure**

**Section 313. Waivers of Minimum Standards:  
Procedures**

\* \* \*

**D. Administrative Waivers of Certification Standards**

\* \* \*

4. Waivers of Practicum and Student Teaching Requirements When all Coursework is Completed
- a. Appeal Requested and Guidelines
- i. Waiver of practicum requirements: Practicum requirements, with the exception of the tests and measurements practicum, may be waived with three years of experience in the appropriate area if all other coursework is completed; or a temporary certificate may be issued if all academic requirements have been met. This will allow the teacher to continue his/her present position while gaining the necessary experience to apply for the waiver.
- ii. Waiver of student teaching when a state approved program is completed: Student teaching may be waived when the applicant has had three years of experience. This will be granted only if all coursework has been completed.

AUTHORITY NOTE: R. S. 17:6(A); (10); R. S. 17:7

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 20:

Interested persons may submit comments on the proposed policies/regulations until 4:30 p.m., October 8, 1994 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Waivers of Minimum Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The adoption of this proposed rule will cost the Department of Education approximately \$100 (printing and postage) to disseminate the policy. BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$70. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will have no effect on revenue collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
An increased number of teachers of special education classes will be required to complete the tests and measurements practicum for certification since waivers will be significantly reduced.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment as a result of this action.

Marlyn Langley  
Deputy Superintendent  
9408#076

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

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

#### Conformity of Federal Actions to SIPs (LAC 33:III.Chapter 14) (AQ95)

Under the authority of the Louisiana 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, (AQ95), and that the Office of Air Quality and Radiation Protection will submit a revision to the State Implementation Plan (SIP) which incorporates the rule.

This rule and SIP revision will establish the criteria and procedures governing the determination of conformity for all federal actions, except federal highway and transit actions. The rule and SIP revision will ensure that federal actions conform to the appropriate State Implementation Plan's (SIP's) purposes of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of such standards. This action is required by the USEPA federal regulation 40 CFR Part 51, Subpart W.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 14. Conformity

#### Subchapter A. Determining Conformity of General Federal Actions to State or Federal Implementation Plans

##### §1401. Purpose

The purpose of this Subchapter is to implement 40 CFR part 51, subpart W to fulfill requirements of section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.), with respect to the conformity of general federal actions to the applicable state implementation plan(s) (SIPs). This rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such actions to the applicable SIPs.

**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:

##### §1402. Scope

The conformity provisions of this Subchapter shall apply in all criteria pollutant nonattainment and maintenance areas and shall apply to all federal action as defined and required in this Subchapter.

**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:

##### §1403. Prohibition

A. No department, agency, or instrumentality of the federal

government shall engage in, support in any way, provide financial assistance for, license, permit, or approve any activity which does not conform to an applicable implementation plan.

B. A federal agency must make a determination that a federal action conforms to the applicable implementation plan in accordance with the requirements of this Subchapter before the action is taken.

C. Subsection B of this Section does not include federal actions where conditions in either Subsection C.1 or 2 of this Section are met:

1. a National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or finding of no significant impact (FONSI) that was prepared prior to January 31, 1994; or

2. prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis; sufficient environmental analysis is completed by March 15, 1994, so that the federal agency may determine that the federal action is in conformity with the specific requirements and the purposes of the applicable SIP in accordance with the federal agency's affirmative obligation under Section 176(c) of the CAA; and a written determination of conformity under Section 176(c) of the CAA has been made as of March 15, 1994 by the federal agency responsible for the federal action.

D. Notwithstanding any provision of this Subchapter, a determination that an action is exempt, is in conformance, or is presumed to conform with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, the CAA, or any facility reporting, testing, monitoring, permitting, and fee requirements of LAC 33: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 20:

##### §1404. Definitions

Terms used, but not defined in this part, shall have the meaning given them by the CAA and LAC 33:III, in that order of priority.

**Affected Federal Land Manager**—the federal agency or the federal official charged with direct responsibility for management of an area designated as Class I under 42 U.S.C. 7472 of the CAA that is located within 100 km of the proposed federal action.

**Applicable Implementation Plan or Applicable SIP**—the portion(s) of the Louisiana SIP or most recent revision thereof, which has been approved under section 110 of the CAA, or promulgated under section 110(c) of the CAA (federal implementation plan), or promulgated or approved pursuant to regulations promulgated under section 301(d) of the CAA and which implements the relevant requirements of the CAA.

**Areawide Air Quality Modeling Analysis**—an assessment on a scale that includes the entire nonattainment or

maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

**Cause or Contribute to a New Violation**—a federal action that:

a. causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the federal action were not taken; or

b. contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

**Caused By** (as used in the terms "direct emissions" and "indirect emissions")—emissions that would not otherwise occur in the absence of the federal action.

**CAA**—Clean Air Act as amended, 1990.

**Criteria Pollutant or Standard**—any pollutant for which there is established a NAAQS at 40 CFR part 50.

**Department**—the Air Quality Division, Office of Air Quality and Radiation Protection, of the Department of Environmental Quality.

**Direct Emissions**—those emissions of a criteria pollutant or its precursors that are caused or initiated by the federal action and occur at the same time and place as the action.

**Emergency**—a situation where extremely quick action on the part of the federal agencies involved is needed to respond to a crisis and where the timing of such federal activities makes it impractical to meet the requirements of this rule, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

**Emissions Budgets**—those portions of the total allowable emissions defined in the applicable implementation plan for a certain period for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to mobile sources, stationary sources, area sources, or any class source or subcategory source established within those projected emissions inventories.

**Emission Offsets**—measures which reduce emissions and are quantifiable, consistent with the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable SIP provisions, enforceable under both state and federal law, and permanent within the time frame specified by the applicable SIP.

**Emissions that a Federal Agency has a Continuing Program Responsibility For**—emissions that are specifically caused by an agency carrying out its authorities, but does not include emissions that occur due to subsequent activities, unless such activities are required by the federal agency; and where an agency, in performing its normal program responsibilities, takes actions itself or imposes conditions that result in air pollutant emissions by a nonfederal entity taking subsequent actions.

**Facility**—all emission points, and fugitive, area, and mobile emission sources under common control on contiguous property.

**Federal Action**—any activity engaged in by a department, agency, or instrumentality of the federal government, or any activity that a department, agency, or instrumentality of the federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity is the part, portion, or phase or the nonfederal undertaking that requires the federal permit, license, or approval.

**Federal Agency**—a federal department, agency, or instrumentality of the federal government.

**Increase the Frequency or Severity of any Existing Violation of any Standard in any Area**—to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

**Indirect Emissions**—those emissions of a criteria pollutant or its precursors that:

a. are caused by the federal action, but may occur later in time and/or may be farther removed in distance from the action itself, but are still reasonably foreseeable; and

b. the federal agency can practicably control and will maintain control over due to a continuing program responsibility of the federal agency, including:

i. on-site traffic activity and traffic to and from a proposed facility which is related to increases or other changes in the scale or timing of operations of such facility;

ii. emissions related to the activities of employees of contractors or federal employees;

iii. emissions offsets related to employee commutation and similar programs to increase average vehicle occupancy imposed on all employers of a certain size in the locality;

iv. emissions related to the use of federal facilities under lease or temporary permit; and

v. emissions related to the activities of contractors or leaseholders that may be addressed by provisions that are usual and customary for contracts or leases or are within the scope of contractual protection of the interests of the United States.

**Local Air Quality Modeling Analysis**—an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area (including, for example, congested roadway intersections and highways or transit terminals) which uses an air quality dispersion model to determine the effects of emissions on air quality.

**Maintenance Area**—an area with a maintenance plan approved under section 175A of the CAA.

**Maintenance Plan**—a revision to the applicable SIP which meets the requirements of section 175A of the CAA.

**Metropolitan Planning Organization (MPO)**—that organization designated as being responsible, together with the

state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.

**Milestone**—an emissions level and the date on which it is required to be achieved under sections 182(g)(1) and 189(c)(1) of the CAA.

**National Ambient Air Quality Standards (NAAQS)**—those standards established pursuant to section 109 of the CAA, including standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>), ozone, particulate matter (PM<sub>10</sub>), and sulfur dioxide (SO<sub>2</sub>).

**NEPA**—the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

**Nonattainment Area (NAA)**—a geographic area of the United States designated as nonattainment under section 107 of the CAA and described in 40 CFR part 81.

**Precursors of a Criteria Pollutant**—

a. for ozone: nitrogen oxides (NO<sub>x</sub>), unless an area is exempted from NO<sub>x</sub> requirements under section 182(f) of the CAA, and volatile organic compounds (VOC); and

b. for PM<sub>10</sub>: those pollutants described in the PM<sub>10</sub> nonattainment area applicable SIP as significant contributors to the PM<sub>10</sub> levels.

**Reasonably Foreseeable Emissions**—projected future indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known to the extent that the impact of such emissions can be determined; and the emissions are quantifiable, as described and documented by the federal agency based on its own information and after reviewing any information presented to the federal agency.

**Regional Water and/or Wastewater Project**—includes construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

**Regionally Significant Action**—a federal action for which the direct and indirect emissions of any pollutant represent 10 percent or more of a nonattainment or maintenance area's emissions inventory for that pollutant.

**Total of Direct and Indirect Emissions**—the sum of direct and indirect emissions increases and decreases of criteria pollutant and precursor caused by federal action, inclusive of all emissions known or reasonably foreseeable at the time the emissions level is calculated (i.e., the net emissions considering all direct and indirect emissions). Emissions which are exempt or presumed to conform under LAC 33:III.1405.C, D, E, or F, except as provided in LAC 33:III.1405.J, are exempt from the requirements of LAC 33:III.1410 and are not included in the net emissions from federal action which must be determined in conformity with the applicable SIP emissions budget. Segmentation of projects for determining emissions, and applicability of the presumed to conform exemption, and for conformity analyses is not permitted.

**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:

## §1405. Applicability

A. Conformity determinations for federal actions related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of LAC 33:III.Chapter 14, Subchapter B, in lieu of the procedures set forth in this Subchapter.

B. For federal actions not covered by Subsection A of this Section, a conformity determination under this Subchapter is required for each criteria pollutant where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a federal action would equal or exceed any of the rates in Subsection B.1 or 2 of this Section. Emissions from federal actions must be determined using methods described in this Subchapter or, notwithstanding other requirements of this Subchapter, using methods approved by the administrative authority, such as the application of applicable emissions inventory summaries to quantifiable actions.

1. The following rates apply in nonattainment areas (NAAs):

| CRITERIA POLLUTANTS   | TONS/YEAR |
|---|-----------|
| Ozone (VOCs or NO <sub>x</sub> )                            |           |
| Serious NAAs  | 50        |
| Severe NAAs   | 25        |
| Extreme NAAs  | 10        |
| Other ozone NAAs outside an ozone transport region          | 100       |
| Marginal and moderate NAAs inside an ozone transport region |           |
| VOC   | 50        |
| NO <sub>x</sub>   | 100       |
| Carbon Monoxide   |           |
| All NAAs  | 100       |
| SO <sub>2</sub> or NO <sub>2</sub>                          |           |
| All NAAs  | 100       |
| PM <sub>10</sub>  |           |
| Moderate NAAs   | 100       |
| Serious NAAs  | 70        |
| Pb  |           |
| All NAAs  | 25        |

2. The following rates apply in maintenance areas:

| CRITERIA POLLUTANTS  | TONS/YEAR |
|--|-----------|
| Ozone (NO <sub>x</sub> ), SO <sub>2</sub> or NO <sub>2</sub> |           |
| All Maintenance Areas  | 100       |
| Ozone (VOCs)   |           |
| Maintenance areas inside an ozone transport region           | 50        |
| Maintenance areas outside an ozone transport region          | 100       |
| Carbon Monoxide  |           |
| All maintenance areas  | 100       |
| PM <sub>10</sub>   |           |
| All maintenance areas  | 100       |
| Pb   |           |
| All maintenance areas  | 25        |

C. The requirements of this Subchapter shall not apply to:

1. actions where the total of direct and indirect emissions are below the emissions levels specified in Subsection B of this Section;

2. the following actions which would result in no emissions increase or an increase in emissions that is clearly de minimis:

- a. judicial and legislative proceedings;
- b. continuing and recurring activities, such as permit renewals, where activities conducted will be similar in scope and operation to activities currently being conducted;
- c. rulemaking and policy development and issuance;
- d. routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities;
- e. civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel;
- f. administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties, and fees;
- g. routine, recurring transportation of material and personnel;
- h. routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups and/or for repair or overhaul;
- i. maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site;
- j. actions, with respect to existing structures, properties, facilities and lands where future activities

conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands, such as the following examples: relocation of personnel; disposition of federally-owned existing structures, properties, facilities, and lands; rent subsidies, operation and maintenance cost subsidies; the exercise of receivership or conservatorship authority; assistance in purchasing structures; and the production of coins and currency;

k. granting of leases, licenses such as for exports and trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted;

l. planning, studies, and provision of technical assistance;

m. routine operation of facilities, mobile assets, and equipment;

n. transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer;

o. designation of empowerment zones, enterprise communities, or viticultural areas;

p. actions by any of the federal banking agencies or the federal reserve banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency, or instrumentality of the United States;

q. actions by the Board of Governors of the federal reserve system or any federal reserve bank to effect monetary or exchange rate policy;

r. actions that implement a foreign affairs function of the United States;

s. actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and where the federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

t. transfers of real property, including land, facilities, and related personal property from a federal entity to another federal entity and assignments of real property, including land, facilities, and related personal property from a federal entity to another federal entity for subsequent deeding to eligible applicants; and

u. actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States;

3. the following actions where the emissions are not reasonably foreseeable:

a. initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level; and

b. electric power marketing activities that involve the acquisition, sale, and transmission of electric energy; and

4. individual actions which implement a decision to conduct or carry out a program that has been found to conform to the applicable implementation plan, such as prescribed burning actions which are consistent with a conforming land management plan that has been found to conform to the applicable implementation plan. Such land management plan shall have been found to conform within the past five years.

D. Notwithstanding the other requirements of this Subchapter, a conformity determination is not required for the following federal actions (or portion thereof):

1. the portion of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (section 173 of the CAA) or the prevention of significant deterioration (PSD) program (title I, part C of the CAA);

2. actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of Subsection E of this Section;

3. research, investigations, studies, demonstrations, or training where no environmental detriment is incurred and/or the particular action furthers air quality research, as determined by the state agency primarily responsible for the applicable SIP;

4. alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions); and

5. direct emissions from remedial and removal actions carried out under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other environmental regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.

E. Federal actions which are part of a continuing response to an emergency or disaster under Subsection D.2 of this Section and which are to be taken more than six months after the commencement of the response to the emergency or disaster under Subsection D.2 of this Section are exempt from the requirements of this Subchapter only if:

1. the federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional six months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests, and foreign policy commitments; or

2. for actions which are to be taken after those actions covered by Subsection E.1 of this Section, the federal agency makes a new determination as provided in Subsection E.1 of this Section.

F. Notwithstanding other requirements of this Subchapter, actions specified by individual federal agencies that have met the criteria set forth in either Subsection G.1, 2, or 3 of this Section and when the procedures set forth in Subsection H of this Section have been met are presumed to conform, except as provided in Subsection J of this Section.

G. The federal agency must meet the criteria for establishing classes of action that are presumed to conform by fulfilling the requirements set forth in either Subsection G.1 or 2 of this Section. Federal agencies, in accordance with Subsection G.1 or 2 of this Section, may establish classes of action as presumed to conform and exempt from the requirements of LAC 33:III.1410; and may in accordance with Subsection G.3 of this Section, specify future individual actions as presumed to conform when the individual actions are similar in design and scope to the type of activity upon which the class of action was established.

1. The federal agency must demonstrate, using methods consistent with these regulations that the total of direct and indirect emissions from the class of action which would be presumed to conform would not:

a. cause or contribute to any new violation of any standard in any area;

b. interfere with provisions in the applicable SIP for maintenance of any standard;

c. increase the frequency or severity of any existing violation of any standard in any area; or

d. delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

i. a demonstration of reasonable further progress;

ii. a demonstration of attainment; or

iii. a maintenance plan.

2. The federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in Subsection B of this Section based, for example, on actions similar in design and scope taken over recent years.

3. Future individual actions which are specified by an individual federal agency as presumed to conform based on that action being similar in design and scope to the class of action exemption established in Subsection G.1 or 2 of this Section are subject to the requirements of Subsection H and J of this Section, must operate at or below the emissions levels established in the associated exempt class of action, and must be documented by records which quantify the action sufficiently to confirm design, scope, and emissions.

H. In addition to meeting the criteria for establishing exemptions set forth in Subsection G.1, 2 or 3 of this Section, the following procedures must also be complied with to presume that actions will conform:

1. the federal agency must identify, through publication in the *Federal Register*, its list of proposed actions that are presumed to conform and the analyses, assumptions, emission factors, and criteria used as the basis for the presumptions;

2. the federal agency must give direct notice of proposed presumed to conform actions and the basis for the

presumptions to the EPA Region 6 Office, the department, local air quality agencies and, where applicable, the MPO; and provide at least 30 days prior to publishing the final list of such actions for the agencies notified and the public to comment on the list of proposed actions presumed to conform;

3. the federal agency must document its response to all the comments received and make the comments, response, and final list of actions available to the public upon request; and

4. the federal agency must publish the final list of such actions in the *Federal Register*.

I. Notwithstanding the other requirements of this Subchapter, when the total of direct and indirect emissions of any pollutant from a federal action does not equal or exceed the rates specified in Subsection B of this Section, and the federal action is regionally significant, the requirements of LAC 33:III.1403 and 1407-1412 shall apply.

J. Where an action otherwise presumed to conform under Subsection F of this Section is a regionally significant action or does not, in fact, meet one of the criteria in Subsection G.1 of this Section, that action shall not be presumed to conform and the requirements of LAC 33:III.1403 and 1407-1412 shall apply for the federal action.

**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:

#### **§1406. Conformity Analysis**

Any federal department, agency, or instrumentality of the federal government taking an action subject to this Subchapter must make its own conformity determination consistent with the requirements of this Subchapter. In making its conformity determination, a federal agency must consider comments from any interested parties. Where multiple federal agencies have jurisdiction for various aspects of a project, a federal agency may choose to adopt the analysis of another federal agency (to the extent the proposed action and impacts analyzed are the same as the project for which a conformity determination is required) or develop its own analysis in order to make its conformity determination. Any analysis adopted must include all known facility emissions associated with the action.

**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:

#### **§1407. Reporting Requirements**

A. A federal agency making a conformity determination under LAC 33:III.1410 must provide to the department, the EPA Region 6 Office, local air quality agencies and, where applicable, affected federal land managers, and the MPO a 30-day notice prior to final adoption of the conformity determination, which describes the proposed action and the federal agency's draft conformity determination on the action in sufficient detail to demonstrate that criteria and procedures required in LAC 33:III.1410-1412 are applied.

B. A federal agency must give direct notification to the department, the EPA Region 6 Office, local air quality agencies and, where applicable, affected federal land

managers, and the MPO within 30 days after making a final conformity determination under LAC 33:III.1410.

**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:

#### **§1408. Public Participation**

A. Upon request by any person regarding a specific federal action, a federal agency must make available for review its draft conformity determination under LAC 33:III.1410 with supporting materials which describe the analytical methods, assumptions, and conclusions relied upon in making the applicability analysis and draft conformity determination.

B. A federal agency must make public its draft conformity determination under LAC 33:III.1410 by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.

C. A federal agency must document its response to all the comments received on its draft conformity determination under LAC 33:III.1410 and make the comments and responses available, upon request by any person regarding a specific federal action, within 30 days of the final conformity determination.

D. A federal agency must make public its final conformity determination under LAC 33:III.1410 for a federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination.

**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:

#### **§1409. Frequency of Conformity Determinations**

A. The conformity status of a federal action automatically lapses five years from the date its final conformity determination is reported under LAC 33:III.1407, unless the federal action has been completed or a continuous program has been commenced to implement that federal action within a reasonable time.

B. Ongoing federal activities at a given site showing continuous progress are not new actions and do not require periodic redetermination so long as the emissions associated with such activities are within the scope of the final conformity determination reported under LAC 33:III.1407.

C. A new conformity determination is required if, after the conformity determination is made, the federal action is changed so that there is an increase in the total of direct and indirect emissions and the new net emissions are above the levels in LAC 33:III.1405.B.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:



**§1410. Criteria for Determining Conformity of General Federal Actions**

A. An action required under LAC 33:III.1405 to have a conformity determination for a specific pollutant will be determined to conform to the applicable SIP if, for each pollutant that equals or exceeds the rates in LAC 33:III.1405.B or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of Subsection C of this Section and meets any of the following requirements:

1. for any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;

2. for ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area through a revision to the applicable SIP or a measure similarly enforceable under state and federal law that effects emission offsets so that there is no net increase in emissions of that pollutant;

3. for any criteria pollutant, except ozone and nitrogen dioxide, the total of direct and indirect emissions from the action meet the requirements:

a. specified in Subsection B of this Section, based on areawide air quality modeling analysis and local air quality modeling analysis; or

b. meet the requirements of Subsection A.5 of this Section and, for local air quality modeling analysis, the requirement of Subsection B of this Section;

4. for CO or PM<sub>10</sub>:

a. where the department determines that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in Subsection B of this Section based on local air quality modeling analysis; or

b. where the state agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in Subsection B of this Section based on areawide modeling or meet the requirements of Subsection A.5 of this Section; or

5. for ozone or nitrogen dioxide and for purposes of Subsection A.3.b and 4.b of this Section, each portion of the action or the action as a whole meets any of the following requirements:

a. where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and the department makes a determination as provided in Subsection A.5.a.i of this Section or where the state makes a commitment as provided in Subsection A.5.a.ii of this Section:

i. the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the state agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed the emissions budgets specified in the applicable SIP. As a matter of policy, should the department make such

determination or commitment, the federal agency must provide to the department information on all known projects or other actions which may affect air quality or emissions in any area to which this rule is applicable, regardless of whether such project or action is determined to be subject to this rule under LAC 33:III.1405. The department may charge the federal agency requesting such determination a reasonable fee based on the number of manhours required to perform and document the determination; or

ii. the total of direct and indirect emissions from the action (or portion thereof) is determined by the state agency responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable SIP and the governor or the governor's designee for SIP actions makes a written commitment to EPA which includes the following:

(a). a specific schedule for adoption and submittal of a SIP revision which provides that the needed emission offsets would be achieved prior to the time emissions from the federal action would occur;

(b). identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area would not exceed any emissions budget specified in the applicable SIP;

(c). a demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the federal action and that local authority to implement additional requirements has been fully pursued;

(d). a determination that the responsible federal agencies have required all reasonable mitigation measures associated with their action, such as mitigation measures available through the SIP regulating banking of emission credits; and

(e). written documentation including all air quality analyses supporting the conformity determination.

iii. where a federal agency made a conformity determination based on a state commitment under Subsection A.5.a.ii of this Section, such a state commitment is automatically deemed a call for a SIP revision by EPA under section 110(k)(5) of the CAA, effective on the date of the federal conformity determination and requiring response within 18 months or any shorter time within which the state commits to revise the applicable SIP;

b. the action (or portion thereof), as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under LAC 33:III.Chapter 14, Subchapter B, or 40 CFR part 93, subpart A;

c. emissions from the action (or portion thereof) are fully offset within the same nonattainment or maintenance area through a revision to the applicable SIP or an equally enforceable measure that effects emission offsets equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

d. where EPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since

1990, the total of direct and indirect emissions from the action for the future years [described in LAC 33:III.1411.D] do not increase emissions with respect to the baseline emissions and the baseline emissions:

i. reflect the historical activity levels that occurred in the geographic area affected by the proposed federal action during:

(a). calendar year 1990;

(b). the calendar year that is the basis for the classification (or, where the classification is based on multiple years, the year that is most representative in terms of the level of activity associated with emissions), if a classification is promulgated in 40 CFR part 81; or

(c). the year of the baseline inventory in the applicable PM<sub>10</sub> SIP;

ii. are the total of direct and indirect emissions calculated for the future years [described in LAC 33:III.1411.D] using the historic activity levels [described in Subsection A.5.d.i of this Section] and appropriate emission factors for the future years; or

e. where the action involves regional water and/or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

B. The areawide and/or local air quality modeling analyses must:

1. meet the requirements in LAC 33:III.1411; and

2. show that the action does not:

a. cause or contribute to any new violation of any standard in any area; or

b. increase the frequency or severity of any existing violation of any standard in any area.

C. Notwithstanding any other requirements of this Section, an action subject to this Subchapter may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements.

D. Any analyses required under this Section must be completed and any mitigation requirements necessary for a finding of conformity must be identified and committed to in compliance with LAC 33:III.1412.B and F before the determination of conformity is made.

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:

#### **§1411. Procedures for Conformity Determinations of General Federal Actions**

A. The analyses required under this Subchapter must be based on the latest planning assumptions.

1. All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO or state agency authorized to make such estimates.

2. Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or state agency authorized to make such estimates for the area.

B. The analyses required under this Subchapter must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate and written approval of the EPA regional administrator is obtained for any modification or substitution, they may be modified or another technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program.

1. For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in the state must be used for the conformity analysis as specified below:

a. the EPA must publish in the *Federal Register* a notice of availability of any new motor vehicle emissions model; and

b. a grace period of three months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used. Conformity analyses for which the analysis was begun during the grace period or no more than three years before the *Federal Register* notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

2. For nonmotor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors (AP-42)" must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

C. The air quality modeling analyses required under this Subchapter must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models (Revised)" (1986), including supplements (EPA publication no. 450/2-78-027R), unless:

1. the guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program; and

2. written approval of the EPA regional administrator is obtained for any modification or substitution.

D. The analyses required under this Subchapter, except LAC 33:III.1410.A.1, must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

1. the CAA-mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;

2. the year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and

3. any year for which the applicable SIP specifies an emissions budget.

**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:

#### **§1412. Mitigation of Air Quality Impacts**

A. Any measures that are intended to mitigate air quality impacts must be identified [including the identification and quantification of all emission offsets claimed] and the process for implementation [including any necessary funding of such measures and tracking of such emission reductions] and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

B. Prior to determining that a federal action is in conformity, the federal agency making the conformity determination must obtain written commitments to mitigate from the appropriate persons or agencies who will implement mitigation measures which are identified as conditions for making conformity determinations, including mitigation measures that the federal agency making the conformity determination must itself implement as a condition for making the conformity determination. Such written commitment shall describe such mitigation measures and the nature of the commitment in a manner consistent with Subsection A of this Section.

C. Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

D. In instances where the federal agency is licensing, permitting, or otherwise approving the action of another governmental or private entity, approval by the federal agency must be conditioned on the committing entity meeting the mitigation measures set forth in the conformity determination as provided in Subsection A of this Section.

E. When necessary because of changed circumstances and if permissible by the state and federal law regulating the original mitigation, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination in accordance with LAC 33:III.1410-1412. Any proposed change in the mitigation measures is subject to the reporting requirements of LAC 33:III.1407 and the public participation requirements of LAC 33:III.1408.

F. Written commitments to mitigation measures must be obtained prior to a positive conformity determination and such commitments must be fulfilled.

G. After a state revises its SIP to adopt its general conformity rules and EPA approves that SIP revision, any agreements, including mitigation measures, necessary for a conformity determination will be both state and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct and indirect emissions associated with a federal action for a conformity determination.

**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:

#### **§1413. Departmental Review**

When notified by the federal agency of action that would be presumed to conform or when notified of a proposed conformity determination, the department will review documentation, clarify information, and provide written comments as appropriate to ensure accountability of federal actions.

**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:

#### **§1414. Enforcement Provisions**

A. Any person(s) regulated by this Subchapter, including any person(s) who voluntarily commit to mitigate measures for emissions offsets to federal actions and who fail to comply with the requirements of this Subchapter shall be subject to enforcement provisions under R.S. 30:2025.

B. Failure to comply with any requirement of this Subchapter shall be subject to enforcement under the provisions of R.S. 30:2025.

**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:

#### **§1415. Savings Provision**

The federal conformity rules under 40 CFR part 93, subpart A establish the conformity criteria and procedures necessary to meet the requirements of the CAA, section 176(c), until such time that this conformity implementation plan revision is approved by EPA. Following EPA approval of this revision to the applicable implementation plan (or a portion thereof), the approved (or approved portion of) state criteria and procedures would govern conformity determinations; and the federal conformity regulations contained in 40 CFR part 93 would apply only for the portion, if any, of the state's conformity provisions that is not approved by EPA.

**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:

Public hearings will be held at 1:30 p.m., September 29, 1994, in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments and SIP revision. Should individuals with a disability need an accommodation in order to participate please 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 and SIP revision. Such comments should be submitted no later than at 4:30 p.m., Thursday, October 6, 1994.

Comments on the regulation should be sent to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290

Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810 or FAX to (504) 765-0486. Commentors should reference this proposed regulation by the Log AQ95. Check or money order is required in advance for each copy of AQ95.

Comments on the proposed SIP revision should be sent to Pat Salvaggio, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135, or to 7290 Bluebonnet Blvd, Second Floor, Baton Rouge, LA 70810, or FAX to (504) 765-0916.

Copies of the regulation (published in the *Louisiana Register*) and the SIP revision are also distributed to the State Library of LA, the Louisiana Section, 760 North Third Street, Baton Rouge, LA 70801, and 25 other depository libraries throughout the state. Please contact the State Library for other locations and viewing times.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: State Implementation Plan (SIP)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that this rule will be implemented using existing personnel, and 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 proposed rule will not affect revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Only federal agencies are directly regulated and affected by this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment contained within the geographic boundaries of ozone nonattainment and maintenance areas regulated by this rule will not be affected.

Gus Von Bodungen  
Assistant Secretary  
9408#071

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Emission Standard for Asbestos (LAC 33:III.5151)(AQ97)**

Under the authority of the Louisiana 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.5151, (AQ97).

This rule will amend LAC 33:III.5151, Emission Standards for Asbestos. These amendments expand the requirements regarding training and accreditation for various asbestos disciplines and activities. The state will require that all persons who conduct response actions greater than three square or three linear feet in public and commercial buildings be trained in the appropriate asbestos discipline. This is already required by federal law and presently a requirement for activities conducted in state-owned or leased buildings. These amendments will require accreditation by the Department of Environmental Quality (DEQ) for all inspectors, project designers, and air monitors. Currently, accreditation is required for contracted workers, supervisors, and air monitoring personnel involved in demolition or renovation activities and response action in schools and state buildings only.

The accreditation plan of the DEQ asbestos program has been approved by the USEPA. In order to maintain this approval, these revisions must be completed by October 24, 1994.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant  
Emission Control Program**

**Subchapter M. Asbestos**

**§5151. Emission Standard for Asbestos**

\* \* \*

[See Prior Text in A]

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in LAC 33:III.5103 or below, as follows:

*Accredited or Accreditation*—when referring to a person, the accreditation of such person by the Department of Environmental Quality under the provisions of LAC 33:III.Chapter 27, Appendix A—Agent Accreditation Plan.

\* \* \*

[See Prior Text]

*Asbestos-containing Building Material (ACBM)*—surfacing ACM, thermal system insulation ACM, or miscellaneous ACM in or on interior structural members or other parts of a state building, school, or public and commercial building.

*Asbestos-containing Material (ACM)*—any material or product which contains more than one percent asbestos.

\* \* \*

[See Prior Text]

*Encapsulation*—the treatment of ACBM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers by the encapsulant creating a membrane over the surface (bridging encapsulant) or penetrating the material and binding its components together (penetrating encapsulant).

*Enclosure*—an airtight, impermeable, permanent barrier around ACBM to prevent the release of asbestos fibers into the air.

\*\*\*

[See Prior Text]

*Inspection or Inspect*—any activity undertaken in a state building, school, or public and commercial building to determine the presence or location, or to assess the condition of friable or nonfriable asbestos-containing building material (ACBM), or suspected ACBM, whether by visual or physical examination, or by collecting samples of such material. This term includes reinspections of assumed ACBM and friable and nonfriable ACBM which has been previously identified. The term does not include the following:

- a. periodic surveillance of the type described in LAC 33:III.2721.B solely for the purpose of recording or reporting a change in the condition of known or assumed ACBM;
- b. inspections performed by employees or agents of federal, state, or local government solely for the purpose of determining compliance with applicable statutes or regulations; or
- c. visual inspections of the type described in LAC 33:III.2717.I solely for the purpose of determining completion of response actions.

\*\*\*

[See Prior Text]

*Major Fiber Release Episode*—any uncontrolled or unintentional disturbance of ACBM which involves the falling or dislodging of more than three square or three linear feet of friable ACBM.

\*\*\*

[See Prior Text]

*Operations and Maintenance (O&M)*—a program of work practices to maintain friable ACBM in good condition, ensure cleanup of asbestos fibers previously released, and prevent further release by minimizing and controlling friable ACBM disturbance or damage.

\*\*\*

[See Prior Text]

*Public and Commercial Building*—the interior space of any building except any residential apartment building of fewer than five units or detached single-family home. The term includes, but is not limited to: industrial and office buildings, residential apartment buildings and condominiums of five or more dwelling units, government-owned buildings, colleges, museums, airports, hospitals, churches, synagogues, preschools, stores, warehouses, and factories. Interior space includes exterior hallways connecting buildings, porticos, and mechanical systems used to condition interior space.

\*\*\*

[See Prior Text]

*Response Action*—a method, including removal, encapsulation, enclosure, repair, and operations and maintenance activities, that protects human health and the environment from friable ACBM.

\*\*\*

[See Prior Text]

*Small-scale, Short-duration (SSSD) Activities*—tasks that involve less than or equal to three square feet or three linear feet of asbestos-containing material.

*State Building*—a building owned or leased by the state of Louisiana.

\*\*\*

[See Prior Text in Strip - F.3.g.iii]

h. No RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this Section unless at least one asbestos abatement contractor/supervisor is present. All asbestos abatement workers shall be supervised by an asbestos contractor/supervisor. Evidence of the required training shall be made available for inspection by the administrative authority at the demolition or renovation site. Evidence of required training shall include, but not be limited to, the appropriate training certificates and/or accreditation certificates. For contracted abatement personnel, evidence of accreditation shall be made available for inspection by the administrative authority at the demolition or renovation site.

\*\*\*

[See Prior Text in F.3.i - O.4.c]

P. Training and Accreditation Requirements

1. Asbestos Discipline

a. Worker. A person must be trained as a worker in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.5 to carry out any of the following activities with respect to friable ACBM in state buildings, schools, or public and commercial buildings:

- i. a response action other than an SSSD activity;
- ii. a maintenance activity that disturbs friable ACBM other than an SSSD activity; or
- iii. a response action for a major fiber release episode.

b. Contractor/Supervisor. A person must be trained as a contractor/supervisor in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.4 to supervise any of the following activities with respect to friable ACBM in state buildings, schools, or public and commercial buildings:

- i. a response action other than an SSSD activity;
- ii. a maintenance activity that disturbs friable ACBM other than an SSSD activity; or
- iii. a response action for a major fiber release episode.

c. Inspector. A person must be trained as an inspector in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.1 and accredited to inspect for ACBM in state buildings, schools, and public and commercial buildings.

d. Project Designer. A person must be trained as a project designer in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.3 and accredited to design any of the following activities with respect to friable ACBM in state buildings, schools, and public and commercial buildings:

- i. a response action other than a SSSD activity;
- ii. a maintenance activity that disturbs friable ACBM other than a SSSD activity; or
- iii. a response action for a major fiber release episode.

e. Air Monitor Personnel. A person must be trained as an asbestos contractor/supervisor in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.4 and accredited to conduct air monitoring for an asbestos abatement project or related activity in state buildings, schools, and public and commercial buildings.

f. Management Planner. All persons who prepare management plans for state buildings and schools must be accredited.

## 2. Response Actions

a. Response actions including removal, encapsulation, enclosure, or repair, other than small-scale, short-duration activities in state buildings and schools shall be designed and conducted by persons accredited to design and conduct response actions.

b. When response actions are performed by contracted personnel, those person shall be accredited.

**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 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:

A public hearing will be held on September 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. 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 please 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. Such comments should be submitted no later than Thursday, October 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486. Commentors should reference this proposed regulation by AQ97.

James B. Thompson, III  
Assistant Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Emission Standard for Asbestos

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately \$10,000 in increased revenue is expected to be realized by the DEQ.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs to affected persons or nongovernmental groups results from required accreditation. The accreditation fee for contractor/supervisor, project designer, and inspector is \$200. The majority of these agents are already accredited. The total estimated cost to nongovernmental groups is \$10,000 in accreditation fees.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Previously only persons conducting response actions in state buildings or schools were required to be accredited. The proposed revisions extends the requirement to include public and commercial buildings, consequently the regulation is more equitable.

Gus Von Bodungen  
Assistant Secretary  
9408#067

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

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

Federal Transit Act Conformity  
(LAC 33:III.Chapter 14)(AQ99)

Under the authority of the Louisiana 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, (AQ99), and that the Office of Air Quality and Radiation Protection will submit a revision to the State Implementation Plan (SIP) which incorporates the rule.

This rule and SIP revision will establish policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects which 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 pursuant to Section 110 and Part D of the Clean Air Act. This action is mandated by Section 176(c) of the Clean Air Act, as amended, and the related requirements of 23 U.S.C. 109(j). Federal requirements for transportation conformity are established in 40 CFR Part 51, Subpart T of the Federal Register.

This proposed regulation and SIP revision are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 1) DEQ Headquarters, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810, Regulatory Compliance Division, Fourth Floor, for the proposed regulation; and Air Quality Division, Second Floor, for the SIP revision; 2) 804 31st Street, Monroe, LA 71203; 3) State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 4) 3519 Patrick Street, Lake Charles, LA 70605; 5) 3945 North I-10 Service Road West, Metairie, LA 70002; and 6) 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

The text of this proposed rule, (AQ 99), may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504) 342-5015.

Copies of the regulation (published in the *Louisiana Register*) and the SIP revision are also distributed to the State Library of LA, the Louisiana Section, 760 North Third Street,

Baton Rouge, LA 70801, and to 25 other depository libraries throughout the state. Please contact the State Library for other locations and viewing times.

All interested persons are invited to submit written comments on the proposed regulations and SIP revision. Such comments should be submitted no later than Thursday, October 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486. Commentors should reference this proposed regulation by AQ99. Check or money order is required in advance for each copy of AQ99.

Comments on the proposed SIP revision should be sent to Pat Salvaggio, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135, or to 7290 Bluebonnet Blvd, Second Floor, Baton Rouge, LA 70810, or to FAX number (504) 765-0916.

Public hearings will be held on September 29, 1994, 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 and SIP revision. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Federal Transit Act Conformity**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
Implementation of this proposed rule is anticipated to result in no additional costs or savings to state or local governmental units. Metropolitan Planning Organizations and DOTD have conducted some conformity determinations since 1977.
- 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 the proposed rule.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**  
The proposed 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 the proposed rule will not affect competition and employment in the public and private sectors.

Gus Von Bodungen  
Assistant Secretary  
9408#069

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Storage of Volatile Organic Compounds  
(LAC 33:III.2103) (AQ92)**

Under the authority of the Louisiana 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.2103 (AQ92).

The proposed amendment to LAC 33:III.2103 relates to the storage of volatile organic liquids utilizing reasonably available control technology (RACT). The proposed rule applies to sources in Ascension, East Baton Rouge, Iberville, Livingston, Point Coupee, and West Baton Rouge Parishes that emit at least 50 tons per year of volatile organic compounds (VOCs).

This action is required as a result of the federal Clean Air Act Amendments (CAAA) of 1990, Section 182(c) and by the directives of the United States Environmental Protection Agency (USEPA).

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 21. Control of Emission of Organic Compounds  
Subchapter A. General**

**§2103. Storage of Volatile Organic Compounds**

Once a storage tank is covered by this rule, it shall remain so covered until the storage tank is permanently removed from service.

A. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 250 gallons (950 liters) and up to 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound, having a true vapor pressure of 1.5 psia or greater at storage conditions, unless such tank, reservoir or other container is designed and equipped with a submerged fill pipe or a vapor loss control system or is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere.

B. No person shall place, store or hold in any stationary tank, reservoir, or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound having a true vapor pressure of 1.5 psia or greater at storage conditions unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and one or more of the vapor loss control devices described herein.

C. Internal Floating Roof Acceptable if Vapor Pressure Less than 11.0 psia. An internal floating roof consists of a pontoon type roof, double deck type roof or internal floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space

between the roof edge and tank wall. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. This control equipment shall not be permitted if the organic compounds have a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions.

D. Conditions under which an External Floating Roof is Acceptable. An external floating roof consists of a pontoon type roof, double deck type roof or external floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall and a continuous secondary seal (a rim mounted secondary) extending from the floating roof to the tank wall.

1. A secondary seal is not required if:

a. the tank is a welded tank storing a VOC with a vapor pressure at storage conditions less than 4.0 psia and is also equipped with liquid mounted primary seals, metallic type shoe seals, or equivalent.

b. the storage vessels are external floating roof tanks having nominal storage capacities of 420,000 gallons (1,589,900 liters) or less used to store produced crude oil or condensate prior to lease custody transfer.

c. a metallic-type shoe seal is used in a welded tank which also has a secondary seal from the top of the shoe seal to the tank wall (e.g., a shoe-mounted secondary).

d. an alternate seal or seals can be used in lieu of the primary and secondary seals required herein provided the resulting emission is not greater than that which would have resulted if the primary and secondary seals were installed. The equivalency demonstration will be made to the satisfaction of the administrative authority\*.

2. The seal closure devices required in LAC 33:III.2103.D shall:

a. have no visible holes, tears, or other openings in the seal(s) or seal(s) fabric;

b. be intact and uniformly in place around the circumference of the floating roof and the tank wall;

c. not have gap areas, of gaps exceeding 1/8 inch (0.32 cm) in width between the secondary seal and the tank wall, in excess of 1.0 in<sup>2</sup> per foot of tank diameter (6.5 cm<sup>2</sup> per 0.3m);

d. not have gap areas, of gaps exceeding 1/8 inch (0.32 cm) in width between the primary seal and the tank wall, in excess of 10.0 in<sup>2</sup> per foot of tank diameter (65 cm<sup>2</sup> per 0.3m);

e. be visually inspected at least semiannually. The secondary seal gap measurements shall be made annually at any tank level provided the roof is off its legs. The primary seal gap measurements shall be made every five years at any tank level provided the roof is off its legs. Conditions not in compliance with LAC 33:III.2103.D.2 shall be recorded along with date(s) of noncompliance and the administrative authority shall be notified within seven days. Repairs necessary to be in compliance must be initiated within seven working days of recognition of noncompliance by ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed, the administrative authority may extend this deadline.

3. Requirements for Covering Openings. All openings in the external floating roof, except for automatic bleeder vents, run space vent, and leg sleeves, are to provide a projection below the liquid surface. The openings must be equipped with cover, seal, or lid which must be in a closed position at all times except when the device is in actual use. Automatic bleeder vents must be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents must be set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Any emergency roof drain must be equipped with a slotted membrane fabric cover or equivalent cover that covers at least 90 percent of the opening.

4. Requirements for Guide Poles, Sample Wells, and Stilling Well Systems. Emissions from guide pole, sample wells, and stilling well systems must be controlled to an efficiency of 90 percent or greater for external floating roof storage tanks with a capacity greater than 40,000 gallons (approx. 151 m<sup>3</sup>) and storing a liquid having a total vapor pressure of 1.5 psia or greater. The description of the method of control and supporting calculations based upon the Addendum to American Petroleum Institute Publication Number 2517 (dated May, 1994) shall be submitted to the administrative authority for approval prior to installation. Installation of guide pole controls shall be required by November 15, 1996. Requests for extension of the November 15, 1996, compliance date will be considered on a case-by-case basis for situations which require the tank to be removed from service to install the controls. Guide pole restrictions shall only apply in ozone nonattainment areas classified marginal or higher. Controls systems for guide poles shall be inspected semiannually for rips, tears, visible gaps in the pole or float wiper, and/or missing sliding cover gaskets. Detection of any rips, tears, visible gaps in the pole or float wiper, and/or missing sliding cover gasket shall be considered as noncompliance with this Section. Repairs necessary to be in compliance must be initiated within seven working days of recognition of noncompliance by ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed, the administrative authority may extend this deadline.

E. Vapor Loss Control System Acceptable when Requirements are Met. A vapor loss control system consists of a gathering system capable of collecting the organic compound vapors and gases and a vapor disposal system capable of processing such organic vapors and gases so as to limit their emission to the atmosphere to the same extent as the provisions of LAC 33:III.2103.C and D. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

F. No person shall place, store or hold in any stationary tank, reservoir or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound having a true vapor pressure of 11 psia or greater at storage conditions unless such tank, reservoir or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or



is designed and equipped with a submerged fill pipe and vapor loss control system in accordance with LAC 33:III.2103.E.

G. Exemptions. The provisions of this Section (e.g., LAC 33:III.2103) do not apply to:

1. existing and new storage tanks, located in any parish other than those classified as marginal and above ozone nonattainment parishes, used for crude or condensate and having a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards;

2. in the attainment parishes, tanks 420,000 gallons (1,589,900 liters) or greater used to store produced crude oil or condensate prior to lease custody transfer are unless such tanks are subject to New Source Performance Standards;

3. for the marginal and above nonattainment parishes, existing and new storage tanks that are used for crude or condensate prior to lease custody transfer and that have a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards; and

4. JP-4 fuels stored in horizontal underground tanks.

#### H. Compliance Tests

1. Floating Roofs. The seal gap area shall be determined by measuring the length and width of the gaps around the entire circumference of the seal. A 1/8 inch (0.32 cm) uniform diameter probe shall be used for measuring gaps. Only gaps greater than or equal to 1/8 inch (.032 cm) shall be used in computing the gap area. The area of the gaps shall be accumulated to determine compliance with LAC 33:III.2103.D.2.c and d. Compliance with the other provisions specified in LAC 33:III.2103.D.2.a and b and D.4 may be determined by visual inspection.

2. Add-On Control Devices. The following test methods shall be used, where appropriate to measure control device compliance:

a. Test Methods 1 through 4 (LAC 33:III.6001, 6003, 6009 and 6013, respectively) for determining flow rates, as necessary;

b. Test Method 18 (LAC 33:III.6071) for measuring gaseous organic compound emissions by gas chromatographic analysis;

c. Test Method 21 (LAC 33:III.6077) for determination of volatile organic compound leaks;

d. Test Method 25 (LAC 33:III.6085) for determining total gaseous nonmethane organic emissions as carbon;

e. Additional performance test procedures, or equivalent test methods, approved by the administrative authority\*.

3. Vapor Pressure. True vapor pressure shall be determined by ASTM Test Method D323-82 for the measurement of Reid vapor pressure, adjusted for actual storage temperature in accordance with API Publication 2517, Third Edition, 1989.

I. Monitoring/Recordkeeping/Reporting. The owner/operator of any storage facility shall maintain records to verify compliance with or exemption from LAC 33:III.2103. The records shall be maintained for at least two years and will include, but not be limited to, the following:

1. the results of inspections required by LAC 33:III.2103.D.2.e and D.4 shall be recorded.

2. for vapor loss control systems (LAC 33:III.2103.E) the following information shall be recorded:

a. daily measurements of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

b. daily measurements of the inlet and outlet gas temperature of a chiller, or catalytic incinerator;

c. results of monitoring outlet VOC concentration of carbon adsorption bed to detect breakthrough.

3. the date and reason for any maintenance and repair of the applicable control devices and the estimated quantity and duration of volatile organic compound emissions during such activities.

4. the results of any testing conducted in accordance with the provisions specified in LAC 33:III.2103.H.

5. records of the type(s) of VOC stored and the average monthly true vapor pressure of the stored liquid for any storage vessel with an external floating roof that is exempt from the requirements for a secondary seal and is used to store VOCs with a true vapor pressure greater than 1.0 psia.

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 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:

A public hearing will be held on September 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. 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 please 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. Such comments should be submitted no later than Thursday, October 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to fax number (504)765-0486. Commentors should reference this proposed regulation by the Log AQ92. Check or money order is required in advance for each copy of AQ92.

James B. Thompson, III  
Assistant Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Organic Compounds Emissions (AQ92)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs or savings to state or local government units expected as a result of the proposed rule amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of the proposed rule amendments is not expected to have any major effect on revenue collections by state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Costs to approximately four directly affected facilities will amount of \$500,000 in the first year of implementation with minimal maintenance costs in the following years. There is an estimated recovery of 2000 tons per year of volatile organic compound emissions which can be sold as additional product for revenue of \$200,000 per year.

These costs were required as a result of the federal Clean Air Act Amendments of 1990, but will result in additional facility revenue in the third year of operation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected significant effect on competition and employment from the implementation of the proposed rule amendments.

Gustave Von Bodungen  
Assistant Secretary  
9408#070

John R. Rombach  
Legislative Fiscal Officer

Rose V. Forrest  
Secretary

NOTICE OF INTENT

Department of Health and Hospitals  
Office of Public Health

Sanitary Code—Disposition of Dead Human Bodies  
(Chapter XXVI)

Under the authority of R.S. 40:5, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, proposes to amend Chapter XXVI, Section 26:003-2, of the *Sanitary Code*, in its entirety, to prohibit out-of-state transportation of dead human bodies more than 24 hours after death without prior embalming or cremation. This restriction is intended to prevent insanitary conditions from developing when dead human bodies are moved out-of-state. The proposed rule is scheduled to become effective December 20, 1994.

Chapter XXVI

Burial, Transportation, Disinterment or  
Other Disposition of Dead Human Bodies  
\* \* \*

26:003-2 If the body is to be held longer than 30 hours without refrigeration as specified, it shall be embalmed in a manner approved by the Louisiana Board of Embalmers and Funeral Directors. If a dead human body is to be held longer than 30 hours in the custody of a Louisiana licensed hospital, Louisiana medical school, the Louisiana Anatomical Board or a coroner, it shall be refrigerated at all times at a temperature not to exceed 45 degrees fahrenheit prior to its release to a funeral director for final disposition. If a body is not

refrigerated or embalmed, it shall be buried, cremated, or otherwise disposed of within 30 hours after death or as soon as possible after its release to the licensed funeral director. No one shall carry, transport or remove from within the confines of this state any dead human body more than 24 hours after death unless said body has been embalmed or cremated. Nothing in this section, however, shall be construed to prohibit transfer of an unembalmed dead human body which has been disposed of for the purpose of the advancement of medical science, or for use as "transplant" organs. Additionally, nothing in this section shall be construed to require embalming if special practices and beliefs of religious groups prohibit it.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than the close of business, October 20, 1994 to William H. Barlow, Director and State Registrar, Division of Records and Statistics, Office of Public Health, Box 60630, New Orleans, LA 70160.

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Sanitary Code, Disposition of Dead Bodies  
(Chapter XXVI)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation costs as a result of the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated 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)  
The measure will impact a small number of Louisiana and out-of-state residents who are moving unembalmed dead human bodies across the state line more than 24 hours after the decedents' deaths. The fiscal impact will vary from \$100 to \$275 per case depending upon the funeral home selected to perform the service. There will be a small positive fiscal impact on the funeral homes contracted to provide embalming services.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The measure should have no significant impact on competition and employment. In a small number of cases, bodies will be embalmed in Louisiana rather than in funeral homes in other states.

Rose V. Forrest  
Secretary  
9408#063

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Office of Public Health

#### Sanitary Code—Reportable Diseases (Chapter II)

Under the authority of R.S. 40:5, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Chapter II of the Louisiana *Sanitary Code* by adding the following diseases to the list of Reportable Diseases: Escherichia coli 0157:H7, Hemolytic-Uremic Syndrome, Hepatitis B, Acute Hepatitis, Hemophilia and Galactosemia will also be added to the list of other Reportable Conditions. A nonsubstantive change is the addition at the end of section 2:025 of the Immunization Program Office address and telephone number for making the Immunization Schedule available to the public.

Described below are the reasons for adding these diseases and conditions to the list of Reportable Diseases and Other Conditions.

Escherichia coli 0157:H7 is a recently-recognized important cause of severe gastroenteritis and of Hemolytic-Uremic Syndrome, which is a serious renal disease and can be fatal. The organism has been found as a contaminant in meat and other foods. Improved epidemiologic information about cases of infection with the organism or cases of the syndrome that it causes can lead to specific measures to prevent contamination of food, and thereby prevent serious illness. This problem can be identified by culture of the organism Escherichia coli 0157:H7 or by symptoms seen in the disease hemolytic-uremic syndrome. Because many laboratories are not equipped to culture this organism, and because the organism may no longer be present when hemolytic-uremic syndrome occurs, it is necessary to make both the organism and the disease reportable.

Hepatitis B can cause an acute infection or a chronic infection. Persons with chronic hepatitis B are referred to as "carrying" the virus. Pregnant women who are "carriers" of hepatitis B can pass the infection to their children if the children are not immunized against hepatitis B immediately after birth. The Office of Public Health tracks pregnant women who carry hepatitis B to insure that this immunization takes place. This program relies on the reporting of information about these women.

Acute hepatitis can be caused by virus types A, B, C, and others. Previous reportable disease lists have simply listed "hepatitis" as reportable. This list clarifies that the type of hepatitis must be reported, and that only acute hepatitis is reportable. Chronic hepatitis is not reportable with the exception of hepatitis B carriage in pregnant women, as described above.

Hemophilia is a congenital blood disease characterized by severe bleeding which can cause crippling and be life threatening. The requirement of reporting will ensure persons receive proper care, prevent major complications (i.e., HIV hepatitis B, joint disease), indicate the prevalence of the disease in the state and fulfill CDC recommendations.

Galactosemia occurs due to a genetic inability to metabolize galactose, resulting in damage to the central nervous system, liver, eyes and kidneys. Early detection and treatment which reportable status should promote can prevent many of the severe acute effects of the debilitating and life threatening disease.

Printed below are the pertinent sections of Chapter II which reflect these changes. This proposed rule is scheduled to become effective November 20, 1994.

#### Sanitary Code

#### State of Louisiana

#### Chapter II: The Control of Disease

\* \* \*

#### 2:003 The following diseases are hereby declared reportable:

|   |   |
|---|---|
| Acquired Immune Deficiency Syndrome (AIDS)        | Malaria   |
| Amebiasis   | Measles (rubeola)*                              |
| Anthrax   | Meningitis, Haemophilus influenza               |
| Aseptic meningitis                                | Meningococcal infection (including meningitis)* |
| Blastomycosis                                     | Mumps   |
| Botulism*   | Mycobacteriosis, atypical***                    |
| Brucellosis                                       | Ophthalmia neonatorum**                         |
| Campylobacteriosis                                | Pertussis (whooping cough)                      |
| Chancroid**                                       | Plaque*   |
| Chlamydia infection**                             | Poliomyelitis                                   |
| Cholera*  | Psittacosis                                     |
| Diphtheria*                                       | Rabies (animal and man)                         |
| Encephalitis (specify primary or post-infectious) | Rocky Mountain Spotted Fever                    |
| Erythema infectiosum (5th disease)                | Rubella (German measles)*                       |
| Escherichia coli type 0157:H7                     | Rubella (congenital syndrome)                   |
| Foodborne illness*                                | Salmonellosis                                   |
| Genital warts**                                   | Shigellosis                                     |
| Gonorrhea**                                       | Syphilis**                                      |
| Granuloma Inguinale**                             | Tetanus   |
| Hemolytic-Uremic Syndrome                         | Trichinosis                                     |
| Hepatitis, Acute (specify type A,B,C or other)    | Tuberculosis***                                 |
| Hepatitis B carriage in pregnancy                 | Tularemia                                       |
| Herpes (genitalis/neonatal)**                     | Typhoid fever                                   |
| Human Immunodeficiency Virus (HIV)                | Typhus fever, murine (fleaborne, endemic)       |
| Legionellosis                                     | Vibrio infections (other than cholera)          |
| Leprosy   | Yellow Fever*                                   |
| Leptospirosis                                     |   |
| Lyme Disease                                      |   |
| Lymphogranuloma venereum*                         |   |

Report cases on green EPI-2430 card unless indicated otherwise below.

\*Report suspected cases immediately by telephone. In addition, all cases of rare or exotic communicable diseases and all outbreaks shall be reported.

\*\*Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

\*\*\*Report on CDC 72.5 (f. 5.2431) card.

All reportable diseases and conditions other than the venereal diseases, tuberculosis and those conditions followed by asterisks should be reported on an EPI-2430 card and forwarded to the local parish health unit or the Epidemiology Section, P.O. Box 60630, New Orleans, Louisiana 70160, phone (504) 568-5005.

## Other Reportable Conditions

|                                  |                                     |
|----------------------------------|-------------------------------------|
| Cancer                           | Severe undernutrition               |
| Complications of abortion        | (severe anemia, failure to thrive)  |
| Congenital hypothyroidism*****   | Sickle cell disease*****            |
| Galactosemia*****                | (newborns)                          |
| Hemophilia*****                  | Spinal cord injury*****             |
| Lead poisoning                   | Sudden infant death syndrome (SIDS) |
| Phenylketonuria*****             |                                     |
| Reye's Syndrome                  |                                     |
| Severe Traumatic Head Injury**** |                                     |

Report cases on an EPI-2430 card unless indicated otherwise below:

\*\*\*\*Report on DDP3 form: preliminary telephone report from emergency room encouraged (504) 568-2509.

\*\*\*\*\*Report to the Louisiana Genetic Diseases Program Office by telephone (504) 568-5070 or FAX (504) 568-7722.

\* \* \*

**2:025** Any child 18 years or under admitted to any day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Office of Public health schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any day care center shall report to the state health officer through the health unit of the parish or municipality where such day care center is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in a day care center or residential facility, the operator of said day care center or residential facility shall comply with outbreak control procedures as directed by the state health officer.

A copy of the current Office of Public health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 4747 Earhart Boulevard, Suite 107, New Orleans, Louisiana 70125 or by telephone (504) 483-1905 or toll free 1-800-251-2229.

\* \* \*

A public hearing will be held at 1:30 p.m., September 26, 1994, at the State Office Building, 325 Loyola Avenue, Room 511, New Orleans, Louisiana.

Interested persons may submit written comments on the proposed rule until September 30, 1994 to Charles Myers, MSW, Administrator, Office of Public Health/DHH, Section of Genetics, Room 308, 325 Loyola Avenue New Orleans, LA 70125.

Rose V. Forrest  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Sanitary Code Chapter II, Control of Reported Diseases

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- There will be no costs or savings to state or local governmental units.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
- There will be no effect on costs or economic benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
- There will be no effect on competition and employment.

Rose Forrest  
Secretary  
9408#064

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary

#### Services and Facilities for Other than State General Hospitals (LAC 48:I.2109)

The Department of Health and Hospitals, Office of the Secretary, proposes to amend LAC 48:I.2109, Regulations for Services and Facilities Other than State General Hospitals. This Chapter of the Louisiana Administrative Code regulates the liability limitation schedule for DHH provided services. This amendment is being proposed in accordance with the Administrative Procedure Act, R.S. 49:950 et. seq., and R.S. 36:259.

#### Title 48

#### PUBLIC HEALTH - GENERAL Part I. General Administration Subpart I. General

#### Chapter 21. Liability Limitation Schedule for DHH Provided Services

#### §2109. Services and Facilities Other than State General Hospitals

##### A. Long-term Inpatients Receiving Unearned Income

1. Facilities treating patients who receive unearned income, are not eligible under Title XIX regulations and have no dependents as defined by the United States Internal Revenue Service shall arrange to have those funds paid directly to the facility.

2. The unearned income will not be applied to the cost of the first 90 days of care but will be placed into a patient account fund.

3. For any treatment received by the patient subsequently to the first 90 days of care, the treating facility shall apply any forthcoming unearned income to the cost of care, less a personal needs allowance. Any funds over the cost of care shall be placed into the patient account fund on behalf of the patient.

4. Upon discharge of the patient, the balance of the funds remaining in the patient account shall be paid to the patient or the responsible person as provided by law.

5. If the facility is unable to have the unearned income paid directly to the facility, billing shall be made in accordance with this policy.

NOTE: Items 2 and 3, above, are applicable to Psychiatric Hospitals only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:259 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 15:92 (February 1989), repealed and repromulgated, LR 17:208 (December 1991), LR 20:

Interested persons may submit comments on the proposed rule to: David McCants, Director of Fiscal Services, 1201 Capitol Access Road, Box 4089, Baton Rouge, LA 70821-4089. Comments will be accepted until 4:30 p.m., September 20, 1994.

Rose V. Forrest  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Liability Limitation Policy**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no implementation costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The effect on revenue collections for state government will be dependent upon the number of individuals that meet the requirements of this rule. It is estimated that the revenue will be minimal at best. There is no revenue effect on local governmental units. The anticipated revenue for FY 94-95 is \$174,132.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This amendment will affect a small group of individuals who are patients/residents of DHH Long Term Care Facilities. Only those individuals who receive unearned income, are not medicaid eligible and who have no dependents would be affected. The cost to this group would be dependent on the length of stay and the amount of unearned income received. Little or no additional paperwork would be required.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Charles F. Castille  
Deputy Secretary  
9408#039

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Case Management Services for Optional Targeted  
Population Groups and Waiver Programs**

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Finances currently funds case management services to the following specific population groups: 1) mentally retarded or developmentally disabled individuals including developmentally disabled infants and toddlers (termed infants and toddlers with special needs under this proposed rule); 2) pregnant women in need of extra perinatal care (termed high-risk pregnant women under this proposed rule) (limited to the metropolitan New Orleans area); 3) HIV disabled individuals (termed persons infected with HIV under this proposed rule); 4) chronically mentally ill (termed seriously mentally ill individuals - for adults and children/youths with emotional/behavioral disorders under this proposed rule); 5) participants in waivers which include case management as a service; and 6) ventilator-assisted children. The bureau has adopted rules governing case management services as the needs of the population groups for these services became apparent and in accordance with available funding.

There has been a tremendous growth in interest on behalf of the public in providing these services to the Medicaid populations. In addition, as these services have been implemented and governed under specific program regulations over the past five years, the department now seeks to enhance all these services to the optimal level while streamlining their administration. In addition this proposed rule establishes enhanced regulations governing consumer eligibility and provider enrollment, participation and reimbursement. The department adopted emergency rules to ensure uniform standards for the quality of the services delivered to these persons with special physical and/or health needs and conditions effective July 22, 1994 and August 13, 1994.

**Proposed Rule**

The Bureau of Health Services Financing proposes to repeal all previously adopted rules on case management services provided either to optional targeted population groups or under a waiver program and establishes regulations governing these services including standards for participation, standards for payment, and the general provisions outlined below. Services for ventilator-assisted children are terminated as a specific targeted group but these children may be eligible under the other optional targeted population groups. All case management providers must follow the policies and procedures included in this proposed rule as well as in the *Department of*

*Health and Hospitals Case Management Provider Manual.* Under this rule the term "case management" has the same meaning as the term "family service coordination". Case management services must be delivered in accordance with all applicable federal and state laws and regulations.

### I. Standards of Participation

In order to be reimbursed by the Medicaid Program, a provider of targeted or waiver case management service must comply with all of the requirements listed below. Exceptions may be granted by the secretary on a case by case basis based on an assessment of available services in the community.

#### A. Provider Enrollment Requirements

Case management agencies who wish to provide Medicaid funded targeted or waiver case management services must contact the department to request an enrollment packet and copy of the *DHH Case Management Provider Manual*. Applicants must indicate the population(s) and the geographical areas they wish to serve. Enrollment will be approved if the provider meets all applicable licensure, general standards for participation in the Medicaid Program and specific provider enrollment and participation requirements for the population(s) to be served. Each enrolling agency must also submit a separate provider agreement (Form PE-50) and Disclosure of Ownership form to DHH for each targeted or waiver population and geographical area (DHH region) the agency plans to serve.

In accordance with Section 4118(i) of the Omnibus Budget Reconciliation Act (OBRA) of 1987, Public Law 100-203, the department may restrict enrollment and service areas of agencies that are enrolled in the Medicaid Program to provide case management services to seriously mentally ill and developmentally disabled consumers including infants and toddlers with special needs in order to ensure that the case management providers available to these targeted groups and any subgroups are capable of ensuring that the targeted consumers receive the full range of needed services. Case management agencies must meet the enrollment requirements listed below to be approved for enrollment.

All applicant case management agencies must meet the requirements 1-14 listed below to participate as a case management provider in the Medicaid Program, regardless of the targeted or waiver group served:

1. possess a current license to provide case management/service coordination in Louisiana or written proof of application for licensure;

2. have demonstrated direct experience in successfully serving the target population and demonstrated knowledge of available community services and methods for accessing them including all of the following:

a. have established linkages with the resources available in the consumer's community;

b. maintain a current resource file of medical, mental health, social, financial assistance, vocational, educational, housing and other support services available to the target population;

c. demonstrate knowledge of the eligibility requirements and application procedures of federal, state, and local government assistance programs which are applicable to consumers served;

d. employ a sufficient number of qualified case manager and supervisory staff who meet the skills, knowledge, abilities, education, training, supervision, staff coverage and maximum caseload size requirements described in Section C below;

3. demonstrate administrative capacity to provide all core elements of case management and insure effective case management services to the target population in accordance with licensing and Medicaid requirements;

4. assure that all case manager staff is employed (not contracted) at least 20 hours per week;

5. assure that all new staff satisfactorily complete an orientation and training program in the first 90 days of employment and possess adequate case management abilities, skills and knowledge before assuming sole responsibility for their caseload and each case manager and supervisor satisfactorily complete case management related training on an annual basis to meet at least minimum training requirements described below. The provision and/or arranging of such training is the responsibility of the provider;

6. have a written plan to determine the effectiveness of the program and agrees to implement a continuous quality improvement plan approved by the department;

7. document and maintains an individual record on each consumer which includes all of the elements described in licensing standards for case management and Section III.A. below;

8. agree to safeguard the confidentiality of the consumer's records in accordance with federal and state laws and regulations governing confidentiality;

9. assure a consumer's right to elect to receive case management as an optional service and the consumer's right to terminate such services;

10. assure that no restriction will be placed on the consumer's right to elect to choose a case management agency, a qualified case manager, and other service providers and change the case management agency, case manager and service providers consistent with Section 1902a(23) of the Social Security Act;

11. if currently enrolled as a Medicaid case management provider, assure that case managers will not provide case management and Medicaid reimbursed direct services to the same consumer(s). If enrolled as a case management provider after July 20, 1994, assure that the agency will not provide case management and other Medicaid reimbursed direct services to the same consumers;

12. have a financial management system that is capable of:

a. adequately funding required qualified staff and services;

b. providing documentation of services and costs;

c. complying with state and federal financial reporting requirements; and

d. submitting reports in the manner specified by Medicaid;

13. maintain a written policy for intake screening, including referral criteria;

14. maintain a written policy for transition and closure;

Applicants must meet the following additional enrollment requirements for specific target groups:

15. have a working relationship with a local inpatient hospital and a 24-hour crisis response system (applicable to seriously mentally ill case management only);

16. demonstrate the capacity to participate and agrees to participate in the Case Management Information System (CAMIS) and provide up-to-date data to the Regional Office on a monthly basis via electronic mail (applicable to seriously mentally ill, infants and toddlers with special needs, and developmentally disabled children 3 years and older and adults only). CAMIS and electronic mail software will be provided without charge to the provider. Participation in CAMIS is in addition to participation in the LANSER data collection system of the Department of Education required by ChildNet.

17. have demonstrated successful experience with delivery and/or coordination of services for pregnant women (applicable to high risk pregnant women only);

18. agree to maintain regular contact, share information with and coordinate services with the consumer's primary care physician or clinic (applicable to HIV infected, high risk pregnant women and infants and toddlers with special needs only);

19. satisfactorily complete a one day training provided by the Delta Region AIDS Education and Training Center (applicable to HIV infected).

An enrolled case management provider must re-enroll requesting a separate Medicaid provider number and is subject to the above described enrollment requirements and procedures in order to provide case management services to an additional target population.

Additionally, each case management agency must enroll each office site currently operated by the agency. Thereafter, in order to provide case management services in a region other than that in which currently enrolled, the agency must establish an office site in that region, staff the office, enroll, and receive a separate provider number for that region.

Applicants will be subject to review by DHH to determine ability and capacity to serve the target population and a site visit to verify compliance with all provider enrollment requirements prior to a decision by the Medicaid Program on enrollment as a case management provider or at any time subsequent to enrollment.

If the applicant agency is determined to be eligible for enrollment, the agency will be notified in writing by the Medicaid Program of the effective date of enrollment and the unique Medicaid case management provider number for each office site and targeted or waiver group. If the department determines that the applicant case management agency does not meet the general or specific enrollment requirements listed above, the applicant agency will be notified in writing of the deficiencies needing correction. The applicant agency must submit appropriate documentation of corrective action taken. If the applicant agency fails to submit the required documentation of corrective action taken within 30 days of the notice, the application will be rejected. If the case management agency does not meet all of the requirements 1-14 in Section A above, the applicant agency will be ineligible to

provide case management services to any targeted or waiver group.

## II. Standards of Payment

In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service must comply with all of the requirements listed below. Exceptions may be granted by the secretary on a case-by-case basis based on an assessment of available services in the community.

### A. Staff Coverage

All case managers must be employed by the case management agency a minimum of 20 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Contracting of case manager staff is prohibited. Case management supervisors must be employed a minimum of eight hours per week for each full time case manager (four hours a week for each part-time case manager) they supervise and maintain on-site office hours at least 50 percent of the time. If the supervisor is not a full-time employee, the supervisor must be continuously available by telephone or beeper during normal business hours (8 a.m. to 5 p.m., Monday through Friday). The provider agency must ensure that case management services are available 24 hours a day, seven days a week.

### B. Staff Qualifications

Each Medicaid enrolled provider must ensure that all staff providing targeted case management services have the skills, qualifications, training and supervision in accordance with licensing standards and the department requirements listed below. In addition, the provider must maintain sufficient staff to serve consumers within mandated caseload sizes described below.

1. Education and Experience for Case Managers. All case managers hired or promoted on or after July 22, 1994 must meet all of the following minimum qualifications for education and experience:

a. a bachelor's degree in a human service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution and one year of paid experience in a human service-related field providing direct consumer services or case management; or

b. a licensed registered nurse and one year of paid experience as a registered nurse in public health or a human service-related field providing direct consumer services or case management; or

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education;

d. thirty hours of graduate level course credit in the human service-related field may be substituted for the year of required paid experience.

The above general minimum qualifications for case managers are applicable for all targeted and waiver groups. Additional qualifications for specific targeted or waiver groups are delineated below.

### High Risk Pregnant Women

Each Medicaid enrolled provider must ensure that all case

managers providing targeted case management services to high risk pregnant women meet the following qualifications:

a. a bachelor's degree in a human service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution and one year of paid experience in a human service-related field providing direct consumer services or case management and demonstrated knowledge about perinatal care;

b. a licensed registered nurse and one year of paid experience as a registered nurse in public health or a human service-related field providing direct consumer services or case management and demonstrated knowledge about perinatal care; or

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education; and demonstrated knowledge about perinatal care; or

d. a registered dietician; and one year of paid experience in providing nutrition services to pregnant women.

#### **Developmentally Disabled Waiver Participants**

Each Medicaid enrolled provider of case management services to developmentally disabled under the waiver must ensure that all case managers have a minimum of one year of paid post-degree experience working directly with persons with mental retardation or developmentally disabilities.

#### **Acquired Head Injury**

Each Medicaid enrolled provider must ensure that all case managers providing services to waiver participants with acquired head injuries meet the following qualifications:

a. a master's degree in social work from a social work program accredited by the Council on Social Work Education; and one year of paid experience in a public or private social services agency; or

b. a licensed registered nurse; and one year of paid experience working with individuals with head injuries; or

c. a masters degree in rehabilitation therapy from an accredited institution; and one year of paid experience working with persons with head injuries.

2. Education and Experience for Case Management Supervisors. A case management supervisor hired or promoted on or after July 22, 1994 or any other individual supervising case managers must meet all of the education and experience requirements listed below. Staff supervising case management for high risk pregnant women and individuals with acquired head injuries must meet the same qualifications as the case managers for these populations:

a. a master's degree in psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited institution; and two years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management; one year of this experience must be in providing direct services to the target population to be served; or

b. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education; and two years of paid post-bachelor's degree experience in a human service-related field providing direct

consumer services or case management. One year of this experience must be in providing direct services to the target population to be served; or

c. a licensed registered nurse; and three years of paid post-licensure experience as a registered nurse in public health or a human service-related field providing direct consumer services or case management. Two years of this experience must be in providing direct services to the target population to be served; or

d. a bachelor's degree in a human service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; and four years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management; two years of this experience must be in providing direct services to the target population to be served;

e. thirty hours of graduate level course credit in the human service-related field may be substituted for one year of required paid experience.

The above general minimum qualifications for case management supervisors are applicable for all targeted and waiver groups. Additional qualifications for specific targeted or waiver groups are delineated below.

#### **High Risk Pregnant Women**

Each Medicaid enrolled provider must ensure that all case management supervisory staff for high risk pregnant women meet the following qualifications:

a. a bachelor's degree in a human service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; and four years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management; two years of this experience must be in providing direct services to the target population to be served; and demonstrated knowledge about perinatal care;

b. a licensed registered nurse; and three years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management; two years of this experience must be in providing direct services to the target population to be served; and demonstrated knowledge about perinatal care; or

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education; and two years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management. One year of this experience must be in providing direct services to the target population to be served; demonstrated knowledge about perinatal care; or

d. a registered dietician; and three years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management; two years of this experience must be in providing direct services to pregnant women.

#### **Acquired Head Injury**

Each Medicaid enrolled provider must ensure that all case management supervisory staff for waiver participants with acquired head injuries meet the same qualifications as case managers for this population.



3. Requisite Knowledge, Skills and Abilities. Each Medicaid enrolled provider must look for the following knowledge, skills and abilities in hiring case management staff and must ensure that all staff providing targeted or waiver case management services possess the following basic knowledge, skills, and abilities prior to assuming full caseload responsibilities:

- a. knowledge:
  - (1). community resources;
  - (2). medical terminology;
  - (3). case management principles and practices;
  - (4). consumer rights;
  - (5). state and federal laws for public assistance;
- b. skills:
  - (1). time management;
  - (2). assessment;
  - (3). interviewing;
  - (4). listening;
- c. abilities:
  - (1). preparing service plans;
  - (2). coordinating delivery of services;
  - (3). advocating for the consumer;
  - (4). communicating both orally and in writing;
  - (5). establishing and maintaining cooperative working relationships;
  - (6). maintaining accurate and concise records;
  - (7). assessing medical and social aspects of each case and formulating service plans accordingly;
  - (8). problem solving;
  - (9). remaining objective while accepting the consumer's lifestyle;

4. Training. Case manager and supervisor training must be provided by or arranged by the case manager's employer at the employer's expense.

#### Training for New Case Managers

Orientation of at least 16 hours must be provided to all staff, volunteers, and students within one week of employment which must include, at a minimum:

- a. provider policies and procedures;
- b. Medicaid/Program Office policies and procedures;
- c. confidentiality;
- d. documentation in case records;
- e. consumer rights protection and reporting of violations;
- f. consumer abuse and neglect policies and procedures
- g. professional ethics;
- h. emergency and safety procedures;
- i. data management and record keeping;
- j. infection control and universal precautions;
- k. working with the target population.

A minimum of eight hours of the orientation training must cover orientation on the target population including but not limited to specific service needs and resources.

In addition to the required 16 hours of orientation, all new employees with no documented required experience and training must receive a minimum of 16 hours of training during the first 90 calendar days of employment which is related to the target population served and specific knowledge, skills, and techniques necessary to provide case management

to the target population. This training must be provided by an individual with demonstrated knowledge of the training topics and the target population. This training must include the following at a minimum:

- a. assessment techniques;
- b. service planning;
- c. resource identification;
- d. interviewing and interpersonal skills;
- e. data management and record keeping;
- f. communication skills.

#### Annual Training

A case manager must satisfactorily complete 40 hours of case-management related training annually which may include training updates on subjects covered in orientation and initial training. For new employees, the 16 hours of orientation training are not included in the 40 hour minimum annual training requirement. The 16 hours of training for new staff required in the first 90 days of employment may be part of this 40 hour minimum annual training requirement. Appropriate updates of topics covered in orientation and training for a new case manager must be included in the required 40 hours of annual training. The following is a list of suggested additional topics for training:

- a. nature of illness or disability, including symptoms and behavior;
- b. pharmacology;
- c. potential array of services for the population;
- d. building natural support systems;
- e. family dynamics;
- f. developmental life stages;
- g. crisis management;
- h. first aid/CPR;
- i. signs and symptoms of mental illness, alcohol and drug addiction, mental retardation/developmental disabilities and head injuries;
- j. recognition of illegal substances;
- k. monitoring techniques;
- l. advocacy;
- m. behavior management techniques;
- n. value clarification/ goals and objectives;
- o. available community resources;
- p. accessing special education services;
- q. cultural diversity;
- r. pregnancy and prenatal care;
- s. health management;
- t. team building/interagency collaboration;
- u. transition/closure;
- v. age and condition-appropriate preventive health care;
- w. facilitating team meetings ;
- x. computers;
- y. stress and time management;
- z. legal issues.

Each case management supervisor must complete 40 hours of training a year, at a minimum. In addition to the required and suggested topics for case managers, the following are suggested topics for supervisory training:

- a. professional identification/ethics;
- b. process for interviewing, screening, and hiring of staff;
- c. orientation/in-service training of staff;

- d. evaluating staff;
- e. approaches to supervision;
- f. managing caseload size;
- g. conflict resolution;
- h. documentation;
- i. time management.

The required orientation and training for case managers and supervisors described above must be documented in the employee's personnel record including: dates and hours of specific training, trainer or presenter's name, title, agency affiliation or qualification, other sources of training and orientation/training agenda.

**Training-Infants and Toddlers with Special Needs**

A minimum of eight hours of orientation for new family service coordination staff must be ChildNet specific training as defined by the Department of Education. A minimum of 24 additional hours of training must be provided to new family service coordinators hired in the first 90 days of employment. This training must cover advanced subjects as defined by the Department of Education in addition to the subjects listed above. Initial training specific to ChildNet must be arranged and/or coordinated by the Regional Infant/Toddler Coordinator. Specific ChildNet training content must be approved by a sub-committee of the State Interagency Coordinating Council. Advanced training in specific subjects must be satisfactorily completed prior to the case manager/family service coordinator assuming those duties. Ongoing annual training is the responsibility of the family service coordination agency.

New family service coordination supervisors must satisfactorily complete a minimum of 40 hours of family service coordination training before assuming supervisory duties for this target population. Experienced supervisors must also complete a minimum of 40 hours per calendar year on advanced ChildNet specific subjects defined by the Department of Education.

**Training-Acquired Head Injured Waiver Participants**

Specific training for case management staff, students, and volunteers working with consumers with head injuries must be approved by the Head Injury Foundation and must meet the following requirements:

- a. At least eight hours of the 16 hours of orientation provided to new staff within the first five days of employment must consist of population-specific training approved by the Head Injury Foundation.
- b. The minimum 16 hours of training required in the first 90 days of employment of new staff must consist of population-specific training approved by the Head Injury Foundation.
- c. A minimum of 12 hours of the required additional 24 hours of annual training for new staff must be population-specific training approved by the Head Injury Foundation.
- d. During each subsequent year, a minimum of 24 of the required 40 hours of training shall consist of population-specific training approved by the Head Injury Foundation.

**Mandatory Medicaid Training**

Enrolled case management agencies must ensure that all case management staff satisfactorily complete DHH provider required training on case management policies and procedures

contained on this document and the *DHH Case Management Provider Manual*.

C. Supervision. Each case management agency must have and implement a written plan for supervision of all case management staff. Face-to-face supervision must occur at least one time per week per case manager for a minimum of one hour per week. Supervisors must review at least 10 percent of each case manager's case records each month for completeness, compliance with these standards, and quality of service delivery. Case managers must be evaluated at least annually by their supervisor according to written provider policy on evaluating their performance. Supervision of individual staff must include the following:

- a. direct review, assessment, problem solving, and feedback regarding the delivery of case management services;
- b. teaching and monitoring of the application of consumer centered principles and practices;
- c. assuring quality delivery of services;
- d. managing assignment of caseloads; and
- e. arranging for training as appropriate.

The case manager supervisor must utilize by a combination of more than one of the following means:

- a. individual, face to face sessions with staff to review cases, assess performance and give feedback;
- b. group face to face sessions with all case management staff to problem solve, provide feedback and support to case managers;
- c. sessions in which the supervisor accompanies a case manager to meet with consumers. The supervisor assesses, teaches, and gives feedback regarding the case managers's performance related to the particular consumer.

Each supervisor must maintain a file on each case manager supervised and hold supervisory sessions on at least a weekly basis. The file on the case manager must include, at a minimum:

- a. date and content of the supervisory sessions; and
- b. results of the supervisory case review which shall address, at a minimum: completeness and adequacy of records; compliance with standards; and, effectiveness of services.

Each case management supervisor must not supervise more than five full-time case managers or a combination of full-time case managers and other human service staff. A supervisor may carry one-fifth of a caseload for each case manager supervised less than five supervisees. If the supervisor carries a caseload, he or she must be supervised by an individual who meets the supervisor qualifications in Section A above.

**D. Caseload Size Standards**

Each full-time case manager is subject to a maximum caseload of consumers as indicated below:

|  |    |
|--|----|
| Infants and toddlers with special needs    | 35 |
| Developmentally disabled (age 3 and older) | 45 |
| High risk pregnant women                   | 60 |
| HIV infected                               | 45 |
| Seriously mentally ill                     | 25 |
| Fragile elderly                            | 40 |
| Acquired head injured                      | 20 |

"Mixed" caseloads are those where a case manager serves at least five consumers from a second target population or five waiver participants. For caseloads containing consumers who are seriously mentally ill in addition to those who are developmentally disabled or are infants and toddlers with special needs, the maximum caseload is 35. For other "mixed" caseloads, the number of cases must be likewise prorated.

E. Consumer Eligibility Requirements for Targeted Populations. Case management providers must ensure that consumers of Medicaid funded targeted case management services are Medicaid eligible and meet the additional eligibility requirements specific to the targeted or waiver population group. The eligibility requirements for each targeted and waiver group are listed below. With respect to infants and toddlers with special needs, this determination is made through the Multidisciplinary Evaluation (MDE) process and is not the responsibility of the case management/family service coordination agency.

1. Infants and Toddlers with Special Needs

a. a documented established medical condition determined by a licensed medical doctor. In the case of a hearing impairment, licensed audiologist or licensed medical doctor must make the determination; or

b. a developmental delay in one or more of the following areas:

(1). cognitive development;

(2). physical development, including vision and hearing eligibility must be based on a documented diagnosis made by a licensed medical doctor (vision) or a licensed medical doctor or licensed audiologist (hearing);

(3). communication development;

(4). social or emotional development;

(5). adaptive development.

The determination of a developmental delay must be made in accordance with applicable federal regulations and ChildNet policies and procedures.

2. Developmentally Disabled Children Ages 3 Years and Older and Adults must meet the following definition of developmental disability:

a. a severe chronic disability of a person which is attributable to: mental retardation, cerebral palsy, or epilepsy; or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment or services similar to those required for these persons; and

b. which is manifested before the person reaches age 22; and

c. which is likely to continue indefinitely; and

d. which results in substantial functional limitations in three or more of the following areas of major life activity:

(1). self care;

(2). understanding and use of language;

(3). learning;

(4). mobility;

(5). self-direction;

(6). capacity for independent living;

e. the consumer must require and is unable to access services from multiple services providers, except in the instance of consumers eligible for waiver services; and

f. the consumer is at risk of becoming homeless or in need of protection from harm due to environmental or life circumstances, need for supervision, or potential threat of abuse or neglect; or the consumer has been institutionalized, is at risk of becoming institutionalized or would otherwise require ICF/MR level of care.

3. High-risk Pregnant Women

a. pregnancy must be verified by a licensed physician, licensed primary nurse associate, or certified nurse midwife;

b. reside in the metropolitan New Orleans area including Orleans, Jefferson, St. Charles, St. John and St. Tammany parishes;

c. be determined high risk based on a standardized medical risk assessment. A medical risk assessment (screening) must be performed by a licensed physician, a licensed primary nurse associate, or a certified nurse-midwife to determine if the patient is high risk. A pregnant woman is considered high risk if one or more risk factors are indicated on the form used for risk screening. Providers of medical risk assessment must use the standardized Risk Screening Form approved DHH;

d. must require services from multiple health, social, informal and formal service providers and is unable to access the necessary services.

4. HIV Infected

a. Written verification of HIV infection by a licensed physician or laboratory test result is required.

b. The adult consumer must have reached, as documented by a physician, a level 70 on the Karnofsky scale (or cares for self but is unable to carry on normal activity or do active work) at some time during the course of HIV infection.

c. The pediatric consumer must display symptoms of illness related to HIV infection. All consumers must require services from multiple health, social, informal and formal service providers and is unable to access the necessary services.

5. Seriously Mentally Ill

a. Adults 18 years and older must meet all of the following criteria for (1), (2), (3) and (4) for serious mental illness (SMI).

(1). Age: 18 years or older; and

(2). Diagnosis: severe non-organic mental illnesses including, but not limited to schizophrenia, schizoaffective disorders, mood disorders, and severe personality disorders, that substantially interfere with a person's ability to carry out such primary aspects of daily living as self-care, household management, interpersonal relationships and work or school; and

(3). Disability: impaired role functioning, caused by mental illness, as indicated by at least two of the following functional areas: Unemployed or has markedly limited skills and a poor work history, or if retired, is unable to engage in normal activities to manage income; employed in a sheltered setting; requires public financial assistance for out-of-hospital maintenance (e.g., SSI, and/or is unable to procure such

without help, does not apply to regular retirement benefits); severely lacks social support systems in the natural environment, (e.g., no close friends or group affiliations, lives alone, or is highly transient); requires assistance in basic life skills, (e.g., must be reminded to take medicine, must have transportation arranged for them, needs assistance in household management tasks); exhibits social behavior which results in demand for intervention by the mental and/or judicial/legal system; and

(4). Duration: must meet at least one of the following indicators of duration: psychiatric hospitalizations of at least six months in the last five years (cumulative total); two or more hospitalizations for mental disorders in the last twelve-month period; a single episode of continuous structural supportive residential care other than hospitalization for a duration of at least six months; a previous psychiatric evaluation indicating a history of treatment for severe psychiatric disability of at least six months duration.

b. *Children/youth (under age 18) with emotional/behavioral disorders* is defined as follows: behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance (including academic, social, vocational or personal skills); a disability which is more than a temporary, expected response to stressful events in the environment, is consistently exhibited in two different settings and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can co-exist with other disabilities. The following criteria are being established for children/youth with emotional/behavioral disorders and requires that (1), (2), and (3) described below, be met before someone can be described as having an emotional/behavioral disorder. For the purposes of eligibility for Medicaid case management services, there must be a diagnosis as contained in section (2) below, and, a disability as described in section (3) and, a duration of impairment or patterns of inappropriate behavior which has persisted for at least three months and will persist for at least a year.

(1). Age: under age 18; and

(2). Diagnosis: meets one of the following criteria which operationalize the above definition:

(a). exhibits seriously impaired contact with reality, and severely impaired social, academic, and self-care functioning, whose thinking is frequently confused, whose behavior may be grossly inappropriate and bizarre, and whose emotional reactions are frequently inappropriate to the situation; or

(b). manifest long-term patterns of inappropriate behaviors, which may include but are not limited to aggressiveness, anti-social acts, refusal to accept adult requests or rules, suicidal behavior, developmentally inappropriate inattention, hyperactivity, or impulsiveness; or

(c). experience serious discomfort from anxiety, depression, or irrational fears and concerns whose symptoms may include but are not limited to serious eating and/or sleeping disturbances, extreme sadness, suicidal ideation, persistent refusal to attend school or excessive avoidance of unfamiliar people, maladaptive dependence on parents, or non-organic failure to thrive; or

(d). have a DSM-III-R (or successor) diagnosis indicating a severe mental disorder, such as, but not limited to psychosis, schizophrenia, major affective disorders, reactive attachment disorder of infancy or early childhood (non-organic failure to thrive) or severe conduct disorder. This category does not include children/youth who are socially maladjusted unless it is determined that they also meet the criteria for emotional/behavior disorders; and

(3). Disability: there is evidence of severe, disruptive and/or incapacitating functional limitations of behavior characterized by at least 2 of the following: Inability to routinely exhibit appropriate behavior under normal circumstances; tendency to develop physical symptoms or fears associated with personal or school problems; inability to learn or work that cannot be explained by intellectual, sensory, or health factors; inability to build or maintain satisfactory interpersonal relationships with peers and adults; a general pervasive mood of unhappiness or depression; conduct characterized by lack of behavioral control or adherence to social norms which is secondary to an emotional disorder. If all other criteria are met, then "conduct disorders" are eligible; and

(4) Duration: impairment or patterns of inappropriate behavior must have persisted for at least three months and will persist for at least a year.

6. Frail Elderly. The consumer must be a participant in the Home Care for the Elderly waiver.

7. Acquired Head Injured. The consumer must be a participant identified as the occupant of a slot in Head Injury Maintenance waiver.

F. Description of Case Management Services/Provider Responsibilities. The definition of case management adopted by the department is "services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services." Targeted and waiver case management services consists of intake, assessment, service planning, linkage/service coordination, monitoring/follow-up, reassessment, and transition/closure. The department utilizes a broker model of case management in which consumers are referred to other agencies for specific services they need. These services are determined by professional assessment of the consumer's needs and provided according to a comprehensive individualized written service plan. All case management services must be provided by qualified staff as defined in Section A above. The provider must ensure that there is no duplication of payment, that there is only one case manager for each eligible consumer and that the consumer is not receiving other targeted case management services from any other provider.

The required core elements of targeted or waiver case management services and provider responsibilities which all Medicaid enrolled case management agencies must comply with are described below.

1. Case Management Intake. *Intake* is defined as the determination of eligibility and need for targeted case management services. Intake is the entry point into case management. The purpose of intake is to gather baseline information to determine the consumer's need,

appropriateness, eligibility and desire for case management. The case management provider must have written eligibility criteria for case management services provided by the agency. The required procedures of intake screening are:

- a. interview the consumer within three working days of receipt of a referral, preferably face-to-face;
- b. determine if the consumer is currently Medicaid eligible;
- c. determine if the consumer is eligible for services by virtue of the eligibility requirements of the target population described in Section B above;
- d. determine if the consumer's needs require case management services;
- e. inform the family of procedural safeguards, rights and grievance/appeal procedure and which includes the following:
  - (1). determine if the consumer freely accepts case management as optional;
  - (2). provide the consumer freedom of choice of available targeted case management providers as well as case managers. Advise the consumer of his right to change case management providers and case managers;
  - (3). provide the consumer freedom of choice of available service providers. The consumer must sign a standardized intake form to verify the above procedural safeguards;
- f. obtain signed release form(s) from the consumer/guardian. Intake activities performed solely to determine eligibility and need for targeted case management are not billable to Medicaid (unless they are performed as part of the case management assessment process and the consumer meets the eligibility requirements for the target or waiver population.

The above general case management intake procedures are applicable for all targeted and waiver groups. Additional or other procedures for specific targeted or waiver groups are delineated below.

#### **Intake for Infants and Toddlers with Special Needs**

Intake for infants and toddlers with special needs is defined as a comprehensive interagency multidisciplinary, ongoing process which ensures that eligible children are appropriately identified, located, referred and evaluated for early intervention services. The child search coordinator in the local education agency is the single point of entry into ChildNet. The child search coordinator is responsible for completion of the following intake procedures:

- a. Upon receipt of a referral, the child search coordinator must assist the family in identifying and choosing an enrolled family service coordinator provider to assist in the MDE process. Referrals received directly by a family service coordination provider must be immediately referred to the appropriate child search coordinator.
- b. The child search coordinator must provide the family freedom of choice to select an enrolled family service coordination provider, and advise the family of the right to change family service coordinator provider agencies, family service coordinators and other service providers.

c. The child search coordinator must advise the family of their procedural safeguards and provide them with a copy of their rights under ChildNet.

#### **Intake for High Risk Pregnant Women**

Intake must include a standardized medical risk assessment described in Section E3 above.

#### **Intake for Seriously Mentally Ill**

All case management services to seriously mentally ill adults and children are subject to prior authorization by the department including eligibility of the consumer for the target population. The case management provider must submit certain required information including the CAMIS Data Form to enable the Regional Office to certify that the consumer meets the target population definition. If the consumer does not meet the target population definition, written notification will be sent to the consumer.

#### **Intake for Frail Elderly**

Intake procedures for waiver services are described in the appropriate *Waiver Provider Manual*.

#### **Intake for Acquired Head Injured**

Intake procedures for waiver services are described in the appropriate *Waiver Provider Manual*.

2. Case Management Assessment. *Assessment* is defined as the process of gathering and integrating formal/professional and informal information concerning a consumer's goals, strengths, and needs to assist in the development of a comprehensive, individualized service plan. The purpose of assessment is to establish a service plan and contract between the case manager and consumer. The following areas must be addressed in the assessment when relevant: identifying information; medical/physical; psychosocial/ behavioral; developmental/intellectual; socialization/recreational; financial; educational/vocational; family functioning; personal and community support systems; housing/physical environment; and status of other functional areas or domains.

Providers may be required to use standardized assessment instruments for certain targeted populations. The assessment must identify the consumer's strengths, needs and priorities. The assessment must be conducted by the case manager through in-person contact, individualized observations and questions with the consumer and, where appropriate, in consultation with the consumer's family and support network, other professionals, and service providers. The assessment must identify areas where a professional evaluation is necessary to determine appropriate services or interventions. The case manager must arrange for any necessary professional/clinical evaluations needed to clearly define the consumer's specific problem areas. Authorization must be obtained from the consumer/guardian to secure appropriate services.

The assessment must be initiated as soon as possible, preferably within seven calendar days of receipt of the referral and must be completed no later than 30 days after the referral for case management services. A face-to-face interview with the consumer is required as part of the assessment process. The initial assessment interview with the consumer must be conducted in the consumer's home to accurately assess the actual living conditions and health and mental status of the consumer unless this is not the consumer's preference

or there are genuine concerns regarding safety. If the interview cannot be conducted in the consumer's home, an alternative setting in the consumer's community must be chosen jointly with the consumer and documented in the case record. All assessments must be written, signed, dated, and documented in the case record.

Assessments performed on children in the custody of the Office of Community Services(OCS) or Office of Youth Development(OYD) must actively involve the assigned foster care worker or probation officer and must be approved by the agency with legal custody of the child. Assessments performed on consumers in the custody of the Office of Developmental Disabilities (OCDD) must actively involve the assigned Regional Office OCDD staff and must be approved by OCDD.

The above general case management assessment procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

#### **Assessment for Infants and Toddlers with Special Needs**

The child search coordinator is responsible for ensuring all the components of the assessment/ multidisciplinary evaluation (MDE) are fulfilled within the required timeliness. In addition, the child search coordinator must coordinate with the family service coordinator to ensure the development of the initial Individualized Family Service Plan within the required 45 day timelines. The case manager/family service coordinator is responsible for assisting the family through the multidisciplinary evaluation process including the following:

- a. informing the family of the steps involved in the MDE process, explaining their rights and procedural safeguards and securing their participation;
- b. reviewing relevant medical information and prior evaluations;
- c. coordinating the performance of identified or necessary evaluations and KIDMED screenings and immunizations and an examination by a licensed physician to ensure timely completion of the MDE and IFSP;
- d. identifying or coordinating the identification of the family's concerns, priorities and resources;

The MDE must include the following:

- a. a review of pertinent records related to the child's current health status and medical history;
- b. results of a KIDMED screening or documented referral for KIDMED screening;
- c. an evaluation of the child's level of functioning in each of the following developmental areas: cognitive development, physical development, including vision and hearing (by a licensed physician or hearing by a licensed audiologist); communication development; social or emotional development; and adaptive development;
- d. an assessment of the child's strengths and needs and the identification of appropriate early intervention services to meet those needs; and
- e. with family consent, the family's identification of their concerns, priorities and resources related to enhancing the development of their child;

f. be signed and dated by multidisciplinary team participants.

#### **Assessment of Developmentally Disabled Children Three Years and Older and Adults**

a. **Comprehensive Strengths Assessment.** The case manager must complete this standardized strengths assessment form in a face-to-face interview with the consumer. The assessment must identify current status in identified areas of community living, the desired outcomes, as well as strategies which have worked in the past to meet the needs or desired outcomes. The strengths assessment must also include a summary paragraph of the need for case management services, identifying current needs and factors by history which emphasize the need for services;

b. **CAMIS Initial Assessment.**

#### **Assessment for Seriously Mentally III**

Upon approval of the consumer's eligibility for the target population, the regional office will notify the provider of authorization to submit an completed assessment and service plan. A unique authorization number will be issued to the provider which must be used to bill Medicaid upon completion of the assessment and the service plan. The provider must submit the following properly completed assessment documents and service plan form to the Regional Office for approval as soon as possible but no later than 30 calendar days from the date of authorization:

a. **Comprehensive Strengths Assessment.** The case manager must complete this standardized strengths assessment form in a face-to-face interview with the consumer. The assessment must identify current status in identified areas of community living, the desired outcomes, as well as strategies which have worked in the past to meet the needs or desired outcomes. The strengths assessment must also include a summary paragraph of the need for case management services, identifying current needs and factors by history which emphasize the need for services;

b. **CAMIS Initial Assessment.**

#### **Assessment for High Risk Pregnant Women**

Assessment of pregnant women is a multidisciplinary evaluation of the high risk patient to identify factors that may adversely affect health status. Professionals from nursing, nutrition and social work disciplines working as a team must each evaluate the consumer and family needs through interactions and interviews. Each professional assessment must reflect the identified areas for counseling, intervention and follow up services. The nursing, nutritional, and psychosocial assessments must be documented on standardized forms approved by the department. Assessments must be completed with 14 calendar days after the risk assessment is completed or receipt of the referral. There may be extenuating circumstances with certain patients that may hinder compliance with this time frame for assessment.

The case manager is responsible for assisting the family through the multidisciplinary evaluation process including the following:

- a. coordinating the performance of identified or necessary evaluations to ensure timely completion in preparation for the multidisciplinary team staffing;

b. identifying or coordinating the identification of the consumer's concerns, priorities and resources.

A home assessment must be completed by the case manager as part of the initial assessment. If a home visit is refused by the consumer/guardian or there are genuine concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer and documented in the case record.

#### **Assessment for Frail Elderly**

Assessment procedures for waiver services are described in the appropriate *Waiver Provider Manual*.

#### **Assessment for Acquired Head Injured**

Assessment procedures for waiver services are described in the appropriate *Waiver Provider Manual*.

3. Case Management Service Planning. *Service planning* is defined as the development of a written agreement based upon assessment data (which may be multidisciplinary), observations and other sources of information which reflect the consumer's needs, capacities and priorities and specifies the services and resources required to meet these needs. The service plan must be developed through a collaborative process involving the consumer, family, case manager, other support systems and appropriate professionals and service providers. It should be developed in the presence of the consumer and, therefore, cannot be completed prior to a meeting with the consumer. The consumer, case manager, support system and appropriate professional personnel must be directly involved and have agreed to assume specific functions and responsibilities.

The service plan must be completed within 45 calendar days of the referral for case management services. The consumer must be informed of his or her right to refuse a service plan after carefully reviewing it. The service plan must be signed and dated by the consumer and the case manager. Although service plans may have different formats, all plans must incorporate all of the following required components:

- a. statement of prioritized long-range goals (problems or needs) which have been identified in the assessment;
- b. one or more short-term objectives or expected outcomes linked to each goal that is to be addressed in order of priority;
- c. specification of action steps, services or interventions planned, and payment mechanism, if applicable;
- d. assignment of individual responsibility for goal accomplishment; and
- e. time frames for completion or review.

The service plan must document frequency and/or intensity of contacts between the consumer and case manager, service providers and others, the persons to be contacted and whether the visits must be to the consumer's place of residence or to another location, such as a service delivery site. Each service plan must be written and kept in the consumer's record. The assessment and service plan must be completed prior to providing ongoing case management services.

The above general case management service planning procedures are applicable for all targeted and waiver

groups. Additional procedures for specific targeted or waiver groups are delineated below.

#### **Service Planning for Infants and Toddlers with Special Needs**

The family service coordinator's responsibilities in the Individual Family Service Plan (IFSP) must include all of the following:

- a. convening a meeting to develop the IFSP within 45 calendar days of referral;
- b. attending the IFSP meeting;
- c. ensuring that the IFSP meeting is conducted in settings and at times that are convenient to families; in the native language of the family or other mode of communication used by the family; meeting arrangements must be made with, and written notice provided to the family and other participants;
- d. ensuring the following participants provide input and have the opportunity to attend the initial IFSP meeting: the parents; person(s) directly involved in conducting the evaluations; and informal and formal service providers, as appropriate;
- e. facilitating adherence to applicable Medicaid and Part H federal regulations and the ChildNet State Plan concerning the IFSP process.

#### **Service Planning for Developmentally Disabled Children Three Years and Older and Adults**

A standardized service plan form must be completed with the consumer/guardian, signed by the consumer/guardian and case manager, and approved by the case manager's supervisor.

#### **Service Planning/Multidisciplinary Team Staffing for High Risk Pregnant Women**

Following the completion of the medical risk assessment, home visit, professional and case management assessments, a multidisciplinary team staffing and completion of the service plan must take place within 30 days of the intake screening of each high risk pregnant women. The consumer may be restaffed one time during the pregnancy or postpartum period as necessary to maintain a viable comprehensive service plan.

#### **Service Planning for Seriously Mentally Ill**

A standardized service plan form must be completed with the consumer/guardian, signed by the consumer/guardian and case manager, and approved by the case manager's supervisor. The service plan must be submitted with the required assessment documentation to the Regional Office within prescribed timelines in accordance with Office of Mental Health procedures.

#### **Service Planning for Frail Elderly**

Service planning procedures for waiver services are described in the appropriate *Waiver Provider Manual*.

#### **Service Planning for Acquired Head Injured**

Service planning procedures for waiver services are described in the appropriate *Waiver Provider Manual*.

4. Case Management Linkage. *Linkage* is defined as the implementation of the service plan involving the arranging for a continuum of both informal and formal services. After obtaining authorization from the consumer, the case manager must contract with the direct service providers or direct the consumer to contact the service providers, as appropriate. The case manager must contract with the

consumer for formal and informal services and supports to be arranged. Attempts must be made to meet service needs with informal service providers as much as possible. The responsibilities of the case manager in service coordination are:

- a. translating assessment findings into services;
- b. determining which services and connections are needed;
- c. being aware of community resources (Food Stamps, SSI, Medicaid, etc.);
- d. exploration of both formal and informal services for consumers;
- e. communicating and negotiating with service providers;
- f. training and support of the consumer in the use of personal and community resources identified in the service plan;
- g. linking consumers through referrals to services that meet their needs as identified in the service plan; and
- h. advocacy on behalf of the consumer to assist them in accessing appropriate benefits or services.

5. **Case Management Follow-Up/Monitoring.** *Follow-up or case management monitoring* is defined as the follow-up mechanism to assure applicability of the service plan. The purpose of monitoring/follow-up contacts made by the case manager is to determine if the services are being delivered as planned, and/or services adequately meet consumer needs and to determine effectiveness of the services and the consumer's satisfaction with them.

The consumer must be contacted within the first 10 working days after the initial service plan is completed to assure appropriateness and adequacy of service delivery. The case manager must visit each consumer/guardian at least monthly in the consumer's home as part of the linkage and monitoring/follow-up process, or more frequently as dictated by the service plan or determined by the needs of the consumer/guardian. If the consumer refuses home visits or there are genuine concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer and documented in the case record.

The case manager must communicate regularly by telephone, in writing and in face-to-face meetings and home visits with the consumer/guardian, professionals and service providers involved in the implementation of the service plan. The nature of these follow-up contacts (i.e. telephone, home visit) and the individuals contacted be determined by the status and needs of the consumer, as identified in the service plan and determined by the case manager.

Through this activity, the case manager must determine whether or not the service plan is effective in meeting the consumer's needs and identify when changes in the consumer's status occur, necessitating a revision in the service plan. Reassessment is required when a major change in status of the consumer/guardian occurs.

Monitoring of services provided includes the following:

- a. following up to assure that the consumer actually received the services as scheduled;

- b. assuring that consumer/consumer's family is able and willing to comply with recommendations of service providers;

- c. measuring progress of consumer in meeting service plan goals and objectives and determining whether the services adequately address the consumer's needs.

Monitoring information must be obtained by the case manager through direct observation and direct feedback. The case manager must gather information from direct service providers for monitoring purposes. The case manager must obtain verbal or written service reports from direct service providers.

The above general case management service planning procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

#### **Follow-Up/Monitoring for High Risk Pregnant Women**

The case manager must maintain at least weekly face-to-face or telephone contact with the consumer/guardian, family, informal and/or formal providers to implement the service plan and follow up/ monitoring service provision and the consumer's progress in accordance with the service plan.

#### **Follow-Up/Monitoring for Seriously Mentally Ill**

The case manager must have at least weekly face-to-face or telephone contact with the consumer/guardian.

6. **Case Management Reassessment.** *Reassessment* is defined as the process by which the baseline assessment is reviewed. It provides the opportunity to gather information for evaluating and revising the overall service plan. After the initial assessment is completed and initial service plan is implemented, the consumer's needs and progress toward accomplishing the goals listed in the service plan goals must be reevaluated on a routine basis or when a significant change in status or needs occurs. Reassessment is accomplished through interviews and periodic observations.

The purpose of reassessment is to determine if the consumer's condition, situation or needs have significantly changed and to evaluate the effectiveness of the service plan in meeting predetermined goals. If indicated, the identified needs, short-term goals or objectives, services, and/or service providers must be revised. A schedule for reassessing and modifying the initial goals and service plans must be part of the initial workup. Reassessment and review and/or updating of the service plan must be done at intervals of no less than 90 calendar days. If there is a minor change in the service plan, the case manager must revise the plan and initial and date the change. More frequent reassessments may be required, depending upon the consumer's situation.

At least every six months, a complete review of the service plan must be done to assure that goals and services are appropriate to the consumer's needs identified in the assessment/reassessment process. A home-based reassessment must be done on at least an annual basis unless this is not the consumer's preference or there are genuine concerns regarding safety. If the reassessment cannot be conducted in the consumer's home, an alternative setting in the consumer's community must be chosen jointly with the consumer and documented in the case record.



The above general case management reassessment procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

#### **Reassessment for Infants and Toddlers with Special Needs**

Ongoing assessment is a component of the IFSP process. A review of the IFSP must be conducted at least every six months, or more often if conditions warrant, or if the family requests a review to determine the following:

- a. the degree to which progress is being made toward achieving the outcomes; and
- b. whether modifications or revisions of the outcomes or services are necessary.

The review may be carried out by a meeting or by other means that is acceptable to the families and other participants.

An annual meeting must be conducted to evaluate the IFSP and, as appropriate, revise the IFSP. The results of any ongoing assessments of the child and family, and any other pertinent information must be used in determining what early intervention services are needed and will be provided.

7. **Case Management Transition/Closure.** Discharge from case management must occur when the consumer no longer needs or desires the services, or becomes ineligible for them. The closure process must ease the transition to other services or care systems. When closure is deemed appropriate, the consumer must be notified immediately so that appropriate arrangements can be made. The case manager must complete a final reassessment identifying any unresolved problems or needs and discussing with the consumer methods of arranging for their own services.

Criteria for closure include but are not limited to the following:

- a. resolution of the consumer's service needs with low probability of recurrence;
- b. consumer requests termination of services;
- c. death;
- d. permanent relocation out of the service area;
- e. long term admission to a hospital, institution or nursing facility;
- f. does not meet the criteria for the case management established by the funding source (i.e. Medicaid or the program office);
- g. the consumer requires a level of care beyond that which can safely be provided through case management;
- h. the safety of the case manager is in question; or
- i. non-compliance.

All cases which do not have an active service plan and necessary linkage or monitoring activities must be closed. Infants and toddlers eligible under ChildNet are no longer eligible for Medicaid funded case management services if the only service in the IFSP is case management/family service coordination.

8. **Procedures for Changing Providers.** A consumer may freely change case management providers or case managers or terminate services at any time. DHH maintains a listing of enrolled and approved case management providers for each target and waiver population which consumers and service providers may access for referral purposes. Once the

consumer has chosen a new case management provider, the new provider must complete the standardized "Provider Change Notification" form), obtain the consumer's written consent and forward the original change form to the previous case management provider. Upon receipt of the completed form, the previous provider must send copies of the following information as required by licensing standards within 10 working days:

- a. most current service plan;
- b. current assessments on which service plan is based;
- c. number of services used in the calendar year;
- d. current and previous quarter's progress notes.

The new provider must bear the cost of copying which cannot exceed the community's competitive copying rate. The previous provider may not provide case management services after the date the notification is received.

The above general procedures for changing case management providers are applicable for all targeted and waiver groups except as otherwise specified for particular groups delineated below.

#### **Procedures for Changing Family Service Coordination Providers-Infants and Toddlers with Special Needs**

If a family chooses to change family service coordination agencies or a change is necessary for any reason, the following procedures will be followed:

- a. The family will be referred back to the child search coordinator. This referral can be made by the family, the current family service coordinator, or other service providers.
- b. The child search coordinator will provide the family with the official list of family service coordination providers and the freedom of choice form.
- c. The child search coordinator will review the family's rights under ChildNet with the family including the right to change family service coordinators or agencies.
- d. The child search coordinator or the family, if the family chooses, will notify the newly selected agency.
- e. The child search coordinator will notify the old agency at termination.
- f. After receiving written informed paternal consent, the new agency will request records from the previous agency. The previous agency will make these records available within 10 working days of receipt of the request.

### **III. GENERAL PROVISIONS**

#### **A. Documentation**

The provider must keep sufficient records to document compliance with licensing and Medicaid case management requirements for the target population served and provision of case management services. Separate case management records must be maintained on each consumer which fully document services for which Medicaid payments have been made. The provider must maintain sufficient documentation to enable the Medicaid Program to verify that each charge is due and proper prior to payment. The provider must make available all records which the Medicaid Program finds necessary to determine compliance with any federal or state law, rule, or regulation promulgated by the Medicaid Program, DHH or DHHS or other applicable state agency.

The consumer's case record must consist of the following information, at a minimum:

1. medicaid eligibility information;
2. documentation verifying that the consumer meets the requirements of the targeted population;
3. a copy of the standardized procedural safeguard form signed by the consumer;
4. copies of any professional evaluations and other reports used to formulated the service plan;
5. case management assessment;
6. progress notes;
7. service logs;
8. copies of correspondence;
9. at least 6 months of current pertinent information relating to services provided; (Records older than 6 months may be kept in storage files or folders, but must be available for review.)
10. if the provider is aware that a consumer has been interdicted, a statement to this effect must be noted.

#### Service Logs

Service logs are the means for recording units of billable time. There must be case notes corresponding to each recorded time of case management activity. The notes should not be a narrative with every detail of the circumstances. Service logs must reflect service delivered, the "paper trail" for each service billed. Logs must clearly demonstrate allowable services billed. Services billed must clearly be related to the current service plan. Billable activities must be of reasonable duration and must agree with the billing claim. All case notes must be clear as to who was contacted and what allowable case management activity took place. Use of general terms such as "assisted consumer to" and "supported consumer" do not constitute adequate documentation.

Logs must be reviewed by the supervisor to insure that all billable activities are appropriate in terms of the nature and time and documentation is sufficient. Federal requirements for documenting case management claims require the following information must be entered on the service log to provide a clear audit trail:

1. name of consumer;
2. name of provider and person providing the service;
3. names and telephone numbers of persons contacted;
4. start and stop time of service contact and date of service contact;
5. place of service contact;
6. purpose of service contact;
7. content and outcome of service contact.

#### Progress Notes

Progress notes are the means of summarizing billable activities, observations and progress toward meeting service goals in the case management record. Progress notes must:

1. be clear as to who was contacted and what case management activity took place for each recorded time of case management. It must be clear why that time period was billed;
2. record activities and actions taken, by whom, progress made and indicate how goals in the service plan are progressing;
3. document delivery of each service identified on the service plan;

4. record any changes in the consumer's medical condition, behavior or home situation which may indicate a need for a reassessment and service plan change;

5. be legible, as well as legibly signed, including functional title, and fully dated; and

6. be complete, entered in the record preferably weekly but at least monthly and signed by the primary case manager.

Progress notes must be recorded more frequently (weekly) when there is frequent activity or significant changes occur in the consumer's service needs and progress. Quarterly progress notes are required in addition to the minimum monthly recording a summary must also be entered in the consumer's record when a case is transferred or closed.

The organization of individual case management records on consumers and location of documents within the record must conform with state licensing standards and be consistent among records. All entries made by staff in consumer records must be legible, fully dated, legibly signed and include the functional title of the individual. Any error made by the staff in a consumer's record must be corrected using the legal method which is to draw a line through the erroneous information, write "error" by it and initial the correction. Correction fluid cannot be used in consumer records.

Providers must make all necessary consumer records available to appropriate state and federal personnel at all reasonable times. Providers must always safeguard the confidentiality of consumer information. Under no circumstances should providers allow case management staff to take records home. The case management agency can release confidential information only under the following conditions:

1. by court order; or
2. by the consumer's written informed consent for release of the information. In cases where the consumer has been declared legally incompetent, the individual to whom the consumer's rights have devolved must provide informed written consent.

Providers must provide reasonable protection of consumer records against loss, damage, destruction, and unauthorized use. Administrative, personnel and consumer records must be retained until records are audited and all audit questions are answered or three years from the date of the last payment, whichever is longer.

#### B. Reimbursement

1. General Requirements. As with all Medicaid services, payment for targeted or waiver case management services is dictated by the nature of the activity and the purpose for which the activity is performed. All case management services billed must be provided by qualified case managers and meet the definition of case management, "services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services." This definition encompasses assisting eligible consumers in gaining access to needed services including:

- a. identifying services needed;

b. linking consumer with the most appropriate providers of services; and

c. monitoring to ensure needed services are received.

Case management does not consist of the provision of other needed services, but is to be used as a vehicle to help an eligible consumer gain access to them. A general rule of thumb for providers to follow is if there is no interaction in person, by telephone or in correspondence on behalf of the consumer, it is most likely not a billable case management activity.

2. Reimbursement Methodology. Providers of targeted and waiver case management services will be reimbursed a flat fee for assessment/service planning and on a unit of service basis for ongoing allowable case management services to implement the service plan. These fees will be established based on the cost of providing these services for the target population. Reimbursement will be based on allowable cost not to exceed limitations established by the Medicaid Program. Rates will be set in accordance with HIM-15 requirements (the rate setting guide for Louisiana) and federal Medicaid regulations.

a. Targeted and Waiver Groups (except High Risk Pregnant Women)

(1). A flat fee reimbursement will be established for billing for the initial assessment/service planning period for a specific targeted or waiver case management population (excluding High Risk Pregnant Women). Only one completed written initial assessment/service plan may be billed for an eligible consumer. Reimbursement for the initial completed written assessment and service plan will be subject to prior authorization by DHH.

(2). All billable, allowable ongoing services provided to an eligible consumer in a specific targeted population (excluding high risk pregnant women) will continue to be reimbursed under the current methodology utilizing 15 minutes as the unit of service. All billable activities performed after the written initial assessment and service plan is completed and approved by DHH, if applicable, must be billed as ongoing service units. This includes linkage, follow-up/monitoring, reassessment and revisions in the service plan, and transition/closure activities.

Case managers must maintain separate service logs on each eligible consumer completed by the case managers which clearly document the units of ongoing service they have provided. The provider will not be reimbursed for ongoing services on an eligible consumer that exceeds the maximum established by the department for that target population or maximum number of ongoing service units prior authorized by the department, if prior authorization procedures are applicable. All providers must comply with standard provisions concerning such procedures as audit, timely submittal of cost reports, etc. described in the Standards of Payment.

a. High Risk Pregnant Women

(1). A High Risk Pregnant Woman medical risk assessment will be reimbursed as a flat fee. A maximum of two medical risk assessments performed by a qualified medical provider may be reimbursed during the prenatal period of a

pregnant woman who is otherwise eligible for case management services.

(2). High Risk Pregnant Woman case management services will be reimbursed on a monthly unit of service during the consumer's pregnancy and postpartal period after eligibility is established. A maximum of two units of ongoing services may be billed within the post-partal period up to 60 days after delivery.

Providers billing multiple ongoing activities on the same date must add together the minutes of all billable ongoing units of service (excluding all initial assessment and service planning activities) for the eligible consumer and divide by 15 to compute the total amount of ongoing service units for that date. Remainders under half a 15 minute unit are rounded down. On any given day, a maximum of one line of billing may be submitted for billable ongoing services provided.

C. Non-Billable Activities. Federal regulations require that the Medicaid Program ensure that payments made to providers do not duplicate payments for the same or similar services furnished by other providers or under other authority as an administrative function or as an integral part of a covered service.

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid's longstanding position as the payer of last resort. With the statutory exceptions of case management services included in Individualized Education Programs (IEP'S) or Individualized Family Service Plans (IFSP'S) and services furnished through Title V public health agencies, payment for case management services cannot be made when another third party payer is liable, nor may payments be made for services for which no payment liability is incurred.

Time spent in activities which are not a direct part of a contact are not Medicaid reimbursable. Activities that, while they may be necessary, do not result in a service identified in the service plan being provided to the consumer are not reimbursed. The following examples of activities are not considered targeted case management services for Medicaid purposes and are not reimbursable by the Medicaid Program as case management:

1. outreach, case finding or marketing;
2. counseling or any form of therapeutic intervention;
3. developing general community or placement resources or a community resource directory;
4. legislative or general advocacy;
5. professional evaluations;
6. training;
7. providing transportation;
8. telephone calls to a busy number, leaving messages, faxing or mailing information;
9. travel to a consumer's home for a home visit, and the consumer is not at home so that the visit cannot be held but a note is left;
10. "Housekeeping" activities in connection with recordkeeping; (Recording a contact in the case record at the time service is provided is billable.)

11. in-service training, supervision;

12. discharge planning;

Exception: 10 days (30 days for developmentally disabled waiver participant) before discharge from an inpatient facility to assist the consumer in the transition from inpatient to outpatient status, and in arranging appropriate services and 10 days after institutionalization or hospitalization to arrange for closure of community services;

13. intake screening which takes place prior to and is separate from assessment;

14. general administrative, supervisory or clerical activities;

15. recordkeeping;

16. general interagency coordination;

17. program planning;

18. medicaid billing or communications with Medicaid Program;

19. running errands for family (shopping, picking up medication, etc.);

20. accompanying family to appointments or recreational activities, waiting for appointments with family;

21. lengthy interaction to "get acquainted", "provide support" or "hand holding";

22. activities performed by agency staff other than the primary case manager;

23. accompanying another case manager either because of or for safety reasons.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9:30 a.m., Tuesday, September 27, 1994, in the DOTD auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing at said hearing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Rose V. Forrest  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Case Management Services

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost savings to the state associated with the implementation of this proposed rule is \$461,670 for SFY 1995, \$480,137 for SFY 1996 and \$499,342 for SFY 1997.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated effect on revenue collections for state government is a decrease in federal funds of \$1,226,331 for SFY 1995; \$1,275,391 for SFY 1996; and \$1,326,406 for 1997. There is no estimated effect on revenue collections on local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to current Medicaid case managers as the education and experience provisions of this proposed rule apply only to case managers hired after adoption of this rule.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Thomas D. Collins  
Director  
9408#065

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

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

#### Certified Medicaid Enrollment Centers

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing established Certified Medicaid Enrollment Centers under the Medicaid state plan in July 1992 and provided for cost reimbursement to these centers by emergency rulemaking on December 22, 1992 (*Louisiana Register*, Volume 19, No. 1, pages 20-21) and a subsequent rule on May 20, 1993 as published in the *Louisiana Register*, Volume 19, No. 5, page 644. This initiative permitted the bureau to enroll qualified providers and public agencies as Enrollment Centers (EC) to provide intake and outreach services to prospective eligibles and to provide training in eligibility regulations and requirements for the Enrollment Center staff. The bureau has established a training and certification program for prospective enrollment centers and developed the Enrollment Center (EC) handbook which outlines major administrative and regulatory provisions governing outreach and intake under Medicaid. The bureau requires completion of a written contract specifying the responsibilities of the DHH-BHSF and the institution/agency serving as the Enrollment Center. In order to ensure compliance with all federal regulations and thereby avoid the potential of any federal sanction of loss of federal financial participation, the bureau adopted an emergency rule on this matter effective July 1 which was published in the *Louisiana Register*, Volume 20, No. 7.

#### Proposed Rule

The Bureau of Health Services Financing proposes to adopt the following requirements which govern the operation of certified medicaid enrollment centers Title XIX of the Social

Security Act. The Enrollment Center is responsible for ensuring that all of its employees maintain compliance with the following requirements.

A. In order to participate as an Enrollment Center, the provider applicant must not have been suspended or excluded from the Medicaid Program and must meet one of the following definitions:

1. an institutional provider of Medicaid services (e.g. hospitals, long term care facilities);

2. a state program which provides health or social services to the local population which is staffed by state employees (e.g. parish health units, mental health units).

3. a federally funded program which provides health or social services to the local population authorized under Section 329, 330 and 340 of the Public Health Services Act (e.g. FQHC).

4. a parish, state, or federally sponsored program providing services to the community; has designated business offices with established hours of operation; a full-time staff who works with the general public performing the normal duties of the program; and the endorsement and recommendation of local government for certification training (e.g. Headstart);

5. a private program providing health or social services to an identifiable segment of the local community; designated business offices with established hours of operation; a full-time staff who works with the general public in performing the duties of the program; and the endorsement and recommendation of local government for certification training (e.g. V.O.A., Catholic Community Services, etc.).

6. home health agencies or other agencies/programs specifically approved by the Bureau of Health Services Financing.

#### B. Required Training/Certification

Prospective Enrollment Center managers are required to attend a management orientation after which referred qualified personnel of the center must successfully complete the Medicaid Enrollment Center representative training. The representative training includes an overview of the Medicaid programs available, the eligibility factors considered in the application process, precertification responsibilities, and a detailed review of the comprehensive application process.

C. Contractual Agreement: DHH-BHSF and Enrollment Center. The rights and responsibilities of DHH-BHSF and the Enrollment Centers are outlined in the contractual agreement between the BHSF and the chief administrative officer/administrator of the institution or agency seeking to become an Enrollment Center.

1. The Department of Health and Hospitals, Bureau of Health Services Financing, is responsible for the administration and oversight of the Enrollment Center's participation in the Medicaid Program. The Department of Health and Hospitals agrees to assist Enrollment Centers in the following ways:

a. each potential Enrollment Center is furnished with an application, the standards for participation and a contractual agreement. Management staff is required to attend an Enrollment Center management orientation.

b. BHSF provides for Medicaid enrollment center representative training for approved EC staff after the EC has

completed the requirements in Item 1.a. above;

c. BHSF awards the EC representative a certification letter, certificate and an EC handbook to those approved EC staff who have attended EC representative training and passed the required test;

d. DHH-BHSF will monitor EC operations to assure quality service is being offered to applicants;

e. DHH-BHSF will review, approve and refer for processing and payment all complete invoices.

2. Contractual Agreement/Responsibilities. The contractual agreement must be signed by the duly authorized representative of the Enrollment Center. If the Enrollment Center is a corporation, the authorization should be evidenced by a corporate resolution which authorizes a particular person to sign on behalf of the corporation. If the Enrollment Center is a partnership, the authorization should be evidenced by the articles of partnership. Once the duly authorized representative of the Enrollment Center signs the contractual agreement with the bureau, the Enrollment Center and its employees are bound by the contractual agreement. The signature of the duly authorized representative serves as the facility's agreement to abide by all policies and that to the best of his/her knowledge, the information contained on the application form is true, accurate and complete. Once the contractual agreement between the DHH and the Enrollment Center is completed, the Enrollment Center:

a. becomes an agent of the state and in so doing the Enrollment Center or any of its employees is prohibited from acting on behalf of the client or serving in the role of the client's authorized representative;

b. understands that their facility must qualify based upon the standards for participation. The duly authorized representative must sign the contractual agreement must sign the contractual agreement and must attend the Enrollment Center management orientation;

c. agrees to adhere to the applicable regulations of the secretary and the Department of Health and Hospitals, Bureau of Health Services Financing. The Enrollment Center agrees to comply with all rules governing its participation as an Enrollment Center;

d. understands that it has the right to terminate its agreement for any reason in writing with 30 days prior notice to DHH. The Enrollment Center understands that DHH has the right to terminate the agreement with 10 days notice for violation of any of the stated agreements and responsibilities as set forth in the agreement. The agency reserves the right to institute a 30 day period of corrective action in coordination with the Enrollment Center;

e. agrees to maintain such records as outlined in the Enrollment Center handbook. These records are to be provided upon request by the state Medicaid agency, the secretary of the Department of Health and Hospitals, the Medicaid fraud control unit, or the U. S. Department of Health and Human Services. These records must be maintained for a minimum of three years from the date of service;

f. understands that, as a condition of enrollment and participation, it is responsible for assuring and monitoring confidentiality (including, but not limited to, the fact that the

intake or enrollment unit of the provider entity is prohibited under the rules of confidentiality from sharing any information pertaining to the recipient with any other unit of the provider entity), nondiscrimination and quality standards and adhering to federal and state requirements relative thereto;

g. must undergo periodic monitoring by state and/or federal officials without prior notice and agree that state and/or federal officials will have access to the premises to inspect and evaluate work being performed. The Enrollment Center understands that decertification may result if, according to the determination of the state of federal agency, nonconformance with policies is found;

h. agrees that only persons who have successfully completed certification training with a passing grade will be allowed to complete Medicaid applications and agrees that any change in certified staff will be reported to DHH within 10 days to be recorded in the Enrollment Center profile. The Enrollment Center shall keep a copy on file of each employee certification document. Replacement staff must be trained and certified prior to completing applications;

i. understands that participation is required in follow-up training provided as specified by BHSF;

j. understands that the Medicaid enrollment center handbook will be furnished to the facility at no cost and agrees to comply with the provisions of the Medicaid enrollment center handbook. The Enrollment Center will be responsible for maintaining and updating this handbook as revisions are issued;

k. understands that application packets will be distributed by DHH. It is the responsibility of the Enrollment Center to maintain an applications transmittal log. Transmittal logs will be used for submitting applications, invoicing, monitoring and review purposes;

l. must forward all completed applications to DHH within established time frames, as stated by the Enrollment Center in the contractual agreement. All applications must be accompanied with a transmittal log for proper documentation;

m. must adhere to applicable state and federal laws and regulations.

3. Either party may terminate the contract in writing. Thirty days prior notice is required for an Enrollment Center to terminate its contract with the Department of Health and Hospitals while 10 days prior notice is required for the department to terminate its contract with the Enrollment Center.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9:30 a.m., Tuesday, September 27, 1994, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Rose V. Forrest  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Certified Medicaid Enrollment Centers**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated cost to the state associated with the implementation of this proposed rule is \$500 for administrative expenses SFY 1995 but there are no estimated costs for SFY 1996 and for SFY 1997.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated revenue collections for state government is an increase of \$250 for SFY 1995 but no additional revenues are expected for SFY 1996 and 1997. There is no estimated effect on revenue collections on local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs to Medicaid Enrollment Centers but potential Medicaid eligibles will benefit from having their Medicaid application process initiated by the health or social agency from which they are already receiving services.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no effect on competition and employment.

Thomas D. Collins  
Director  
9408#062

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Liquefied Petroleum Gas Commission**

Recertification of Cylinders; School Bus/Mass Transit  
Fueling (LAC 55:IX.Chapters 1 and 12)  
Repeal of LAC 55:IX.Chapters 3,5,7,9,11 and 13

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce rules and regulations, notice is hereby given that the commission proposes to amend its rules and regulations.

The proposed rule is necessary to ensure proper recertification of ICC and DOT cylinders and to provide updated regulations in accordance with national standards.

**Title 55**

**PUBLIC SAFETY**

**Part IX. Liquefied Petroleum Gas**

**Chapter 1. General Requirements**

**Subchapter A. New Dealers**

**§107. Requirements**

**A. ...**

1. Must deposit filing fee of \$100 for Class I; \$50 for Class VI-X and \$25 for all others. This fee must accompany application.

\* \* \*

6. Must have paid permit fee in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be up to four-tenths of one percent of gross annual sales of liquefied petroleum gases with a minimum of \$75.

a. Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the Secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

\* \* \*

8. All personnel handling liquefied petroleum gases must have a card of competency from the office of the director. A card of competency will be issued to applicant upon receipt of \$10 examination fee and successfully completing the test providing applicant holds a current driver's license.

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

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 1:315 (July 1975), amended LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:

### §113. Classes of Permits

A. ...

1. Class I. Holders of these permits may enter any phase of the L. P. Gas business.

\* \* \*

g. Must pay for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be up to four-tenths of one percent of the gross annual sales of liquefied petroleum gas, with a minimum of \$75.

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the Secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the Secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

\* \* \*

m. No truck shall be parked on a street or highway at night in any city, town or village, except that it be for the purpose of serving a customer.

\* \* \*

2. Class II. Holders of these permits may install, and

service L. P. Gas containers, piping and appliances, but shall not deliver gas. This class will also apply to the installation and service of L. P. Gas containers, piping and appliances on mobile homes, motor homes, travel trailers or any other recreational vehicle.

\* \* \*

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

\* \* \*

3. Class III. Holders of these permits may sell, install and service L. P. Gas appliances with any auxiliary piping. They shall not deliver gas.

\* \* \*

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

\* \* \*

4. Class IV. Wholesalers - Holders of these permits may deliver, sell and transport L. P. Gas over the highways of the state but can deliver to dealers only; utilize aboveground steel storage and/or approved salt domes, shale and other underground caverns for storage of L. P. Gas; do general maintenance work on their own equipment using qualified personnel; but may not sell or install systems and appliances.

\* \* \*

b. Must deposit filing fee of \$100 with application.

\* \* \*

d. Must pay permit fee for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be up to four-tenths of one percent of the gross annual sales of liquefied petroleum gases, with a minimum of \$75.

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the Secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

\* \* \*

5. Class V. Carburetion Permit - Holders of these permits may install equipment, including containers, and service L. P. Gas equipment used on internal combustion engines. They may not deliver L. P. Gas.

\* \* \*

d. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

\* \* \*

6. Class VI. Holders of these permits may engage in the

filling of approved cylinders and motor fuel tanks with liquefied petroleum gas on their premises, but shall not deliver gas.

\* \* \*

e. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be up to four-tenths of one percent of the gross annual sales of liquefied petroleum gases, with a minimum of \$75.

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the Secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the Secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

\* \* \*

7. Class VI-X. Holders of these permits may engage in the exchange of approved L. P. Gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

\* \* \*

e. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be up to four-tenths of one percent of the gross annual sales of liquefied petroleum gases, with a minimum of \$75.

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the Secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the Secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

\* \* \*

8. Class VII. Holders of these permits may transport L. P. Gas by motor vehicle over the highways of the State of Louisiana but shall not sell product in the state. This permit may be secured from the office of the director upon receipt of the following:

\* \* \*

c. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

\* \* \*

i. No truck shall be parked on a street or highway at night in any city, town, or village, except that it be for the purpose of serving a customer.

\* \* \*

10. Class VIII. Holders of these permits may: store, transport and sell L. P. Gas used solely in the cutting and metal working industry, sell and install piping and containers for those gases and engage in the filling of approved ICC or DOT containers used in the metal working industry.

\* \* \*

c. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be up to four-tenths of one percent of the gross annual sales of liquefied petroleum gases, with a minimum of \$75.

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the Secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the Secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

\* \* \*

11. Class IX. Holders of these permits may inspect, re-certify and re-condition DOT and ICC cylinders. They shall not sell or deliver liquefied petroleum gas or anhydrous ammonia.

a. Must obtain verification from U. S. Department of Transportation of Retesters Identification Number.

b. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be considered. Presence of the applicant (owner, manager or officer) is required at the commission meeting when the application is heard. In no case will the applicant's supplier be the authorized representative. Application forms will be furnished by the commission upon request. Retesters Identification Number and verification must be submitted with the application.

c. Must deposit filing fee of \$25 with application.

d. Must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

Products Property Damage Liability

Products Public Liability

e. Must pay permit for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be \$75.

f. Person in charge of operations must be satisfactory to the commission and the director of the Liquefied Petroleum Gas Commission.

g. All personnel handling certification of cylinders must have a certificate of competency from the office of the director.

h. Must provide drawing and description of equipment to be installed to re-test cylinders. Drawing and description must be submitted to the office of the director of the Liquefied



Petroleum Gas Commission for his approval before installation.

i. Must maintain an accurate log of all cylinders that have been re-tested by date, size, manufacturer name, and serial number. The commission reserves the right to inspect such logs at any time through its representative.

j. Compliance with all other applicable rules and regulations will be required.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 20:

\*\*\*

### §123. Qualified Personnel

All personnel handling liquefied petroleum gas must have a card of competency from the office of the director. Where new personnel are employed, they must not be placed in charge of handling liquefied petroleum gas until they have passed the examination given by the director and a card showing their competency has been issued to them.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:

\*\*\*

### §137. Container Openings

Repealed.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, repealed by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:

\*\*\*

### §153. Must Sell Only to Dealers

Repealed.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, amended LR 15:860 (October 1989), repealed LR 20:

\*\*\*

### §157. Report of Tanks Shipped

Repealed.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), repealed LR 20:

\*\*\*

### §161. Manufacturer's Report

Repealed.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), amended LR 15:861 (October 1989), repealed LR 20:

\*\*\*

### Subchapter E. Automatic Dispensers Used for Motor Fuel

#### §163. Automatic Dispensers Used for Motor Fuel

A. Automatic dispensers shall be permitted when an L. P. Gas dealer enters into a contractual arrangement with a purchaser under a gas card-lock or other item or device to unlock or operate dispensing equipment for motor fuel when all requirements of this Section are met.

B. Automatic Dispensing Prohibited. The use of self service, coin operated, credit card or any other pump-activating automatic fuel dispensing device is prohibited at any retail station for use by the general public. The filling of ICC or DOT cylinders is prohibited.

C. Required Sketch. The location of any automatic dispensing unit shall be approved in writing by the Director of the Liquefied Petroleum Gas Commission before the installation is made. Sketch must be submitted in triplicate to the office of the director. Sketch shall detail the area within 150 feet of the dispenser and the fuel storage container including distance to buildings, roads, streets, property lines, railways and other flammables and all details of the dispensing unit. After installation and before use, the installation must be inspected and approved for use by the commission before dispenser is placed in operation.

D. Installation of Automatic Dispenser. In addition to the regulations in this Section, the additional regulations apply:

1. No dispenser may be less than 15 feet from an L. P. Gas storage container.

2. All piping shall be schedule 80 and all pipe fittings shall be forged steel having a minimum design pressure of 2000 psi.

3. An excess flow valve shall be installed in the liquid and vapor piping in such a manner that displacement of the dispenser will result in the shearing of such piping on the downstream side of the excess flow valve.

4. Automatic dispensing system shall incorporate an emergency shut-off valve (ESV) upstream from the pump, installed in accordance with its manufacturer.

5. The transfer hose downstream from the meter shall incorporate a pull-away device.

6. Each automatic dispensing system shall include a switch which requires the operator's constant manual activation to maintain a fuel flow. Overriding of such switch is prohibited.

7. Step by step operating instructions and fire emergency telephone numbers shall be posted in a conspicuous place in the immediate vicinity of the automatic dispenser.

8. Immediate vicinity of automatic dispenser shall be well lit during all hours of darkness.

9. A dealer who installs an automatic dispenser shall provide contractual purchaser with written instructions to operate dispenser. The contractual purchaser should be cautioned to study and preserve such instructions and procedures, and to educate all those with access under his contract to the automatic dispenser in the proper operating procedure.

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

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (October 1990), repromulgated LR 20:

#### **Subchapter F. Tank Trucks, Semi-Trailers and Trailers**

##### **§165. Meter Calibration**

A. All trucks delivering L. P. Gas for domestic use shall be equipped with a suitable measuring device which shall be used to accurately gauge the amount of gas placed in each system, either by meter or by weight.

Required meter calibration: Truck meters shall be calibrated at least once every two years or every 1 million gallons of gas delivered per truck, whichever occurs first. Calibration reports shall be retained in the dealer truck file for at least three years. A copy of the calibration report must be submitted to the office of the director of the Liquefied Petroleum Gas Commission. The commission reserves the right to review calibration reports upon demand.

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

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), repromulgated LR 20:

##### **§167. Out of Gas Customers**

A. Serving an Out of Gas Customer. When a delivery of gas is made to any on-site container which is out of gas and which is connected to a fixed piping system serving any building, a warning tag shall be utilized if the L. P. Gas customer is not present. The service valve shall be closed and a warning tag shall be attached. An addition copy of the warning tag shall be placed on a door of the building.

The warning tag shall state:

- a. that gas supply has been turned off at the container;
- b. that your fuel supplier should be contacted if assistance is deemed necessary in relighting appliance pilots.

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

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), repromulgated LR 20:

##### **§169. Maintenance**

A. All piping and auxiliary equipment shall be maintained in good mechanical condition at all times so as to eliminate in so far as possible all hazards to safe operation.

B. Vehicle and all components of vehicle shall be maintained in good mechanical condition at all times so as to eliminate in so far as possible all hazards to safe operation.

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

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum

Gas Commission, LR 11:559 (May 1985), amended LR 16:1063 (December 1990), LR 20:

#### **Subchapter G. Systems Utilizing ASME Containers**

##### **§171. Storage Capacity Requirements**

The minimum capacity of storage containers shall be 100 gallon tank capacity for each 100,000 BTU appliance load. Exceptions to this rule must be approved by the director.

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

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 7:635 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), repromulgated LR 20:

##### **§173. Regulators**

All containers shall be equipped with an approved first stage regulator installed as close to container as practicable and shall be located outside of building and be properly protected. A two-stage regulator must be installed if BTU load is 500,000 or more.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 7:635 (December 1981), amended LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:560 (May 1985), LR 16:1063 (December 1990), repromulgated LR 20:

##### **§175. Pressure Tests Required**

All new installations, existing installations, additions in piping to existing installations that a dealer will be serving with gas for the first time must be tested in the following manner:

1. All new installations as follows:
  - a. No underground piping shall be covered until after an inspection and test is made.
  - b. With openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss in pressure during test.
  - c. After appliances have been connected and adjusted, retest piping with water column of operating pressure. Turn off all appliance valves and turn gas off at tank. There shall be no loss in pressure in piping system during 15 minute test.
  - d. Search for leaks with approved leak detector solution. The use of matches or other flame is prohibited.
  - e. The commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission.
2. Existing installations being serviced with gas for the first time:
  - a. Visually inspect container, piping and appliances.
  - b. Test piping with water manometer or ounce gauge at operating pressure. Turn off appliance valves and turn off gas at tank. There shall be no loss in pressure in piping system during 15 minute test.
  - c. Search for leaks with approved leak detector solution. The use of matches or other flame is prohibited.
  - d. The commission reserves the right to witness the

pressure test through an inspector of the Liquefied Petroleum Gas Commission.

e. A pressure test is required at the location of an existing installation for a new customer in accordance with the above.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 7:635 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), repromulgated LR 20:

#### **§177. Appliance Installation and Connections**

A. Use of Approved Applications. Domestic and commercial gas consuming appliances shall not be installed unless their correctness as to design, construction and performance is certified by one of the following:

1. determined by a nationally recognized testing agency adequately equipped and competent to perform such services and shall be evidenced by the attachment of its seal or label to such gas appliance. This agency shall be one which maintains a program of national inspection of production models of gas appliances at least once each year on the manufacturer's premises. Approval by the American Gas Association Laboratories (AGA) as evidenced by the attachment of its listing symbol or approval seal to gas appliances and a certificate or letter certifying approval under the abovementioned requirements or listing by Underwriter's Laboratories Inc. (UL) be considered as constituting compliance with the provisions of this Section.

2. approved by the Liquefied Petroleum Gas Commission.

#### **B. Appliance Installation and Connection**

1. Appliances shall be installed in accordance with its manufacturer's instructions.

2. In the absence of complete manufacturer's instructions on installation of any appliance, installation shall be in accordance with National Fuel Gas Code Pamphlet Number 54. Exceptions as follows:

a. existing installation where piping outlets and appliances were installed in accordance with regulations which were in effect at the time of such installation. This exception includes the removal of existing appliances for servicing or replacement of appliance of same type or of equal or better quality;

b. exception approved by the Director of the Liquefied Petroleum Gas Commission.

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

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), repromulgated LR 20:

#### **Subchapter H. Specifications for L. P. Gas Installations at Schools and Places of Public Assembly**

#### **§179. Requirements for Plans and Specifications**

A. Three copies of all L. P. Gas installation plans and specifications including plot plans shall be submitted to the office of the director of the Liquefied Petroleum Gas

Commission for approval before the job is begun.

B. Such plans must show the following:

1. the type of building (frame, masonry, metal walls, etc.);
2. elevation. This information should either be clearly shown on the sketch with an elevation view, or stated, giving the number of inches clearance between the ground and the building;
3. the size and location of all gas pipe and the length of all runs;
4. the size and location of the tank;
5. the location and BTU rating of all appliances;
6. the total BTU load;
7. all other details related to the proposed installation as required in this Section.

C. The following is a clarification of the requirements for the replacement of tanks at schools and places of public assembly: When replacement occurs where any additional piping or installation, or change of appliance occurs, it will be necessary to submit sketches in triplicate to the office of the director of this commission. Replacement of a storage container by a smaller or larger capacity container will require sketches and approval from this office. Replacement of a container of same capacity size at same location by same dealer, will not require a sketch. In cases which a sketch is not submitted, a letter stating appropriate information must be mailed to the office of the director of this commission. In all cases, an installation report, as required, must be filed with this office. Under the "Remark" Section of the report give a description of the work being performed with reference to the above requirements.

D. The commission reserves the right to make a final inspection and witness a pressure test through an inspector of the Liquefied Petroleum Gas Commission before said tank is placed in operation.

E. The minimum capacity of storage containers shall be 100 gallons tank capacity per each 100,000 BTU appliance load. Exceptions to this rule must be approved by the Director.

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

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 7:635 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), LR 20:

#### **Subchapter I. Adoption of Standards**

#### **§181. National Fire Protection Association Pamphlet Numbers 58 and 54**

A. The Liquefied Petroleum Gas Commission hereby adopts the National Fire Protection Association Pamphlets Numbers 58 and 54.

B. Any subsequent changes made to the abovementioned national standards shall become effective the date the standards are published.

C. Any published rules and regulations shall take precedence over the standards referenced in Section A.

D. The commission reserves the right to make an exception

to any rule as it applies to local conditions as it deems necessary in the interest of public safety.

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

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:

\* \* \*

**Chapter 3. Storage Containers**

Repealed in it's entirety.

**Chapter 5. Tank Trucks, Semi-Trailers and Trailers**

Repealed in it's entirety.

**Chapter 7. Cylinder Systems**

Repealed in it's entirety.

**Chapter 9. Systems Utilizing ASME Containers**

Repealed in it's entirety.

**Chapter 11. L. P. Gas as a Motor Fuel**

Repealed in it's entirety.

**Chapter 12. School Bus and Mass Transit Installations §1225. Fueling**

A. Vehicles covered in this Chapter are prohibited from being fueled at schools, and other places of public assembly within 50 feet of the property line.

B. Vehicles are prohibited from being fueled while passengers are on board or while waiting to board.

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

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:

\* \* \*

**Chapter 13. Specifications for L. P. Gas Installations at Schools and Places of Public Assembly**

Repealed in it's entirety.

The commission will hold a public hearing September 15, 1994, 265 South Foster Drive, 8:30 a.m.

Written comments will be accepted through September 9, 1994 and should be sent to G. L. "Mike" Manuel, Jr. at Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing.

G. L. "Mike" Manuel, Jr.  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Recertification of ICC and DOT Cylinders**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no implementation costs to state or local governmental units. These rule changes add a new class of permit which will be included in the mainstream of the present day expenditures. These rule changes also bring the state requirements in conformity with the national standards which should result in savings relative to printing and distribution of changes in rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

We anticipate receiving \$1,200 revenue (self-generated)

collections for state government from permit fees, filing fees and cards of competency which will be required for these dealers wanting to recertify ICC and DOT cylinders. This figure is based on the anticipation of 10 applications in the first year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The benefit will be the assurance to the public that ICC and DOT cylinders are safe and the increased availability of recertification of cylinders.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Proposed rule changes will have no impact on the competition in the private sector.

Rex McDonald  
Undersecretary  
9408#038

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police  
Charitable Gaming Division**

Bingo/Keno; Raffle; and Electronic Video  
Bingo (LAC 42:I.Chapters 17 and 19)

*(Editor's Note: The following notice of intent, which appeared on pages 822-823 of the July, 1994 Louisiana Register, incorrectly stated that the amendment of rules was proposed by the Riverboat Gaming Division. The correct agency proposing these rules is the Charitable Gaming Division; therefore, the notice of intent is being republished for clarification.)*

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 36:408, R.S. 40:1485.4, and R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to amend LAC 42:I.1703, 1707, 1721, 1725, 1732, 1733, 1742, 1744, 1745, 1755, 1757, 1761, 1901, 1903, 1905, 1911, 1913, 1923, 1925, 1931, 1933, 1943, 1949, 1955, 2201 and 2213 to increase regulatory authority over selected areas and increase electronic video bingo activity.

Copies of the full text of this proposed rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA. Telephone (504) 342-5015. Please refer to Log 9408#001 when inquiring about this rule. Copies may also be obtained from the Office of State Police, Charitable Gaming Division at the address listed below.

Interested persons may submit written comments on the proposed rule changes to: Lieutenant Joseph T. Booth, Director, Division of Charitable Gaming Control (52), Office of State Police, Louisiana Department of Public Safety and Corrections, Box 66614, Baton Rouge, LA 70896. Telephone: (504) 925-1835.

Paul W. Fontenot  
Superintendent

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Charitable Gaming**

**NOTICE OF INTENT**

**Department of Social Services  
Office of Community Services**

Vendor Day Care Program (LAC 67:V.2301)

The Department of Social Services, Office of Community Services, proposes to amend the LAC 67:V.2301 entitled "Vendor Day Care Program" published in the *Louisiana Register*, Volume 18, No. 8, August 20, 1992, page 868.

**Title 67**

**SOCIAL SERVICES**

**Part V. Community Services**

**Subpart 4. Family Services**

**Chapter 23. Daycare**

**§2301. Vendor Day Care Program**

A. The Department of Social Services, Office of Community Services, will provide day care services only for children who are at risk of abuse and/or neglect or for foster care reasons.

B. Day Care Centers will be reimbursed for services based on the standard rate shown on the following chart:

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The total cost incurred by the state for implementation of the proposed rule is \$2,439.36. It will have no impact on local governmental units.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The proposed rule will increase the state's revenues by a total of \$60,000.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**  
There will be an estimated minimum one-time cost of \$752.95 to noncommercial lessors, an estimated minimum one-time cost of \$1,102.95 to commercial lessors, and an estimated cost to electronic video bingo distributors or hall owners to pay a representative an average of \$374 per week for each location where the distributor has machines.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
There should not be an increased amount of competition between the licensees themselves. The proposed action will result in increased employment of electronic video bingo representatives at bingo halls.

Paul W. Fontenot  
Superintendent  
9408#001

David W. Hood  
Senior Fiscal Analyst

| CLASS A CENTERS     | CHILD UNDER AGE 2 |           |           | AGE 2 AND OLDER |           |           |
|---------------------|-------------------|-----------|-----------|-----------------|-----------|-----------|
|                     |                   | FULL-TIME | PART-TIME |                 | FULL-TIME | PART-TIME |
|                     | MONTHLY           | \$238.30  | \$119.15  | MONTHLY         | \$216.50  | \$108.25  |
|                     | WEEKLY            | \$ 55.00  | \$ 27.50  | WEEKLY          | \$ 50.00  | \$ 25.00  |
|                     | DAILY             | \$ 11.00  | \$ 5.50   | DAILY           | \$ 10.00  | \$ 5.00   |
|                     | HOURLY            | \$ 1.38   | \$ 1.38   | HOURLY          | \$ 1.25   | \$ 1.25   |
| ALL OTHER PROVIDERS |                   | FULL-TIME | PART-TIME |                 | FULL-TIME | PART-TIME |
|                     | MONTHLY           | \$216.50  | \$108.25  | MONTHLY         | \$216.50  | \$108.25  |
|                     | WEEKLY            | \$ 50.00  | \$ 25.00  | WEEKLY          | \$ 50.00  | \$ 25.00  |
|                     | DAILY             | \$ 11.00  | \$ 5.00   | DAILY           | \$ 10.00  | \$ 5.00   |
|                     | HOURLY            | \$ 1.38   | \$ 1.25   | HOURLY          | \$ 1.25   | \$ 1.25   |

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Part 98.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended by the Department of Social Services, Office of Community Services, LR 18:868 (August 1992) and LR 20.

Interested persons may submit written comments for 40 days from the date of this publication to the following address: Brenda L. Kelley, Assistant Secretary, Box 3318 Baton Rouge, LA 70821. She is the person responsible for responding to inquiries.

**Gloria Bryant-Banks  
Secretary**

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Vendor Day Care Program**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The cost of implementing this change is \$300 for agency costs for printing. It is estimated that there will be a savings of approximately \$44,000 in the vendor payment day care program. This savings will be offset, however, by a reduction in FY 94/95 of LIHEAP funds which provided partial funding for vendor day care services. In addition, the savings from Title XX funds which also funds vendor day care services will be expended on other Title XX services. Therefore, there will be no savings of funds as the result of this rule.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There are no effects on revenue collections of state or local government.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**  
Clients whose children will no longer be eligible for day care services without cost will be responsible to purchase those services should they decide to continue the day care services. The cost per child will be an average of \$231 per month, if the same level of service is maintained.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
There is no impact on competition or employment. There are no transfer funds to any governmental or private entities.

Robert J. Hand  
Division Director of Management  
and Finance  
9408#068

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Social Services  
Office of Rehabilitation Services**

**Policy Manual (LAC 67:VII.101)**

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is proposing to revise its learning impairment policy.

The purpose of this notice of intent, is to revise the rules governing Louisiana Rehabilitation Services' hearing impairment policy.

As a result of public hearings conducted on January 27, 1994, Louisiana Rehabilitation Services has changed its policy relative to the hearing impaired eligibility criteria, to expand this criteria. Hearings relative to the expanded eligibility criteria were conducted on April 25, 1994, and no further substantive changes were made to the policy.

**Title 67  
SOCIAL SERVICES**

**Part VII. Louisiana Rehabilitation Services**

**Chapter 1. General Provisions**

**§101. Policy Manual**

LRS Policy Manual, fiscal year 1994, provides opportunities for employment outcomes and independence to individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 20:

Interested persons may submit written comments by September 2, 1994 to May Nelson at the address below. She is responsible for responding to inquiries regarding the proposed rule.

Copies of the entire text of the revised 1994 policy manual may be obtained at Louisiana Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA, at each of its nine regional offices, and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

Gloria Bryant-Banks  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Policy Manual**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There are no anticipated implementation costs or savings.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
Louisiana Rehabilitation Services has sufficient funds to provide client services and administer the program as Act 14 was approved by the Louisiana Legislature.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**  
Louisiana Rehabilitation Services has \$22 million budgeted in order to provide services to eligible individuals with severe disabilities on a first come, first serve basis.
- 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  
9408#066

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

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

#### Plan Document—Dentists and Oral Surgeons Exclusion, Exceptions

In accordance with the applicable provisions of R.S. 49:953 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, notice is hereby given that the board intends to adopt the following amendment to the Plan Document relative to the exclusion of benefits for services rendered by a dentist or oral surgeon in order to avoid disruption or curtailment of services to state employees and their dependents who are covered by the State Employees Group Benefits Program. This emergency rule shall remain in effect for 120 days.

The purpose, intent, and effect of this amendment is to provide an additional exception to the general exclusion of benefits for services rendered by a dentist or oral surgeon. This exception to the exclusion will allow the State Employees Group Benefits Program to pay benefits for oral and maxillofacial surgeries performed by a dentist or oral surgeon when such services are shown to the satisfaction of the program to be medically necessary, non-dental, and non-cosmetic procedures.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may present their views, in writing, to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m., Friday September 23, 1994.

James R. Plaisance  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Oral Surgery Benefits

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will provide for additional benefits to be paid to plan members who have certain oral and maxillofacial surgeries. According to the program's consulting actuary, the estimated cost of this rule change will be between \$600,000 and \$1,320,000 for the first year.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state or local governmental units will not be effected by this rule change.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this rule change will provide for benefit payments to plan members that have certain oral and maxillofacial surgery that has previously not been a benefit of the state employees group benefits program.

##### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be effected.

James R. Plaisance  
Executive Director  
9408#037

David W. Hood  
Senior Fiscal Analyst

# POTPOURRI

## POTPOURRI

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Horticulture Commission

#### Retail Floristry Examination

The next retail floristry examination will be given October 24-28, 1994 at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending application and fee is September 22, 1994 at 4:30 p.m. No applications will be accepted after September 22, 1994.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118.

Any individual requesting special accommodations due to a disability should notify our office prior to September 22, 1994. If you have any questions, please call our office at (504) 925-7772.

Bob Odum  
Commissioner

9408#036

## POTPOURRI

### Department of Health and Hospitals Board of Veterinary Medicine

#### Examination Dates

The Board of Veterinary Medicine will administer the state and national board examinations on the following dates:

| EXAMINATION                       | DATE                         |
|-----------------------------------|------------------------------|
| Louisiana State Board Examination | Thursday, December 1, 1994   |
| National Board Examination (NBE)  | Tuesday, December 13, 1994   |
| Clinical Competency Test (CCT)    | Wednesday, December 14, 1994 |

The deadline to apply for any or all of these examinations will be 4 p.m. on Friday, October 14, 1994. Applications and information may be obtained from the board office by calling (504) 342-2176.

Vikki L. Riggle  
Executive Director

9408#031

## POTPOURRI

### Department of Health and Hospitals Office of Public Health

#### Health Assessment—American Creosote

The Office of Public Health, Section of Environmental Epidemiology is releasing the American Creosote Preliminary Public Health Assessment for public comment. The public health assessment identifies and evaluates the environmental contaminants at the American Creosote Superfund site and the public health implications related to exposure from these contaminants. The public comment period for the American Creosote site located in Winnfield is from September 1, 1994 to October 31, 1994. The document will be available on September 1, 1994 at the following repositories:

State Repositories  
For a list contact:  
Grace Moore at(504) 342-4929

US EPA Region 6 Library  
1445 Ross Ave, 12th Floor  
Dallas, Tx. 75202  
(214)665-6444

Office of Public Health  
234 Loyola Avenue Suite 620  
New Orleans, LA 70112  
(504)568-8537

Winn Parish Health Unit  
301 West Main Street  
Winnfield, LA 71483  
(318)628-2148

Department of Environmental Quality  
7290 Bluebonnet Boulevard  
Fourth Floor  
Baton Rouge, LA 70809  
(504)765-0487

Winn Parish Library  
204 West Main Street  
Winnfield, LA 71483  
(318)628-4478 or (318)628-9820

There will be a public meeting on September 19, 1994, from 5 p.m. to 7 p.m., Allen Building, 112 West Main Street, Winnfield, LA. At the public meeting LOPH/SEE will explain the results of the public health assessment, answer questions, and accept comments from the public.

Written comments will be included in the appendix to the

final public health assessment. Comments should be received prior to the ending date of October 31, 1994. Direct comments to: Dr. Lina Balluz, Public Health Assessment Supervisor, Office of Public Health, Section of Environmental Epidemiology, 234 Loyola Avenue, Suite 620, New Orleans, LA 70112, telephone (504) 568-8537.

The comments received during the public comment period will be addressed in an appendix to the final public health assessment. Personal health identifiers will not be included in the final document.

Eric Baumgartner, MD, MPH  
Assistant Secretary

9408#081

## POTPOURRI

### Department of Health and Hospitals Office of Public Health

#### Nutrition Program for Women, Infants and Children (WIC)

In accordance with Public Laws 99-500 and 99-591 the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC program's State Plan for 1994-95. The plan describes in detail the goals and the planned activities of the WIC program for the next year.

Interested persons may view copies of the state plan at the Central Nutrition/WIC Office, at the address below or they may apply directly to the Nutrition/WIC office for copies of the plan at \$.05 per page. Interested individual should submit their requests for copies or their comments on the plan to the following address: Department of Health and Hospitals, Office of Public Health, Nutrition Section, Room 406, Box 60630, New Orleans, LA 70160, Attn: State Plan. Additional information may be obtained by contacting Henry Klimek, telephone (504) 568-5065.

Pamela P. McCandless, M.P.H.  
Administrator

## POTPOURRI

### Department of Labor Office of Employment Security Research and Statistics

#### Average Weekly Wage

Pursuant to Act 583 of the Regular Session of the 1975 Legislature, Louisiana's average weekly wage upon which the maximum worker's compensation weekly benefit amount will be based effective September 1, 1994 has been determined by the Department of Labor to be \$430.21.

Eula M. Brown  
Director

9408#025



**CUMULATIVE INDEX**  
(Volume 20, Number 8)

1994

| <i>Pages</i>    | <i>Issue</i> |
|-----------------|--------------|
| 4 — 134 .....   | January      |
| 135 — 244 ..... | February     |
| 245 — 368 ..... | March        |
| 369 — 508 ..... | April        |
| 509 — 600 ..... | May          |
| 601 — 738 ..... | June         |
| 739 — 846 ..... | July         |
| 847 — 962 ..... | August       |

**AGRICULTURE AND FORESTRY**

**Agricultural and Environmental Sciences, Office of**

- Azinphos-Methyl, 744ER
- Commercial applicators, 8ER
- Meetings, 644R
- Organic certification, 8ER, 59N, 393R
- Pest management, 743ER
- Pesticides, 200N, 641R
- Plant pest quarantine, 495P
- Seed certification, 201N, 642R, 799N
- Termiticides, 644R

**Agro-Consumer Services, Office of**

- Dairy Stabilization Board revisions, 64N, 398R
- LACC assessments, 154R
- Weights/measures, 28R

**Animal Health Services, Office of**

- Brucellosis, 853ER, 903N
- Equine Infectious Anemia, 9ER, 65N, 405R, 901N
- Livestock, Fairs/Rodeos, 902N
- Pet turtles, 203N, 324N, 362P
- Poultry, 138ER, 550N, 863R
- Pseudorabies, 903N

**Forestry, Office of**

- Timber stumpage, 12ER, 65N, 408R

**Horticulture Commission**

- Exam fee, 639R
- Examination performance, 153R
- Floristry exam, 237P, 361P, 590P, 730P, 955P
- Landscape architect exam, 237P
- Licensee requirements, 799N
- Standards, 639R

**Marketing, Office of**

- Tomatoes, 376ER, 464N, 782R

**Structural Pest Control Commission**

- Meetings, 208N
- Recertification, 324N
- Termiticides, 208N

**CIVIL SERVICE**

**Civil Service Commission**

- Base supplement, 550N

- Demotion pay, 326N
- Layoff, 325N
- New grades pay, 326N
- Overtime, 325N
- Pay, 550N, 800N
- Red circle rates, 326N

**CULTURE, RECREATION AND TOURISM**

**Cultural Development, Office of**

- Antiquities Commission, 409R
- Archaeologist, 409R
- Archaeological survey, 409R

**Museum, Office of**

- Building rental, 465N, 783R
- Museum admission, 467N, 784R

**ECONOMIC DEVELOPMENT**

**Architectural Examiners, Board of**

- Limited liability company, 553N
- Seal/stamp, 534R

**Certified Shorthand Reporters, Board of Examiners of**

- Continuing education, 412R,
- Reporting methods, 674N

**Commerce and Industry, Office of**

- Ad valorem tax, 467N, 864R

**Economic Development and Gaming Corporation**

- Licensing/suitability, 607ER
- President's absence, 12ER

**Financial Institutions, Office of**

- Capital Companies Tax Credit Program, 154R, 280R
- Credit union, 674N
- Deed escrow, 13ER, 66N, 412R
- Loan production, 67N
- Subsidiary, 677N

**Interior Designers, Board of**

- Certificate, 556N, 864R

**Motor Vehicle Commission**

- Broker, 139ER

**Polygraph Board**

- Continuing education, 556N, 868R

**Racing Commission**

- Equipment, 69N, 644R
- Medication, 70N, 70N, 645R, 645R
- Weapons/firearms, 160R

**Used Motor Vehicles and Parts Commission**

- Identification cards, 415R
- Brokers, 378ER
- Used parts, 209N, 535R, 645R

**CR—Committee Report**

**ER—Emergency Rule**

**N—Notice of Intent**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**L—Legislation**

**P—Potpourri**

**R—Rule**

## EDUCATION

### Elementary and Secondary Education, Board of

Bulletin 741  
Business education, 328N, 646R  
General Education Development (GED), 621ER, 868R  
Health education, 282R, 620ER, 904N  
Honors curriculum, 251ER, 558N, 558N, 620ER, 869R, 869R  
Instructional time, 905N  
Librarians, 559N, 869R  
Math requirements, 378ER, 560N, 745ER, 869R  
Vocational education, 16ER, 140ER, 161R, 161R, 561N  
Bulletin 746  
Health certification, 854ER  
School personnel, 646R, 853ER  
Special education, 282R  
Temporary employment, 141ER, 282R  
Temporary teaching, 142ER, 283R, 535R  
Bulletin 921  
8(g) Policy Manual, 252ER, 326N  
Education major, 906N  
Teacher tuition, 162R  
Bulletin 1196  
Food/nutrition, 906N  
Bulletin 1452  
Child welfare/attendance, 907N  
Social workers, 907N  
Bulletin 1525  
Personnel evaluation, 28R,  
Principal evaluation, 378ER, 562N, 745ER, 870R  
Bulletin 1706  
Exceptional children, 16ER, 140ER, 161R, 621ER, 621ER  
Bulletin 1794  
Textbook, 252ER, 383ER, 854ER  
Bulletin 1822  
Postsecondary curriculum, 161R, 908N  
Bulletin 1868  
Personnel Manual, 16ER, 284R, 514ER  
Bulletin 1882  
Administrative Leadership Academy, 646R, 854ER  
Bulletin 1903  
Dyslexia, 140ER, 284R, 647R  
Bulletin 1929  
Accounting/governmental, 800N  
Bulletin 1938  
Church-based tutorial, 71N, 416R  
Bulletin 1943  
Teacher assessment, 854ER  
8(g) Annual Program, 679N,  
Education specialist, 71N, 416R  
MFP student, 328N, 622ER, 647R  
Migrant education, 909N  
Minimum standards/waivers, 747ER, 910N  
Noncertified personnel, 141ER, 285R  
Teacher assessment, 746ER  
Teacher tuition exemption, 746ER  
Teacher tuition, 909N  
VTIE certification, 162R  
Vocational education, 329N, 557N, 622ER, 648R, 680N, 870R

### Student Financial Assistance, Office of

Due diligence, 330N, 870R  
Electronic funds, 285R  
Employment opportunity, 330N, 870R  
Honors scholarship, 72N, 417R  
Last resort lender, 564N, 871R  
Louisiana Employment Opportunity (LEO), 17ER, 76N, 420R, 563N, 872R  
Scholarship/grant application, 331N, 872R

## ENVIRONMENTAL QUALITY

### Air Quality and Radiation Protection

Air toxins (AQ87), 78N, 430R  
Asbestos (AQ75), 77N, 649R  
Asbestos admission standard (AQ97), 920N  
Benzene waste (AQ73), 536R  
Biomedical waste (AQ83), 565N  
Chemical accident (AQ31), 421R  
Clean fuel fleet (AQ80), 105P, 692N  
Crematories (AQ90), 569N  
Emission inventory (AQ94), 681N  
Emission reduction (AQ85), 252ER, 496P, 873R  
Federal Transit Act (AQ99), 922N  
Fugitive emission (AQ84), 259ER, 747ER  
Glycol dehydrators (AQ96), 687N  
Insignificant activities (AQ93), 689N  
Mobile sources (AQ78), 264ER, 691N, 747ER  
Mobile sources (AQ91), 471N, 881R  
New stationary sources (AQ69), 289R  
Nitrogen Oxides emissions (AQ81), 162R, 288R  
Nonattainment area (AQ66), 649R  
Organic compounds (AQ72), 289R  
Ozone Nonattainment (AQ84), 682N  
Parish redesignation, 730P, 730P, 731P, 731P, 731P, 732P  
Radiation protection (NE11), 17ER, 210N, 515ER, 653R  
Radiation protection (NE13), 331N, 649R  
Radiation protection (NE14), 801N  
Radioactive material licensing (NE09), 178R  
Radiographers (NE12), 474N, 475N  
Refuse, 565N  
State Implementation Plan (SIP) (AQ95), 498P, 911N  
Toxics Emission Report, 590P  
Unauthorized discharges notification (OS17), 181R  
VOC reduction (AQ86), 272ER, 537R  
VOC storage (AQ92), 923N

### Legal Affairs and Enforcement, Office of

Semiannual regulatory agenda, 498P  
**Secretary, Office of**  
Adjudications (OS16), 697N  
Clean fuel fleet (AQ80), 523ER  
Environmental equity, 237P, 362P, 499P  
Environmental justice, 590P  
Foreign hazardous waste (HW38), 386ER

**CR—Committee Report**

**ER—Emergency Rule**

**N—Notice of Intent**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**L—Legislation**

**P—Potpourri**

**R—Rule**

Groundwater contamination (OS17), 143ER  
Radiation (NE13), 273ER

**Solid and Hazardous Waste, Office of**

Louisiana Resource Recovery and Development Authority  
(LRRDA) (SW10), 80N, 654R  
Operator (SW09), 210N, 656R  
Operating permit (HW41), 698N  
HSWA I and II (HW39), 478N, 478N  
HSWA I SOG (HW40), 572N, 572N  
Type II facility (SW12), 332N  
UST registration (UT05), 294R  
Waste tires (SW11), 211N, 528ER

**Water Resources, Office of**

Municipal Facilities Project, 590P  
Numerical criteria (WP15), 83N, 431R  
Surface water (WP12), 883R

**EXECUTIVE ORDERS**

- EWE 93-46—Bond Allocation by the Parish of St. Charles for the Louisiana Power & Light Company, 4  
EWE 93-47—Bond Allocation by Industrial District No. 3 of the Parish of West Baton Rouge for The Dow Chemical Corporation, 4  
EWE 93-48—Creates the Serve Commission, 5  
EWE 94-01—Creates the Grambling Economic Development Task Force, 7  
EWE 94-02—Establishes the Task Force on the Sexual Abuse of Minors, 138  
EWE 94-03—Establishes the Rehabilitative Advisory Council, 248  
EWE 94-04—Creates the National Medical and Research Center for the Treatment of AIDS and Infectious Disease Task Force, 248  
EWE 94-05—Creates the Task Force on Indigent Defense, 249  
EWE 94-06—Establishes the Statewide Wetlands Advisory Task Force, 250  
EWE 94-07—Establishes Higher Education Commission for the Twenty-first Century, 372  
EWE 94-08—Amends Executive Order EWE 94-2, 373  
EWE 94-09—Rescinds Executive Order No. EWE 93-30, 373  
EWE 94-10—Bond Allocation by Louisiana Public Facilities Authority for Belmont Water System, Inc., 373  
EWE 94-11—Bond Allocation by the Industrial Development Board of Parish of Jefferson, LA, Inc., 374  
EWE 94-12—Bond Issuance by the Louisiana Stadium and Exposition District, 604  
EWE 94-13—Establishes the Minority Arts and Humanities Council, 605  
EWE 94-14—Selects all U.S. E.P.A. Programs and Activities in the State for a New Review Process, 512  
EWE 94-15—Rescinds Executive Orders EWE 94-2 and EWE 94-8, 512  
EWE 94-16—Amends Executive Order EWE 92-51, 605  
EWE 94-17—Establishes the Automatic Fingerprint Identification Selection Committee, 605  
EWE 94-18—Amends Executive Order EWE 94-7, 606  
EWE 94-19—Amends Executive Order EWE 94-17, 606  
EWE 94-20—Establishes Governor's Commission on HIV and AIDS, 742  
EWE 94-21—Bond Allocation for Louisiana Power & Light Co. of St. Charles Parish, 742  
EWE 94-22—Amends Executive Order EWE 94-6, 743

- EWE 94-23—Authorizes Special Sugarcane Harvest Vehicle Permit Issuance, 850  
EWE 94-24—Establishes Statewide Communications System Executive Steering Committee, 850  
EWE 94-25—Bond Allocation for PPG Industries, Inc. of Calcasieu Parish, 851  
EWE 94-26—Bond Allocation for Louisiana Housing Finance Agency, 851  
EWE 94-27—Establishes the Louisiana Goals 2000 Commission, 852

**FIREFIGHTERS' PENSION AND RELIEF FUND**

**City of New Orleans and Vicinity**

Death benefits, 183R  
Retirement benefits, 333N, 785R

**GOVERNOR'S OFFICE**

**Administration, Division of**

Commissioner, Office of  
General travel, 512PPM  
Taxable employee compensation, 374PPM  
Community Development, Office of  
LCDBG Program, 29R  
Supplemental Appropriations Disaster Recovery, 46R  
Contractual Review, Office of  
Claims recovery, 144ER, 217N, 542R  
Facility Planning and Control, Office of  
Capital outlay budget, 185R  
State-owned buildings, 47R  
State Register, Office of  
Official text, 335N, 657R

**Architects Selection Board**

Selection procedure, 29R

**Commission on Law Enforcement and Administration of Criminal Justice**

Felony sentencing, 479N, 786R  
Victim compensation, 212N, 537R

**Elderly Affairs, Office of**

Adult protective services, 218N, 543R  
Frail elderly, 48R

**Oil Spill Coordinator, Office of**

Meeting schedule, 362P

**Patient's Compensation Fund Oversight Board**

Surcharges, 432R

**Veterans' Affairs, Office of**

Members, 48R  
Merchant Marine, 294R  
Travel, 48R

**HEALTH AND HOSPITALS**

**Chiropractic Examiners, Board of**

Accident solicitation, 433R

**CR—Committee Report**

**ER—Emergency Rule**

**N—Notice of Intent**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**L—Legislation**

**P—Potpourri**

**R—Rule**

**Dentistry, Board of**

Advertising, 336N, 657R  
 Anesthesia/analgesia, 337N, 658R  
 Continuing education, 340N, 661R  
 Dental assistant, 342N, 662R

**Embalmers and Funeral Directors, Board of**

Continuing education, 700N  
 Exam, 238P, 362P, 832P  
 Funeral establishments, 191R

**Health Care Authority**

Fees, 667R

**Licensed Professional Counselors, Board of Examiners of**

Practice/procedures, 544R

**Management and Finance, Office of**

Health service provider fee, 51R  
 Provider fee, 812N

**Massage Therapy, Board of**

Operating rules, 702N, 811N

**Medical Examiners, Board of**

Clinical laboratory, 482N, 591P  
 Financial disclosure, 483N  
 Illegal payments, 483N  
 Licensure/certification, 482N  
 Occupational therapist, 219N

**Mental Health, Office of**

Behavioral/emotional disorder, 624ER, 705N  
 Mental illness, 624ER, 705N

**Nursing Facility Administrators, Board of Examiners**

Administrator-in-training, 344N, 622ER, 810N  
 Continuing education, 343N, 788R  
 Examination, 344N, 789R  
 License, 623ER, 810N  
 Meetings, 345N, 790R  
 Powers/duties, 345N, 790R  
 Reciprocity, 623ER, 702N

**Practical Nurse Examiners, Board of**

Adjudication, 223N, 663R  
 Financial interest/disclosure, 223N, 663R  
 License, 223N, 663R,  
 Patient referral, 223N, 663R

**Public Health, Office of**

Creosote hearing, 956P  
 Disinfection, 106P  
 Food/drugs/cosmetics, 884R  
 Maternal and Child Health Block Grant (MCH), 591P,  
 703N

**Sanitary Code**

Human body disposition, 926N  
 Prairie dog, 277ER, 347N, 667R  
 Rabies, 227N  
 Reportable diseases, 927N  
 Safe drinking water, 229N, 545R  
 Seafood, 84N  
 Service/facilities  
 Sewage, 573N  
 Shellfish, 84N, 230N, 545R, 884R  
 Swimming/bathing, 347N, 668R  
 Tuberculosis, 295R  
 Water supply, 704N  
 Zoonotic disease, 227N

Tanning equipment, 106P

WIC nutrition, 956P

**Secretary, Office of**

Advance directives, 486N, 791R  
 Assets transfer, 151ER, 433R  
 Behavioral/emotional disorder, 624ER, 705N  
 Case management, 18ER, 48R, 488N, 575N, 757ER,  
 792R, 855ER, 855R, 929N  
 Controlled substance, 238P, 579N, 895R  
 Disproportionate share, 144ER, 234N, 388ER, 575N,  
 773ER, 857ER  
 Drug screening, 303R  
 Facility need review, 147ER, 304R  
 Home based care, 706N  
 Home health agency, 856ER  
 Hospital specialty unit, 628ER, 813N  
 Informed consent, 193R, 307R, 348N, 580N, 669R, 708N,  
 895R  
 Inpatient hospital service, 362N, 499P, 530ER, 668R  
 Inpatient psychiatric service, 49R, 193R,  
 LHCA Annual Service Agreement, 302R  
 Medicaid, 148ER, 149ER, 305R, 772ER, 944N  
 Mental health, 624ER, 705N, 856ER  
 Narcotics, 238P, 579N, 895R  
 Nonemergency transportation, 625ER, 814N  
 Nursing facility, 306R, 732P  
 Prospective reimbursement, 668R  
 Referral/investigation, 434R  
 Residents' funds, 150ER, 192R  
 Rural health care, 18ER, 88N, 433R, 832P

**Veterinary Medicine, Board of**

Animal control shelter, 346N, 666R  
 Exam, 956P  
 License renewal, 811N

**INSURANCE****Commissioner of Insurance**

Accreditation standards (Reg 50), 196R  
 Actuarial memoranda (Reg 47), 194R  
 Basic health insurance (Reg 53), 709N  
 Billing audit (Reg 49), 311R  
 Claim form (Reg 48), 195R, 776ER, 817N  
 Group health benefits coordination (Reg 32), 52R  
 Group self-insurance (Reg 42), 775ER  
 Individual health insurance (Reg 51), 314R  
 Small group health insurance (Reg 52), 315R

**JUSTICE****Attorney General, Office of**

Open housing, 438R

**Riverboat Gaming Commission**

Alcohol, 350N  
 Passenger, 350N

*CR—Committee Report*

*ER—Emergency Rule*

*N—Notice of Intent*

*PPM—Policy and Procedure Memorandum*

*EO—Executive Order*

*L—Legislation*

*P—Potpourri*

*R—Rule*

## LABOR

### Employment Security, Office of

Average weekly wage, 956P

### Labor, Office of

Community Services Block Grant (CSBG), 19ER, 530ER

Minor labor, 391ER, 582N, 897R

Subgrant, 21ER

### Workers' Compensation, Office of

Hearing, 776ER, 818N

Medical Reimbursement Schedule, 779ER, 819N

## LOUISIANA ADMINISTRATIVE CODE UPDATE

### Cumulative

January, 1993 - December, 1993, 103

January, 1994 - March, 1994, 494

January, 1994 - June, 1994, 831

## LOUISIANA HEALTH CARE AUTHORITY

Emergency room, 351N

Outpatient clinic, 351N

## LOUISIANA LEGISLATURE

### Senate

#### Fiscal Affairs and Policy Development, Office of

Revenue estimate, 591P

## NATURAL RESOURCES

### Coastal Restoration Management, Office of

Coastal management, 352N

### Conservation, Office of

Hazardous liquid, 89N, 439R

Natural gas, 92N, 442R

Orphaned oilfields, 106P, 499P, 834P

Statewide Order 29-B-a, 821N

Statewide Order 29-O-1, 447R

Statewide Order 29-Q-2, 353N

Statewide Order 151-A-2, 820N

### Secretary, Office of

Fishermen's gear claims, 238P, 239P, 363P, 502P, 732P, 733P, 838P

## PUBLIC SAFETY AND CORRECTIONS

### Alcoholic Beverage Control, Office of

Beverage sampling, 98N, 636ER, 671R

Prohibited acts, 637ER, 671R

### Corrections Services

Juvenile offender, 58R

### Liquefied Petroleum Gas Commission

Cylinders, 946N

School bus/mass transit, 946N

### Motor Vehicles, Office of

Driver's license, 277ER, 490N

### Parole Board

Sex offenders, 531ER

### State Police, Office of

Bingo/keno/raffle, 22ER, 448R, 822N, 952N

Electronic video bingo, 952N

Motor carrier/hazardous materials safety, 58R  
Riverboat gaming, 278ER, 637ER, 672R, 672R,

## REVENUE AND TAXATION

### Sales Tax Division

Automobile rentals, 316R

Use tax, 316R

### Secretary, Office of

Electronic funds transfer, 356N, 672R

### Severance Tax Division

Natural gas, 503P

Oil/condensate tax, 357N

Oilfield site, 197R

Severance tax, 823N

Transportation cost, 357N

### Tax Commission

1993 Ratio Study, 503P

Ad valorem tax, 198R

Timber stumpage, 12ER, 65N, 408R

## SOCIAL SERVICES

### Community Services, Office of

Child abuse/neglect, 198R, 582N, 638ER, 898R

Children's Trust Fund, 582N, 638ER, 898R

Family preservation and support, 594P

Homeless shelter, 239P

LIHEAP, 838P

Residential facility, 583N, 898R

SSBG State Plan, 504P

Vendor day care, 953N

Weatherization assistance, 132P

### Family Support, Office of

AFDC fraud, 716N

Child support, 99N, 449R

Food stamps, 391ER, 584N, 780ER, 780ER, 898R

Flood insurance, 100N, 449R

Individual/family grant, 100N, 449R

Job Opportunities and Basic Skills (JOBS), 24ER, 199R, 490N, 793R, 824N

Utility allowance, 860ER

### Rehabilitation Services

Independent living, 24ER, 235N, 673R

Policy Manual, 278ER, 317R, 638ER, 954N

Public hearing, 363P

### Secretary, Office of

Child care, 450R, 459R, 585N, 839P, 899R

Fee scales, 491N, 794R

Sanctions, 491N, 794R

Sick child day care, 825N

*CR—Committee Report*

*ER—Emergency Rule*

*N—Notice of Intent*

*PPM—Policy and Procedure Memorandum*

*EO—Executive Order*

*L—Legislation*

*P—Potpourri*

*R—Rule*

**STATE**

**WILDLIFE AND FISHERIES**

**Uniform Commercial Code, Office of**  
Central Registry, 199R

**TRANSPORTATION AND DEVELOPMENT**

**General Counsel, Office of**  
Debarment, 717N  
Ferry toll, 358N, 795R  
Outdoor advertising, 795R

**Highways, Office of**  
Utility operator, 588N

**Professional Engineers and Land Surveyors, Board of**  
**Registration for**

Industrial operations, 587N, 900R

**Sabine River Compact Administration**  
Meeting, 733P

**Secretary, Office of**  
Railroad, 733P

**Utility and Permit Section**  
Right-of-way, 317R  
Utility operator, 318R

**Weights and Standards, Office of**  
Overweight violation, 318R  
Truck curfews, 101N, 463R  
Truck permits, 101N, 463R

**TREASURY**

**Bond Commission**  
Deadline, 723N  
Debt limit, 723N  
Disclosure of agreements, 25ER, 320R  
Financial statements, 723N  
Lines of credit, 26ER

**Housing Finance Agency**  
HOME Investment Partnership, 152ER  
HOME Small Cities, 26ER

**State Employees Group Benefits Program, Board of**  
**Trustees of the**  
Ambulance, 392ER, 493N, 796R  
IV medication, 278ER  
Plan document, 392ER, 493N, 796R, 861ER, 955N  
Preferred Provider Organization (PPO), 102N, 319R  
Rate adjustment, 320R

**State Employees' Retirement System, Board of**  
**Trustees of the**  
Deferred Retirement Options Plan (DROP), 464R

**Teachers' Retirement System, Board of Trustees of**  
Deferred Retirement Options Plan (DROP), 722N

**Wildlife and Fisheries Commission**

Alligator, 321R, 781ER  
Amphibians, 725N  
Caney Creek Bass, 236N, 796R  
Crabs, 393ER  
Commercial fisherman, 323R, 323R  
Hardwater Lake, 359N, 797R  
Hunting seasons, 360N, 798R  
Migratory bird, 862ER  
Net ban, 781ER, 830N  
Netting, 725N  
Oyster, 27ER, 862ER  
Red snapper, 360N, 534ER, 797R  
Reptiles, 725N  
Seatrout, 279ER  
Sherburne Wildlife Management, 639ER  
Shrimp, 153ER, 153ER, 533ER, 533ER, 534ER, 781ER,  
861ER, 863ER, 863ER  
Tilapia, 588N  
Trapping, 279ER

**CR—Committee Report**

**ER—Emergency Rule**

**N—Notice of Intent**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**L—Legislation**

**P—Potpourri**

**R—Rule**



