

**I. EXECUTIVE ORDERS**

MJF 97-27—Special Permits—Agronomic and Horticultural Crop Harvest ..... 922  
 MJF 97-28—Bond Allocation—Jefferson Parish Home Mortgage Authority ..... 922

**II. EMERGENCY RULES**

**Agriculture and Forestry**

Office of Animal Health Services, Livestock Sanitary Board—Quarantining, Vaccinating and Testing of Swine (LAC 7:XXI.905 and 907) ..... 924

**Economic Development**

Office of the Secretary—Economic Development Award Program (LAC 13:I.Chapter 60 and Repeal of LAC 19:VII.Chapter 91) ..... 925  
 Workforce Development and Training Program (LAC 13:I.Chapter 50 and Repeal of LAC 19:VII.Chapter 81) ..... 928

**Health and Hospitals**

Office of the Secretary, Bureau of Health Services Financing—Long-Term Hospital Reimbursement Methodology ..... 931  
 Private Intermediate Care Facility for Mentally Retarded Qualifying Loss Review ..... 932

**Public Safety and Corrections**

Board of Pardons—Clemency Filing and Processing (LAC 22:V.Chapter 1) ..... 934  
 Corrections Services—Juvenile Transfer to Adult Facility (LAC 22:I.335) ..... 937

**Wildlife and Fisheries**

Office of Fisheries—King Mackerel Commercial Closure ..... 938  
 Wildlife and Fisheries Commission—Deer Season (Either Sex)—1997-98 ..... 939  
     Early Migratory Bird Season—1997-98 ..... 939  
     Fall Shrimp Season ..... 940  
     Muzzleloader Season ..... 940  
     Nonresident Fishing License Fees ..... 941  
     Oyster Season—1997-98 ..... 941  
     Pheasant Season—1997-98 ..... 941  
     Shrimp Season Closure—Zone 1 ..... 942  
     Shrimp Season Closure—Zone 3 ..... 942

**III. RULES**

**Agriculture and Forestry**

Forestry Commission—1997 Timber Stumpage Values (LAC 7:XXXIX.101) ..... 943  
 Office of Animal Health Services—Livestock Sanitary Board—Equine Infectious Anemia and Livestock Auction Market Requirements (LAC 7:XXI.Chapter 5) ..... 943  
 Sanitary Disposal of Dead Poultry (LAC 7:XXI.101 and 707) ..... 949

**Economic Development**

Racing Commission—Bleeder Medication (LAC 35:I.1507) ..... 950  
 Qualifications for Jockey/Apprentice Jockey; and Applicant for a License (LAC 46:XLI.701 and 703) ..... 950  
 Racing a Horse Under Investigation (LAC 35:I.1733) ..... 951

**Education**

Board of Elementary and Secondary Education—Bulletin 1929—Accounting and Uniform Governmental Handbook ..... 951

This public document was published at a total cost of \$4,611.66. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$2,611.66. The total cost of all printings of this document including reprints is \$4,611.66. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. 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.

**Environmental Quality**

Office of Waste Services, Hazardous Waste Division—Marathon Oil Delisting Petition (LAC 33:V.105 and Chapter 49.Appendix E)(HW057S) . . . . . 952  
Solid Waste Division—Financial Assurance for Local Governments (LAC 33:VII.315 and 727)(SW024) . . . . . 954  
Office of Water Resources, Water Pollution Control Division—Louisiana Pollutant Discharge Elimination System (LPDES) Program (LAC 33:IX.2341, 2443, 2531, 2533, 2709 and Appendix N)(WP024\*) . . . . . 957

**Health and Hospitals**

Board of Nursing—Licensure Eligibility and Educational Programs (LAC 46:XLVII.Chapters 33 and 35) . . . . . 960  
Officers of the Board; Registration and Licensure; and License Renewal (LAC 46:XLVII.3303, 3347 and 3355) . . . . . 962  
Board of Veterinary Medicine—Certified Animal Euthanasia Technicians (LAC 46:LXXXV.1201) . . . . . 963  
Fees (LAC 46:LXXXV.501 and 503) . . . . . 963  
Licensure Procedures (LAC 46:LXXXV.301-307) . . . . . 964  
Operations of the Board (LAC 46:LXXXV.101-106) . . . . . 965  
Preceptorship Program (LAC 46:LXXXV.Chapter 11) . . . . . 968  
Professional Conduct—Specialty List (LAC 46:LXXXV.1063) . . . . . 968  
Veterinary Practice (LAC 46:LXXXV.Chapter 7) . . . . . 969  
Office of the Secretary, Bureau of Health Services Financing—Nursing Facility Services—Standards for Payment (LAC 50:II.Chapter 101) . . . . . 970

**Insurance**

Office of the Commissioner—Regulation 46—Long-Term Care Insurance . . . . . 975

**Public Safety and Corrections**

Liquefied Petroleum Gas Commission—Liquefied Petroleum Gas as a Refrigerant (LAC 55:IX.183) . . . . . 990  
Office of Motor Vehicles—Privacy of Records (LAC 55:III.551-565) . . . . . 990

**Revenue and Taxation**

Tax Commission—1997 Timber Stumpage Values (LAC 7:XXXIX.101) . . . . . 943

**Social Services**

Office of Rehabilitation Services—Vocational Rehabilitation Policy Manual (LAC 67:VII.101) . . . . . 994

**Treasury**

Board of Trustees of the State Employees Group Benefits Program—Plan Document—Infertility Exclusion . . . . . 995  
Board of Trustees of the State Employees' Retirement System—Election of Trustees (LAC 58:I.Chapters 3 and 5) . . . . . 996

**Wildlife and Fisheries**

Wildlife and Fisheries Commission—Black Bass—Atchafalaya Basin Complex (LAC 76:VII.165) . . . . . 998  
Toledo Bend Reservoir Reciprocal Agreement (LAC 76:VII.110) . . . . . 998

**IV. NOTICES OF INTENT**

**Economic Development**

Licensing Board for Contractors—License, Examination and Hearings (LAC 46:XXIX.303, 503 and 703) . . . . . 1000  
Office of the Secretary—Economic Development Award Program (LAC 13:I.Chapter 60 and Repeal of LAC 19:VII.Chapter 91) . . . . . 1001  
Workforce Development and Training Program (LAC 13:I.Chapter 50 and Repeal of LAC 19:VII.Chapter 81) . . . . . 1001

**Education**

Board of Elementary and Secondary Education—Bulletin 741—Vocational Agriscience/Agribusiness . . . . . 1002  
Bulletin 1213—Minimum Standards for School Buses . . . . . 1003  
Tuition Trust Authority, Office of Student Financial Assistance—Bylaws (LAC 28:VII.Chapter 2) . . . . . 1003

**Environmental Quality**

Office of Air Quality and Radiation Protection, Air Quality Division—Chemical Accident Prevention Program (LAC 33:III.Chapter 59)(AQ157) . . . . . 1008  
Chemical Accident Prevention Program Fee Adjustment (LAC 33:III.223)(AQ154) . . . . . 1009  
Fee Adjustment for Title V Permit Program (LAC 33:III.223)(AQ153) . . . . . 1010  
Lead-Based Paint Activities (LAC 33:III.Chapters 2 and 28)(AQ114) . . . . . 1020  
Limiting Volatile Organic Compound Emissions from Batch Processing (LAC 33:III.2149)(AQ159) . . . . . 1035  
SOCMI Chemicals Revision (LAC 33:III.2147 and Chapter 21, Appendix A)(AQ156) . . . . . 1037  
Stage II Vapor Recovery Systems (LAC 33:III.2132)(AQ158) . . . . . 1038  
Synthetic Organic Chemical Manufacturing Industry Vent Stream Exemption (LAC 33:III.2147)(AQ150) . . . . . 1041  
Office of Water Resources—Louisiana Pollutant Discharge Elimination System (LPDES) Program (LAC 33:IX.Chapter 23)(WP025) . . . . . 1042

**Health and Hospitals**

Board of Dentistry—Advertising and Soliciting by Dentists (LAC 46:XXXIII.301) . . . . . 1044  
Dental Practice Address (LAC 46:XXXIII.304) . . . . . 1045  
Dental Services at Locations Other Than Dental Office (LAC 46:XXXIII.314) . . . . . 1045  
Dentists and Hygienists—Continuing Education (LAC 46:XXXIII.1611 and 1613) . . . . . 1046  
Dentists and Hygienists—Fees for Licenses, Permits, and Examinations (LAC 46:XXXIII.415 and 419) . . . . . 1047  
Health Care Provider Financial Interest Disclosure (LAC 46:XXXIII.316) . . . . . 1048  
Licensure by Credentials (LAC 46:XXXIII.306) . . . . . 1049  
Motions for Continuance of Hearing (LAC 46:XXXIII.915) . . . . . 1050

Restricted Licensees (LAC 46:XXXIII.105) .....	1050
Term of License; Renewal (LAC 46:XXXIII.409) .....	1051
Board of Veterinary Medicine—Certified Animal Euthanasia Technicians' Renewal Deadline (LAC 46:LXXXV.1211) .....	1052
Internships and Residencies (LAC 46:LXXXV.1105) .....	1052
Prescriptions and Microchip Implantation (LAC 46:LXXXV.705 and 713) .....	1053
Registered Veterinary Technician Certificate Renewals (LAC 46:LXXXV.811) .....	1054
Office of the Secretary, Bureau of Health Services Financing—Medically Needy Program—Service Coverage Restrictions .....	1055
Pharmacy Program—Maximum Allowable Overhead Cost .....	1056
Substance Abuse Clinics .....	1057
<b>Labor</b>	
Plumbing Board—Medical Gas Piping Installers (LAC 46:LV.304) .....	1058
<b>Revenue and Taxation</b>	
Sales Tax Division—Sales Tax Return—Quarterly Filing (LAC 61:I.4351) .....	1059
<b>Treasury</b>	
Board of Review of Deputy Sheriffs' Supplemental Pay Program—Board Operations; Supplemental pay requirements .....	1060
Housing Finance Agency—Homeownership Housing Program (LAC 71:II.Chapter 3) .....	1060
Office of the Treasurer—State Tax Revenue Limit .....	1066

**V. LEGISLATION**

**State Legislature**

House of Representatives—House Concurrent Resolution Number 31 of the 1997 Regular Session—Family Independence Project (by Representative Windhorst) .....	1068
House Concurrent Resolution Number 108 of the 1997 Regular Session—Medically Needy Program (by Representative Riddle) .....	1069

**VI. POTPOURRI**

**Agriculture and Forestry**

Office of Agricultural and Environmental Sciences, Horticulture Commission—Landscape Architect Registration Exam .....	1070
Retail Floristry Examination .....	1070
Office of the Commissioner—Declaration of Quarantine: North Carolina Sweet Potato Quarantine and Embargo	1070

**Health and Hospitals**

Board of Embalmers and Funeral Directors—Embalmer/Funeral Director Examination .....	1071
Office of Public Health, Nutrition Section—Women, Infants and Children (WIC) State Plan—1997-1998 ...	1071

# Executive Orders

## EXECUTIVE ORDER MJF 97-27

### Special Permits—Agronomic and Horticultural Crop Harvest

WHEREAS: Act 420 of the Regular Session of 1997 enacted R.S. 32:387.8, the "Robert M. Marionneaux, Sr., Grain Transportation Act" (hereafter "the Act");

WHEREAS: although the Act was signed by the Governor on June 2, 1997, it will not become effective until August 15, 1997, pursuant to the provisions of Article III, §19 of the Louisiana Constitution of 1974;

WHEREAS: the Act authorizes the secretary of the Department of Transportation and development to issue, notwithstanding any other provision of law to the contrary, annual special permits for the operation of trucks which haul agronomic or horticultural crops in their natural state, at a gross vehicle weight not to exceed 100,000 pounds, for the fee of \$100 per permit, per year;

WHEREAS: the harvest season for many of Louisiana's agronomic and horticultural crops is in progress;

WHEREAS: as a result of the excessive amount of moisture caused by recent rains, if Louisiana's crops are not harvested and processed expeditiously, much of the 1997 harvest will be lost due to aflatoxin;

WHEREAS: to minimize the crop damage caused by aflatoxin, the recommended procedure is to harvest the crops as soon as possible and, without delay, dry the produce to below 15 percent moisture; and

WHEREAS: R.S. 32:387 provides for the issuance of special permits by the secretary of the Department of Transportation and Development when it is in the best interest of the state, due to unusual circumstances, to raise the gross weight limitation of vehicles or combination of vehicles from 80,000 pounds up to 100,000 pounds;

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

SECTION 1: The secretary of the Department of Transportation and Development is authorized to issue special permits pursuant to R.S. 32:387, which shall be effective for a period of one year, to the operators of the vehicles that transport on Louisiana's state highway system Louisiana's agronomic and horticultural crops in their natural state. The special permits shall allow the operators of vehicles transporting said products a gross vehicle weight limitation, not to exceed 100,000 pounds, for any combination of vehicles having a minimum of 18 wheels and transporting said products. The permits shall not apply to the operation of vehicles on the Interstate Highway System.

SECTION 2: The fee for the permits shall be \$100 per permit issued. The permits shall be processed in the same

manner as the annual special permits issued for the hauling of sugarcane under R.S. 32:387.7.

SECTION 3: For violation of weight in excess of the special permit limitations which occur between the date the special permit is issued and August 14, 1997, the secretary of the Department of Transportation and Development may impose civil penalties pursuant to and consistent with the penalty provisions for violating the terms of a special permit issued under R.S. 32:387 and/or an annual permit issued under R.S. 32:387.7. For violations of weight in excess of the special permit limitations which occur on or after August 15, 1997, the secretary of the Department of Transportation and Development may impose a civil penalty of up to five cents per pound for each violation of the permit's limitations in accordance with the penalty provision set forth in R.S. 32:387.8.

SECTION 4: The last day that the secretary of the Department of Transportation and Development shall issue a special permit under the authority of this order is August 14, 1997.

SECTION 5: This order is effective upon signature of the governor and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of July, 1997.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9708#003

## EXECUTIVE ORDER MJF 97-28

### Bond Allocation for Parish of Jefferson Home Mortgage Authority

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



Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 1997 Ceiling to be used in connection with a program of financing mortgage loans for first time home buyers throughout the Parish of Jefferson in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,000,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 28, 1997.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 30th day of July, 1997.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9708#032

# Emergency Rules

## DECLARATION OF EMERGENCY

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

Quarantining, Vaccinating and  
Testing of Swine (LAC 7:XXI.905 and 907)

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Livestock Sanitary Board finds an emergency situation to exist due to the continued persistent incidence of brucellosis and pseudorabies in the swine population in Louisiana. The board finds that continued implementation of change in ownership test requirements is necessary for Louisiana to reach a goal of eradication of brucellosis and pseudorabies in swine and to keep pace with the progress of the national eradication programs. The effective date of this emergency rule is September 5, 1997, and it shall be in effect for 120 days or until the final rule takes effect through normal promulgation process, whichever occurs first.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXI. Diseases of Animals

#### Chapter 9. Swine

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

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

- a. swine herds in which one or more of the animals are found to be positive to pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;
- b. the herd of origin of swine that have been added to a herd that becomes quarantined because of pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;
- c. herds which have received swine from herds found to have pseudorabies;
- d. herds of swine including feedlots, within a 1.5 mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

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

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

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

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

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

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

#### 2. Whole Herd Depopulation

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

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

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

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

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

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

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

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

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

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

#### 2. Whole Herd Depopulation

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

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

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

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

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

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

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

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

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

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

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

#### **§907. Operation of Livestock Auction Markets**

All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of §111 and the following specific Pseudorabies/Brucellosis requirements:

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana, must meet the requirements of §111; and

2. All swine over 6 months of age, being sold at Louisiana livestock auction markets must be identified by official swine backtags, placed on the animals' foreheads and official metal eartags.

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

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

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

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

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

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

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

Maxwell Lea, Jr.  
Executive Secretary

9708#002

## **DECLARATION OF EMERGENCY**

### **Department of Economic Development Office of the Secretary**

#### **Economic Development Award Program (LAC 13:I.Chapter 60 and Repeal of LAC 19:VII.Chapter 91)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 51:2331, the Department of Economic Development, Office of the Secretary hereby finds that emergency action is deemed necessary to prevent delays in the awarding of grants for economic development related infrastructure improvements under the provisions of the Economic Development Award Program inasmuch as such delays could result in the loss of industry and jobs to other states.

This emergency rule is effective August 7, 1997 and shall remain in effect for 120 days or until adoption of the rule, whichever occurs first.

#### **Title 13**

#### **ECONOMIC DEVELOPMENT**

#### **Part I. Commerce and Industry**

#### **Subpart 3. Financial Incentives**

#### **Chapter 60. Economic Development Award Program (EDAP)**

#### **§6001. Purpose**

The purpose of the program is to finance publicly-owned infrastructures for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6003. Definitions**

*Applicant*—the sponsoring entity requesting financial assistance from DED under this program.

*Award*—funding approved under this program for eligible applicants.

*Awardee*—an applicant [and/or company(ies)] receiving an award under this program.

*Basic Infrastructure*—the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly-owned or regulated utilities.

*Company*—the business enterprise for which the project is being undertaken.

*DED*—Louisiana Department of Economic Development.

*Program*—the Economic Development Award Program.

*Project*—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

*Secretary*—the secretary of the Department of Economic Development.

*Sponsoring Entity*—the public or quasi-public entity responsible for performing and/or monitoring implementation of the project and monitoring the company's compliance with the terms and conditions of the award agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6005. General Principles**

The following principles will direct the administration of the Economic Development Award Program:

1. awards are not to be construed as entitlements for companies locating or located in Louisiana;
2. an award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions;
3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;
4. the retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;
5. the anticipated economic benefits to the state will be considered in making the award;
6. appropriate cost sharing among project beneficiaries;
7. if a company does not begin construction of the project within 365 calendar days after application approval, the secretary, at his discretion, may cancel funding for the infrastructure approved from the Economic Development Award Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, LR 23:

#### **§6007. Eligibility**

- A. An eligible applicant for the Grant Award must be one of the following:
  1. a public or quasi-public state entity; or
  2. a political subdivision of the state.

- B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations, including state or federal taxes; or bankruptcy proceedings; or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6009. Criteria**

- A. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

- B. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

- C. Companies must be in full compliance with all state and federal laws.

- D. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the U.S. Census Bureau) within Louisiana, except when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

- E. The minimum award request size shall be \$25,000.

- F. Projects must create or retain at least 10 permanent jobs in Louisiana.

- G. Preference will be given for wages substantially above the prevailing regional wage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6011. Application Procedure**

The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. a description of the need for the project and the factors creating the need;
3. quantifiable objectives for the project and plans to measure the effectiveness of the project according to those objectives;
4. evidence of the number, types and compensation levels of jobs to be created or retained by the project;
5. a specific description of the project, including construction, operation and maintenance plans, and a timetable for the project's completion;
6. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6013. Submission and Review Procedure**

- A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other

divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. determine whether the project's financing needs are best met by the proposed award;
3. validate the information presented;
4. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;
2. the governor; and
3. the Joint Legislative Committee on the Budget.

D. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

E. The secretary will issue a letter of commitment to the applicant within five working days of the application review and approval by the Joint Legislative Committee on the Budget.

F. The secretary can invoke emergency procedures and approve an application under the following conditions: The company documents, in writing, to the secretary of Economic Development, with copies to the governor and chairman of the Joint Legislative Committee on the Budget, that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31 days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

G. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

H. The final 15 percent of the grant amount will not be paid until DED staff inspects the project to assure that all work in the EDAP contract has been completed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:2341 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **§6015. General Award Provisions**

A. **Award Agreement.** A grant agreement will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for investment and job creation. Under the agreement, the sponsoring entity will monitor the progress of the project. DED will disburse funds from invoices or certificates of work completed.

#### **B. Use of Funds**

1. Eligible project costs may include, but not be limited to, the following:

- a. engineering expenses;
- b. site acquisition;
- c. site preparation;
- d. construction expenses;
- e. building materials;
- f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinancing of existing debt, public or private;
- f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than seven years.

#### **C. Amount of Award**

1. The portion of the total project cost financed by the award may not exceed:

- a. 90 percent for projects located in parishes with per capita personal income below the median for all parishes; or
- b. 75 percent for projects in parishes with unemployment rates above the statewide average; or
- c. 50 percent for all other projects.

2. Other state funds cannot be used as the match for EDAP funds.

3. The award amount shall not exceed 25 percent of the total funds available to the program during a fiscal year.

4. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

#### **D. Conditions for Disbursement of Funds**

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of approved invoices from the sponsoring entity to DED. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project's other financing sources (public and private);
- b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;
- c. all other closing conditions specified in the award agreement have been satisfied.

#### **E. Compliance Requirements**

1. Companies and sponsoring entities shall be required to submit progress reports, as specified in the award agreement, describing the progress toward the performance objectives specified in the award agreement.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **Title 19**

### **CORPORATIONS AND BUSINESS**

## **Part VII. Economic Development Corporation**

### **Subpart 7. Workforce Development and Training Program**

#### **Chapter 91. Infrastructure Financing Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), repealed by the Department of Economic Development, Office of the Secretary, LR 23:

Kevin P. Reilly, Sr.  
Secretary

9708#086

## **DECLARATION OF EMERGENCY**

### **Department of Economic Development Office of the Secretary**

#### **Workforce Development and Training Program (LAC 13:I.Chapter 50 and repeal of LAC 19:VII.Chapter 81)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 51:2331, the Department of Economic Development, Office of the Secretary hereby finds that emergency action is deemed necessary for the timely implementation of training programs for companies that are being recruited to Louisiana and for existing companies that are prepared to expand in the state if training assistance is

forthcoming. Undue delay in the implementation of this emergency rule could result in a decision to locate or expand in another state.

This emergency rule is effective August 7, 1997 and shall remain in effect for 120 days or until adoption of the rule, whichever occurs first.

#### **Title 13**

### **ECONOMIC DEVELOPMENT**

## **Part I. Commerce and Industry**

### **Subpart 3. Financial Incentives**

#### **Chapter 50. Workforce Development and Training Program**

##### **§5001. Purpose**

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. upgrading employee skills for new technologies or production processes; and
3. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

##### **§5003. Definitions**

*Applicant*—the entity requesting training assistance from DED under this program.

*Award*—funding approved under this program for eligible training activities.

*Awardee*—an applicant [and/or company(ies)] receiving a training award under this program.

*Contract*—a legally enforceable agreement between the Department of Economic Development (DED), the awardee and a monitoring entity governing the terms and conditions of the training award.

*Contractee*—the awardee and monitoring entity that are party to a training award contract with DED under this program.

*DED*—Louisiana Department of Economic Development.

*Labor Demand Occupation*—an occupation for which there is, or is likely to be, greater demand than supply of adequately trained workers.

*Monitoring Entity*—a public or not-for-profit entity contracted to monitor the compliance of an awardee with the terms and conditions of a training award contract, and to reimburse the awardee for eligible training costs.

*Program*—the Workforce Development and Training Program.

*Secretary*—the secretary of the Department of Economic Development.

*Subprogram*—the different components of the Louisiana Workforce Development and Training Program, including, but not limited to, New Employee Training and Workplace-Based Retraining.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### **§5005. General Principles**

The following principles will direct the administration of the Workforce Development and Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;
2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;
3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;
4. the retention and strengthening of existing Louisiana businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;
5. the anticipated economic benefits to the state will be considered in making the award;
6. appropriate cost sharing among project beneficiaries;
7. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and
8. a train-the-trainer approach will be adopted, whenever appropriate, in order to strengthen the institutional capacity of public and private sector training providers;
9. if a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### **§5007. Subprogram Descriptions**

#### **A. New Employee Training**

1. This subprogram provides training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies.

2. The training to be funded can include:

- a. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a subset of the trainees; and
- b. on-the-job training for new employees that is needed to bring the employees up to a minimum skill and/or productivity level.

B. Workplace-Based Retraining. This subprogram provides training assistance for companies seeking to upgrade the skills of existing employees in response to technological advances or improved production processes, or the need to ensure compliance with accepted international and industrial quality standards (e.g., ISO standards, proprietary technology).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### **§5009. Eligibility**

A. An eligible applicant must be one of the following:

1. an individual employer who seeks customized training services to create, upgrade, or retain jobs in a:

- a. labor demand occupation;
- b. nonlabor demand occupation to prevent job loss;
2. an employer, labor organization, or community-based organization that seeks customized training services to provide training for a labor demand occupation in a particular industry;
3. a consortium made up of one or more educational institutions and individual employers, labor, or community-based organizations that seeks customized training services to provide training in a labor demand occupation;
4. an individual employer who seeks customized training for employees at a facility which is being newly developed or is being relocated from another state into Louisiana.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations, including state or federal taxes; or bankruptcy proceedings; or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### **§5011. Criteria**

A. General (These apply to all training subprograms administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants located in areas of the state with high unemployment levels.
2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.
3. During the first nine months of a fiscal year, not less than 25 percent of all funds available during a fiscal year shall be available for employers with 150 or fewer Louisiana-based employees. For the final three months of a fiscal year, the remaining available funds will be available to all eligible employers, without size restrictions.
4. No single employer shall receive more than 10 percent of the total funds available to the program during a fiscal year.
5. Employers receiving awards must provide evidence satisfactory to DED of their long-range commitment to employee training as a means of enhancing their future competitiveness.

#### **B. New Employee Training**

1. Applicants must create at least 10 net new jobs in the state.
2. Participation in pre-employment training does not guarantee students a job upon completion of their training.
- C. Workplace-Based Retraining. Applicants must request training for at least five employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5013. Application Procedure

DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. the company's overall training plan, including a summary of the types and amounts of training to be provided, and a description of how the company determined its need for training;
3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training;
4. quantifiable objectives for the training related to the overall performance of the company, and plans to measure the effectiveness of the training according to those objectives; and
5. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5015. Submission and Review Procedure

A. Applicants must submit their completed applications to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. understand the labor market conditions the proposed training is seeking to mitigate;
2. evaluate the strategic importance of the proposed training to the economic well-being of the state and local communities;
3. determine whether the employer's specific needs are best met by training;
4. identify the availability of existing training programs which could be adapted to meet the employer's needs;
5. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;
6. identify or develop appropriate curricula; and
7. determine the most cost effective approach to meet the employer's training needs.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award. Such analysis will include, but not be limited to, evaluations of:

1. the importance of the proposed training to the state and local economies;
2. the importance of the proposed training to the recruitment/retention of businesses and/or jobs in the state (factors to be considered include the degree of technological advancement of the skills to be taught, the transferability of those skills across companies and industries, and the wage levels of the jobs to be created and/or retained);
3. the training award's expectation as a significant factor in the company's location, investment, and/or expansion decision; and

4. the fiscal impact of the proposed training on state and local governments.

C. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;
2. the governor; and
3. the Joint Legislative Committee on the Budget.

D. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

E. The secretary will issue a letter of commitment to the applicant within five working days of the application approval by the Joint Legislative Committee on the Budget.

F. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

### §5017. General Award Provisions

#### A. Award Contract

1. A contract will be executed between DED, the applicant [and/or company(ies)] receiving training and an appropriate monitoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for job training and job creation.

2. The monitoring entity will monitor the progress of the training and reimburse the applicant from invoices submitted by the applicant on a form approved by DED.

3. DED will disburse funds from invoices or certificates of work completed.

4. The cost associated with this contract incurred by the monitoring entity will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000, whichever is less.

5. Funds may be used for training programs extending up to two years in duration.

#### B. Use of Funds

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include, inter alia, the following:

- a. instruction costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers and training seminars;
- b. travel costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and other) and travel for trainees. Travel expenses



reimbursable under this agreement will comply with state travel regulations, PPM 49;

c. materials and supplies costs: training texts and manuals, audio/visual materials, skills assessment (documents or services to determine training needs), raw materials (for manufacturing and new employee on-the-job training); and

d. other costs: facility rental, wages for on-the-job trainees (limited to 25 percent of a trainee's wage, excluding benefits), and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training and to disburse award funds, as limited by §5017.A.3.

3. Training costs ineligible for reimbursement include:

a. trainee fringe benefits;

b. nonconsumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks; and

e. scrap produced during training.

4. Training activities eligible for funding consist of:

a. basic skills: literacy, numeracy, problem solving, team participation, etc.;

b. transferable skills: skills which will enhance an employee's general knowledge, employability and flexibility in the workplace (e.g., welding, computer skills, blueprint reading, etc.);

c. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

d. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

e. pedagogical skills: skills which pertain to instructional methods and techniques to be used by trainers (these are most relevant to train-the-trainer activities).

C. Amount of Award

1. New Employee Training. The training award amount may cover up to 100 percent of the eligible training costs, not to exceed \$500,000.

2. Workplace-Based Retraining. The training award amount may cover up to 50 percent of the eligible training costs, not to exceed \$500,000.

D. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to DED. Funds will not be available for reimbursement until a training agreement between the applicant [and/or company(ies)] receiving the training and an approved training provider has been executed. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. A maximum of 50 percent of the training award will be available for reimbursement of eligible costs until the awardee(s) has achieved 75 percent of its contracted performance objectives.

3. Once the awardee(s) has achieved 75 percent of its contracted performance objectives, an additional 25 percent of the grant award will be made available for reimbursement. After the company has achieved 100 percent of its contracted

performance objectives, the remaining 25 percent of the grant award will be made available for reimbursement.

E. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or monitoring entity knowingly files a false statement in its application or in a progress report, the company or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:

#### **Title 19**

### **CORPORATIONS AND BUSINESS**

#### **Part VII. Economic Development Corporation**

#### **Subpart 7. Workforce Development and Training Program**

#### **Chapter 81. Workforce Development**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), repealed by the Department of Economic Development, Office of the Secretary, LR 23:

Kevin P. Reilly, Sr.  
Secretary

9708#062

### **DECLARATION OF EMERGENCY**

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

#### **Long-Term Hospital Reimbursement Methodology**

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following emergency rule as authorized by R.S. 46:153 and pursuant to Title XIX of the

Social Security Act and as directed by the 1997-98 General Appropriation Act, which states:

"The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including, but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law."

This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program published reimbursement methodology for hospital services including long-term acute hospitals under specialty hospital peer groups in the June 20, 1994 rule (*Louisiana Register*, Volume 20, Number 6), and subsequently amended the percentile used to establish rates at the lowest blended per diem rate for each specialty hospital category without otherwise changing the methodology (*Louisiana Register*, Volume 22, Number 1). Reimbursement for psychiatric treatment in long-term acute hospitals was later disjoined from the methodology for other types of services to be provided at the same prospective per diem rate established for psychiatric treatment facilities (*Louisiana Register*, Volume 23, Number 2).

The emergency rule alters the percentile at which the components used in calculation of the rate for services other than psychiatric services provided by a long-term hospital are considered. Under this methodology, the per diem rate is set based on the 30th percentile facility in the categories of operating costs, movable equipment, and fixed capital rather than the weighted average. The emergency rule does not otherwise alter the factors considered in setting rates or the calculations performed, nor does it affect criteria for participation, service quality expectations, or reporting requirements.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that total savings resulting from implementation of this emergency rule for SFY 1997-1998 will be approximately \$9,234,731.

#### **Emergency Rule**

Effective August 1, 1997, inpatient services, excluding psychiatric services, provided by long-term care hospitals will be reimbursed at a per diem rate based on the 30th percentile facility by cost category as reported on the as-filed cost report for the year ending between July 1, 1995 and June 30, 1996. Cost categories include operating costs, movable equipment, and fixed capital. Costs are trended forward to the midpoint of the rate year using the lowest of the DRI Type Hospital Market Basket Index, the Consumer Price Index—All Urban Consumers, or the Medicare PPS Market Basket Index.

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 responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

Bobby P. Jindal  
Secretary

9708#036

## **DECLARATION OF EMERGENCY**

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

**Private Intermediate Care Facility for  
Mentally Retarded Qualifying Loss Review**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established reimbursement methodology for private ICF-MR facilities (*Louisiana Register*, Volume 15, Number 10). The department has determined it is necessary to amend the rule to incorporate a qualifying loss review process for intermediate care facilities for mentally retarded seeking an adjustment to the per diem rate. This action is necessary to protect the citizens of Louisiana from an imminent peril to their health and welfare that would result if they were unable to continue to receive necessary services in intermediate care facilities for the mentally retarded. It is anticipated that the implementation of this emergency rule will increase expenditures by approximately \$900,000 for fiscal year 1997-98.

#### **Emergency Rule**

Effective August 2, 1997, the Department of Health and Hospitals, Bureau of Health Services Financing establishes a qualifying loss review process for intermediate care facilities for mentally retarded (ICFs/MR) seeking an adjustment to the per diem rate. Qualifying loss in this context refers to that estimated amount by which the facility's cost for the affected rate period exceeds the anticipated Title XIX Medicaid reimbursement. Cost in this context means a facility's cost incurred in providing covered services to Title XIX Medicaid recipients, as calculated in the relevant definitions governing cost reporting.

#### **XI. Qualifying Loss Review Process**

##### **A. Basis for Administrative Review**

1. **Permissible Basis.** Except in cases where the basis for the facility's appeal is limited to a claim that rate-setting methodologies or principles of reimbursement established under the reimbursement plan were incorrectly applied, or that incorrect data or erroneous calculations were used, the department will not award additional reimbursement to a facility unless the facility demonstrates that the estimated reimbursement based on its prospective rate is less than 95 percent of the estimated costs to be incurred by the facility in providing Medicaid services during the period the rate is in effect in compliance with the applicable state and federal laws related to quality and safety standards.

2. **Basis Not Allowable.** The following matters are not subject to a qualifying loss review:

- a. the methodology used to establish the per diem;
- b. the use of audited and/or desk reviews to determine allowable costs;
- c. the economic indicators used in the rate setting methodology;
- d. rate adjustments related to changes in federal or state laws, rules or regulations (e.g., minimum wage adjustments).

**B. Request for Administrative Review.** Any intermediate care facility for the mentally retarded (hereafter referred to as facility) seeking an adjustment to the per diem rate shall submit a written request for administrative review to the director of Institutional Reimbursements (hereafter referred to as director) in the Department of Health and Hospitals (hereafter referred to as department).

1. **Time Frames**

a. Requests for administrative review must be received by DHH within 30 days of either the notification of rate reduction or promulgation of this rule, whichever is later. The receipt of the letter notifying the facility of its rates will be deemed to be five days from the date of the letter.

b. The department shall acknowledge receipt of the written request within 30 days after actual receipt.

c. The director shall notify the facility of his decision within 60 days after receipt of all necessary documentation, including additional documentation or information requested after the initial request is received.

d. If the facility wishes to appeal the director's decision, the appeal request must be received by the Bureau of Appeals within 30 days after receipt of the written decision of the director. The receipt of the decision is deemed to be five days from the date of the decision.

2. **Content of the Request.** The facility shall bear the burden of proof in establishing the facts and circumstances necessary to support a rate adjustment. Any costs that the provider cites as a basis for relief under this provision must be calculable and auditable.

a. **Basis of the Request.** Any facility seeking an adjustment to the per diem rate must specify all of the following:

- 1) the nature of the adjustment sought;
- 2) the amount of the adjustment sought;
- 3) the reasons or factors that the facility believes justify an adjustment.

b. **Financial Analysis.** An analysis demonstrating the extent to which the facility is incurring or expects to incur a qualifying loss shall be provided by the facility unless the basis for review is one of the following:

- 1) the rate setting methodology or criteria for classifying facilities was incorrectly applied; or
- 2) incorrect data or erroneous calculations were used in establishment of the facility's per diem; or
- 3) the facility has incurred additional costs because of a catastrophe.

**C. Basis for Rate Adjustment**

1. **Factors Considered.** The department shall award additional reimbursement to a facility that demonstrates by substantiating evidence that:

- a. the facility will incur a qualifying loss;
- b. the loss will impair a facility's ability to provide services in accordance with state and federal health and safety standards;
- c. the facility has satisfactorily demonstrated that it has taken all appropriate steps to eliminate management practices resulting in unnecessary expenditures; and
- d. the facility has demonstrated that its unreimbursed costs are generated by factors generally not shared by other facilities in the facility's bed size Level of Care (LOC).

2. **Determination to Award Relief.** In determining whether to award additional reimbursement to a facility that has made the showing required, the director shall consider one or more of the factors and may take any of the actions described below:

a. the director shall consider whether the facility has demonstrated that its unreimbursed costs are generated by factors generally not shared by other facilities in the facility's bed size LOC. Such factors may include, but are not limited to, extraordinary circumstances beyond the control of the facility; or

b. the director may consider and may require the facility to provide financial data, including, but not limited to, financial ratio data indicative of the facility's performance quality in particular areas of operations; or

c. the director shall consider whether the facility has taken every reasonable action to contain costs on a facility-wide basis. In making such a determination the director may require the facility to provide audited cost data or other quantitative data and information about actions that the facility has taken to contain costs.

**D. Awarding Relief.** The director shall make notification of the decision to award or not award relief in writing.

1. **Adverse Decision**

a. **Basis**

1) The director may determine that the review request is not within the scope of the purpose for qualifying loss review.

2) The director may determine that the information presented does not support the request for rate adjustment.

b. Adverse decisions may be appealed to the Office of the Secretary, Bureau of Appeals for the Department of Health and Hospitals, P.O. Box 4183, Baton Rouge, Louisiana 70821-4183, within 30 days of receipt of the decision.

2. **Awarding Relief**

a. **Action by Director.** In awarding relief under this provision, the director shall:

1) make any necessary adjustment so as to correctly apply the reimbursement methodology to the facility submitting the appeal; or to correct calculations, data errors, or omissions; or

2) increase the facility's per diem rate by an amount that can reasonably be expected to ensure continuing access to sufficient services of adequate quality for Title XIX Medicaid recipients served by the facility.

b. **Scope of Decisions.** Decisions by the director to recognize omitted, additional or increased costs incurred by

any facility; to adjust the facility rates; or to otherwise award additional reimbursement to any facility shall not result in any change in the bed size LOC per diem for the remaining facilities in the bed size LOC, except the department may adjust the per diem if the facilities receiving adjustment comprises over 10 percent of total utilization for that bed size LOC based on the latest audited and/or desk reviewed cost reports. Should a single facility that is an entity under common ownership or control with another facility or groups of facilities be awarded relief, all facilities under common ownership or control with the facility awarded relief shall be subject to audit and cost settlement up to, but not over, the amount of their rates.

c. **Effective Date.** The effective date of the adjustment shall be the later of:

- 1) the date of occurrence of the rate change upon which the rate appeal is in response; or
- 2) the effective date of this emergency rule.

d. **Limitations.** The director shall not award relief to provider over 95 percent of appellant facility's cost coverage determined by inflationary trending of the year on which rates are based. The rate adjustment shall also be limited to no more than the amount of the rate for the previous rate year. Any facility awarded relief shall be audited and cost settled up to, but not over, the amount of the adjusted rate. Should a single facility that is an entity under common ownership or control with another facility or group of facilities be awarded relief, all facilities under common ownership or control with the facility awarded relief will be subject to audit and cost settlement up to, but not over, the amount of their rates.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal  
Secretary

9708#037

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Board of Pardons

Clemency Filing and Processing  
(LAC 22:V.Chapter 1)

Pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 15:572 et seq., the Board of Pardons, at its meeting of August 5, 1997, adopted the following emergency rules and procedures for processing and filing for clemency (pardon or commutation of sentence to include restoration of parole and/or goodtime). It is specifically provided that rules previously adopted and adhered to, unless included herein, are void.

## Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part V. Board of Pardons

#### Chapter 1. Applications

##### §101. General

A. Any completed application will be considered for hearing by the board the first Tuesday of each month. Should the first Tuesday fall on a legal holiday the board will meet the following Tuesday.

B. Applications must be received in the Board of Pardons office by the 15th of the month to be placed on the docket for consideration the following month.

C. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

D. Any offender sentenced to death shall submit an application within one year from the date of the direct appeal denial.

E. Any offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty.

F. No application will be considered by the board until it deems the application to be complete in accordance with the rules and procedures in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

##### §103. Filing Procedure

###### A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

- a. name of applicant;
- b. prison number [Department of Corrections (DOC) number];
- c. date of birth;
- d. race/sex;
- e. education (highest grade completed);
- f. age at time of offense;
- g. present age;
- h. offender class;
- i. place of incarceration, (incarcerated applicant only);
- j. parish of conviction/judicial district/court docket number;
- k. offense(s) charged, convicted of or plead to;
- l. parish where offense(s) committed;
- m. date of sentence;
- n. length of sentence;
- o. time served;
- p. prior parole and/or probation;
- q. when and how parole or probation completed;
- r. prior clemency hearing/recommendation/approval;
- s. reason for requesting clemency;
- t. relief requested and narrative detailing the events surrounding the offense;

u. institutional disciplinary reports (incarcerated applicants only) total disciplinary reports, number within the last 12 months, nature and date of last violation, and custody status.

2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.

3. An application must be completed; if any required information does not apply the response should be "NA".

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant.

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in §103.A.1.u.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed probationary period must attach a certified copy of sentencing minutes or automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572(B)]. Applicants who have received an Automatic First Offender Pardon must attach a copy of the Automatic First Offender Pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing unless applicant has a life sentence and has served less than 15 years and has documentation proving innocence. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

#### §105. Discretionary Powers of the Board

A. The Board of Pardons at its discretion may deny any applicant a hearing for any of the following reasons: serious nature of the offense; insufficient time served on sentence; insufficient time after release; proximity of parole/good time date; institutional disciplinary reports; probation/parole-unsatisfactory/violated; past criminal record; or any other factor determined by the board. However, nothing in this Chapter shall prevent the board from hearing any case.

B. Any applicant denied under this Chapter shall be notified in writing of the reason(s) for denial and thereafter may file a new application two years from date of the letter of denial. Any applicant with a life sentence denied after August 15, 1997 may reapply six years after the initial denial; three years after the subsequent denial; and every two years thereafter.

C. Any fraudulent documents or information submitted by applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial. Any lifer denied

because of fraudulent documents may reapply 10 years from the date of letter of initial denial; seven years if subsequent denial; and six years of denials thereafter.

D. In any matters not specifically covered by these rules, the board shall have discretionary powers to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

#### §107. Contact with the Board of Pardons

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifying at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual that the contact is illegal. The letter must be accompanied by a copy of R.S. 15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in §107.B shall be fined not more than \$500 or imprisoned for not more than six months or both.

D. All letters in favor of or opposition to pardon, clemency, or commutation are subject to public inspection. Exceptions to this Section are:

1. letters from any victim of a crime committed by the inmate being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence;

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain, the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 23:

#### §109. Hearing Granted

A. After notice to an applicant that a hearing has been granted, the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I, (applicant's name), DOC number, have applied for clemency" and must be published for three days within a 30-day period without cost to the Department of Public Safety and Corrections, Corrections Services, Board of Pardons.

B. Applicant may submit additional information, e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement.

C. All letters in support of applicant's request for clemency are subject to public inspection.

D. All letters in support of and/or opposition to authored by an elected or appointed public official are subject to public inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 23:

#### **§111. Public Hearing Dates**

A. The board will meet the first Tuesday of each month to determine which applicants will receive a hearing. Should the first Tuesday fall on a legal holiday the board will meet the following Tuesday.

B. The board shall also meet at the discretion of the chairman to act on those applications granted a hearing under §103 when cases have been deemed ready to hear, and to transact such other business as deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1(C) and 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 23:

#### **§113. Notice of Public Hearings**

A. After receipt of all documents required by §§103 and 109.A and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

B. At least 30 days prior to public hearing date, the board shall give written notice of the date, time and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;

4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;

5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

6. any other interested person who notifies the Board of Pardons in writing, giving name and return address.

C. The district attorney, injured victim, spouse or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the Board of Pardons by means of telephone communication from the office of the local district attorney.

D. Only three persons in favor, to include the applicant and three in opposition, will be allowed to speak at the

hearing. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 23:

#### **§115. Denials by Board After Public Hearing**

A. The board shall notify the applicant of the denial. Applicant may submit a new application two years after the date of letter of denial. Any applicant serving life may apply six years after initial denial, three years after subsequent denial and thereafter every two years.

B. The board shall terminate hearing should the applicant become disorderly, threatening or insolent. Any hearing terminated due to applicant's disorderly, threatening or insolent behavior is an automatic denial; and the applicant may re-apply four years from the date of hearing, except those serving life sentence who may reapply 10 years from the date of initial hearing termination, seven years from the subsequent hearing termination and six years from hearing termination thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

#### **§117. Denial—No Action Taken by Governor after Favorable Recommendation**

A. The board shall notify the applicant after its receipt of notification that favorable recommendation was denied or no action was taken by the governor. Applicant may submit a new application two years from the date of the letter of denial or notice of no action.

B. An applicant who has been paroled, released under good time parole supervision, or released from sentence within one year of the date of letter of denial or notice of no action by the governor, may submit a new application three years after the date of release from confinement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

#### **§119. Governor Grants**

The Office of the Governor will notify the applicant if any clemency is granted. Applicant may submit a new application for additional relief four years from the date of granted notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 23:

Interested persons may submit written comments to Sally L. McKissack, Chairman, Board of Pardons, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., September 15, 1997.

Sally L. McKissack  
Chairman

9708#087

# DECLARATION OF EMERGENCY

## Department of Public Safety and Corrections Corrections Services

### Juvenile Transfer to Adult Facility (LAC 22:I.335)

The Department of Public Safety and Corrections, Corrections Service, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) in order to implement the provisions of R.S. 15:902.1 and adopts the following emergency rule, effective August 4, 1997.

Emergency rulemaking is necessary as the backlog of juveniles pending assignment to secure state correctional facilities has reached crisis proportions. R.S. 15:902.1 authorizes the transfer of certain adjudicated juvenile delinquents to adult facilities and procedures have been developed to implement such transfers. Implementation of the provisions of the act allows for an immediate reduction in the backlog.

This emergency rule shall remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

#### TITLE 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

### Chapter 3. Adult and Juvenile Services

#### Subchapter A. General

#### §335. Juvenile Transfer to Adult Facility

A. Purpose. To establish the secretary's policy regarding the limited transfer of juvenile offenders 17 years of age or older to adult facilities.

B. To Whom This Regulation Applies. LAC 22:I.335 is applicable to the deputy secretary, assistant secretaries, wardens, and director of the Division of Youth Services of the Department of Public Safety and Corrections.

#### C. Definitions

*Adult*—an individual convicted by a criminal court and sentenced to the custody of the Department of Public Safety and Corrections (DPS&C).

*Disposition*—the written order of the juvenile court, following adjudication, which specifies the court's sentence.

*Juvenile*—an individual who is adjudicated delinquent by a judge exercising juvenile jurisdiction and sentenced to the custody of the DPS&C.

#### D. Policy

1. It is the secretary's policy, in accordance with R.S. 15:902.1, to authorize the limited transfer of juveniles adjudicated delinquent to adult facilities when the juveniles have attained the age of 17 years *and* are otherwise eligible as defined by this regulation.

2. Juvenile offenders who are adjudicated delinquent for an offense that, if committed by an adult, could not result in a sentence at hard labor, are not eligible for transfer.

3. Generally, juvenile offenders will be transferred to one of the following adult facilities:

- a. Adult Reception and Diagnostic Center (ARDC);
- b. Elayn Hunt Correctional Center (EHCC);

- c. Wade Reception and Diagnostic Center (WRDC);
- d. David Wade Correctional Center (DWCC);
- e. Louisiana Correctional Institute for Women (LCIW).

4. Juvenile offenders in adult facilities will not have a parole or diminution of sentence release date.

a. They will only have a "full term date." This date will be either:

- i. their twenty-first birthday;
- ii. their eighteenth birthday if the crime was committed before their thirteenth birthday and it is not a crime enumerated under *Louisiana Children's Code*, Article 897.1;
- iii. the date upon which the juvenile has completed the period of commitment as specified in the judgment of the juvenile court; or
- iv. the date which reflects the maximum term that an adult could receive if sentenced for the same offense, whichever is earlier.

b. If the period of commitment specified by the juvenile court exceeds the twenty-first birthday, the eighteenth birthday under circumstances outlined, or the maximum term for which an adult could be sentenced for the same crime, then the Office of Youth Development and the Headquarters Legal Section should be notified immediately.

5. Absent special statutory or regulatory restrictions to the contrary, juveniles in adult facilities will participate in all work, education, and other rehabilitative programs on the same basis as adults and will be subject to the same classification and disciplinary processes as adults, including custody status determination. Security supervision and security practices will also be the same for juvenile offenders in adult facilities as for adult inmates.

6. Records of juveniles housed in adult facilities shall be confidential and information may not be disclosed to *anyone* except in accordance with department Regulation No. B-03-003, "Access to and Release of Juvenile Offender and Ex-Offender Records", as set forth in LSA-R.S. 15:574.12 and *Louisiana Children's Code*, Article 412.

#### E. Procedures

1. A classification committee will be formed at all juvenile facilities to review offenders for eligibility and suitability for transfer and to make appropriate recommendations to the warden. It will be the responsibility of this committee to review all relevant information.

a. The following variables should be considered by the classification committee when evaluating a juvenile offender for possible transfer to an adult facility:

- i. chronological age of 17 years or older;
- ii. emotional and physical maturity;
- iii. disciplinary history and potential to disrupt juvenile institutional operations;
- iv. potential to benefit from educational programs;
- v. potential to benefit from other programs;
- vi. offenders diagnosed with mental health and/or medical special needs who can be better served in an adult facility;
- vii. offenders who pose a threat to security, i.e. who are considered escape risks, who have exhibited violent behavior, who are committed for serious offense(s), or who have an extensive criminal history;



viii. to accomplish one of the following objectives:

- (a). minimize risk to the public;
- (b). minimize risk to institutional staff;
- (c). minimize risk to other offenders.

b. Disciplinary history may impact the recommendation, but the transfer itself is not a disciplinary sanction or disciplinary activity. The disciplinary committee can refer offenders to the classification committee for review.

2. The warden of each juvenile facility will review the recommendation made by the classification committee and will make the final determination relative to transfer. The secretary and assistant secretaries will be notified of any transfer. In addition, the warden will notify the appropriate juvenile judge, Division of Youth Services Office, the legal guardian, and the classification administrator at ARDC of the proposed transfer.

3. Notification to the classification administrator at ARDC should include pertinent information, e.g., the Juvenile Information Reporting Management System (JIRMS) master record, judicial commitment documents, classification committee report and recommendation, and warden's decision. ARDC PreClass Section will then assign a unique six digit Department of Corrections (DOC) number to each juvenile-in-adult custody, (such number will begin with the numeral seven followed by the juvenile's original JIRMS number), update the CAJUN II information, and establish the adult institutional record prior to transfer (except in emergency cases). The classification administrator will schedule the date of transfer and will notify the appropriate juvenile institution.

4. The sending facility will be responsible for the transportation of the offender to the appropriate receiving institution and will provide all institutional and medical records at the time of transfer in accordance with department Regulation No. B-06-001, "Health Care." The offender's personal funds should be transmitted by check at the time of transfer or as soon as possible thereafter. In addition, the JIRMS transfer screen will be updated to reflect the transfer and will be subsequently utilized for inquiry purposes.

5. Once transferred to an adult facility, a juvenile will not be returned to a secure juvenile facility within the DPS&C. In addition, any subsequent placement in a nonsecure residential juvenile program would generally be considered inappropriate.

6. Initial evaluation to determine appropriate housing while in the reception process should include evaluation of emotional and physical maturity.

7. ARDC, WRDC, or LCIW will conduct a full evaluation in accordance with department regulations and ACA Standards to determine subsequent placement at EHCC or DWCC (or suitable housing assignment at LCIW). The evaluation will include, but is not limited to, the following:

- a. emotional and physical maturity to evaluate the need for assignment to Level 1 or Level 2 protective custody;
- b. review of information previously generated by JRDC, as available;
- c. history of gang affiliation and prior juvenile institutional assignment and security history;
- d. special educational needs or other programming

needs and the appropriateness of assignment to academic and/or vocational programs;

e. medical needs, including substance abuse assessment, and assignment of an appropriate medical level of care;

f. mental health needs with particular emphasis on suicide potential and assignment of an appropriate mental health level of care;

g. consideration of geographical location.

8. Upon completion of evaluation, the Transfer Section at ARDC will schedule transfer to the appropriate permanent facility.

9. The receiving institution will assign housing and provide services as set forth in department regulations and American Correctional Association (ACA) Standards. The records office of the receiving institution will maintain the juvenile institutional record and the adult inmate record and will update the CAJUN database. Upon discharge, all institutional records will be returned to the Juvenile Reception and Diagnostic Center at Jetson Correctional Center for Youth.

10. The adult facility must report the location and condition of the juvenile to the juvenile court every six months (or more frequently if requested). This format may be utilized to make early release recommendations as appropriate.

11. Sex offender notifications are generally not applicable to juvenile offenders housed in adult facilities. Other crime victim notice requirements for juveniles as indicated in department Regulation No. C-01-007, "Crime Victims Services Bureau" are applicable.

12. Visiting lists will be established pursuant to the provisions of department Regulation No. C-03-006, "Inmate Visitation." These transfers are to be considered as new admissions for the purposes of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:902.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 23:

Richard L. Stalder  
Secretary

9708#038

## **DECLARATION OF EMERGENCY**

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

**King Mackerel Commercial Closure**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons; and R.S. 56:317 which provides that the secretary of the department may declare a closed season when it is in the best interest of the state, the secretary of the Department of Wildlife and



Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m., August 9, 1997, the commercial fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m., July 1, 1998. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing king mackerel taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

The secretary has been notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service that the commercial quota for king mackerel in the western Gulf has been reached, and the season closure is necessary to prevent overfishing of this species.

James H. Jenkins, Jr.  
Secretary

9708#029

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Deer Season (Either Sex)—1997-98**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under 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.

A declaration of emergency is necessary to allow for hunting of "either sex" deer. The final rule for the 1997-98 hunting seasons was formally adopted at the July commission meeting with the "either sex" seasons in the below-mentioned areas closed. The commission closed "either sex" hunting in the above described areas in response to HB 1316. This legislation has subsequently been vetoed by Governor Foster and it is in the best interest of deer management to allow "either sex" hunting in these areas. There is not sufficient time to adhere to the Administrative Procedure Act and allow for "either sex" hunting this fall. Dates and other pertinent information shall appear in the 1997-98 Louisiana hunting regulations pamphlet.

**Either Sex Hunting**

"Either sex" hunting in the following areas shall be open:

Parish	Portion Opened	Weapon Type Allowed (Archery, Muzzle-loader, Modern Firearm)	Season Dates
Caldwell	Entire Parish	All weapon types	AREA 1 Nov 22-23 Nov 28-30  AREA 2 Oct 25-26 Nov 28-30
Catahoula	That portion of Representative District 20 designated as Precincts 1-1, 1-2, 2-1, 2-2, 3-1, 3-2, 4-1, 4-2, 5-1, 5-2, 6-1, and 8-1	All weapon types	Nov 22-23 Nov 28-30
Concordia	That portion of Representative District 20 designated as Precincts 5-3 and 5-4	All weapon types	Nov 22-23 Nov 28-30 Dec 6-7 Dec 13-14
Franklin	Entire Parish	All weapon types	Nov 22-23 Nov 28-Dec 3

The aforementioned season dates, bag limits and shooting hours will become effective on October 1, 1997 and extend through sunset on February 2, 1998.

Daniel J. Babin  
Chairman

9708#056

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Early Migratory Bird Season—1997-98**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under 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.

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 below mentioned season dates, bag limits and shooting hours will become effective on September 1, 1997 and extend through sunset on February 28, 1998.

The hunting seasons for early migratory birds during the 1997-98 hunting season shall be as follows:

**MIGRATORY BIRDS OTHER THAN WATERFOWL**

- DOVE: Split Season, Statewide, 70 days  
September 6 - September 14  
October 18 - November 17  
December 13 - January 11  
Daily bag limit 12, possession limit 24
  - TEAL: September 20 - September 28  
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 20 - September 28  
November 8 - January 7
  - 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 20 - September 28  
November 8 - January 7  
Daily bag limit 15, possession limit 30
  - SNIPE: November 8 - February 22  
Daily bag limit 8, possession limit 16
  - WOODCOCK: December 18 - January 31  
Daily bag limit 3, possession 6
- SHOOTING HOURS**  
Teal, Rail, Gallinule, Snipe and Woodcock: one-half hour before sunrise to sunset.  
Dove: one-half hour before sunrise to sunset except noon to sunset on September 6-7, October 18-19, and December 13-14.

Daniel J. Babin  
Chairman

9708#057

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Fall 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, the Wildlife and Fisheries Commission does hereby set the 1997 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; 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; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas state line.

All to open at official sunrise August 18, 1997.

The commission also hereby sets the closing date for the 1997 Fall Inshore Shrimp Season at official sunset Sunday, December 14, 1997 except in Breton and Chandeleur Sounds in Zone 1, as described in R.S. 56:495.1.A(2), which shall remain open until 6 a.m., April 1, 1998. The commission also grants authority to the secretary of the Department of Wildlife and Fisheries to change the closing date if biological and technical data indicate the need to do so or if enforcement problems develop.

Daniel J. Babin  
Chairman

9708#060

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Muzzleloader Season**

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.

A declaration of emergency is necessary to close the muzzleloader season in these two areas to avoid conflict with the opening day of the statewide squirrel and rabbit seasons. The commission believes that allowing the muzzleloader season and the statewide squirrel and rabbit seasons to open simultaneously could result in a dangerous situation for hunters going afield on the opening weekend. The final rule for the 1997-98 hunting seasons was formally adopted at the July commission meeting and the hunting pamphlet is currently being printed. As a result, there is insufficient time to adopt this change through the normal process of the Administrative Procedure Act.

The below-mentioned season dates will become effective October 1, 1997 and extend through sunset on February 2, 1998.

**Muzzleloader Season for Areas 3 and 7**

The muzzleloader season in Areas 3 and 7 shall be changed to read as follows:

**Area 3:** October 6—October 10  
December 13—December 19

**Area 7:** October 6—October 10  
January 19—January 25

Daniel J. Babin  
Chairman

9708#061

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Nonresident Fishing License Fees**

In accordance with the emergency provisions of R.S. 49:953(B) and under the authority of R.S. 56:6(28), the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

With the passage of Act 1236 of the 1997 Legislature, effective August 15, 1997, the only valid nonresident licenses available to the public for a period of two to three months will be the nonresident basic fishing license with a fee of \$31, and the nonresident saltwater fishing license with a fee of \$36. This Act repealed the seven-day nonresident basic fishing license and the seven-day nonresident saltwater fishing license; it also deleted the two-day combination basic and saltwater fishing licenses. This Act created a three-day saltwater fishing license with a fee of \$20, and increased the established three-day nonresident basic fishing license from \$10 to \$20. It will take two to three months to have these licenses printed and distributed statewide.

Thus, until it is possible to print and distribute these new three-day nonresident licenses, there is a need to have available nonresident trip fishing licenses. Failure to have such licenses available will serve as a severe inconvenience to the fishing public and will have dire economic impacts on the state from the loss of revenue associated with nonresident recreational fishing activity.

In lieu of a recreational fishing license, nonresidents may purchase one of the following temporary recreational fishing licenses:

1. a three-day basic recreational sport fishing license for a fee of \$10. This three-day license shall be valid for three consecutive days, including the day of issue.
2. a two-day temporary combination basic fishing and saltwater fishing license for a fee of \$23.

Daniel J. Babin  
Chairman

9708#055

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Oyster Season—1997-98**

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. 56:535.1, notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

1. The public oyster seed grounds not currently under lease, Bay Gardene Oyster Seed Reservation, Hackberry Bay, and the Sister Lake Oyster Seed Reservations will open one-half hour before sunrise September 3, 1997.
2. The Bay Junop Oyster Seed Reservation will remain closed for the 1997/98 oyster season.
3. A designated sacking only area east of the Mississippi River will open one-half hour before sunrise on September 3, 1997. The sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet.
4. 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 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.
5. The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides.
6. The Calcasieu and Sabine Lake tonging areas will open one-half hour before sunrise on October 16, 1997 and remain open until one-half hour after sunset on April 30, 1998.
7. Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

Daniel J. Babin  
Chairman

9708#059

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Pheasant Season—1997-98**

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

Fisheries Commission hereby adopts the following emergency rule.

A declaration of emergency is necessary to allow for hunting of pheasants during the upcoming season which will begin in November 1997 and there is not sufficient time to meet the requirements of the Administrative Procedure Act.

The following season dates, bag limits and shooting hours will become effective on November 1, 1997 and extend through sunset on February 1, 1998.

PHEASANT SEASON FOR THE 1997-98 HUNTING SEASON	
Date:	Nov. 27 - Jan. 31
Bag Limit:	2 males only
Possession Limit:	4 males only
Shooting Hours:	one-half hour before sunrise to one-half hour after sunset
<b>AREA DESCRIPTION</b> Pheasant season restricted to the following portions of Calcasieu and Cameron parishes: that portion west of Choupique Bayou south of Highway 90 to LA 27, west of LA 27 to north boundary of Sabine NWR, north of Sabine NWR north boundary to Sabine River, east of Sabine River to Intracoastal Waterway, south of Intracoastal Waterway to Gum Cove Road, east of Gum Cove Road to LA 108, north and east of LA 108 from Gum Cove Road to Highway 90, and south of Highway 90 from Vinton to Choupique Bayou.	

Daniel J. Babin  
Chairman

9708#058

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

#### Shrimp Season Closure—Zone 1

In accordance with the emergency provisions of R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters; and pursuant to a resolution adopted by the Wildlife and Fisheries Commission on May 1, 1997 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1997 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 declares:

The 1997 Spring Inshore Shrimp Season shall be closed in most of Zone 1 at 6 a.m., Monday, July 21, 1997.

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 immigrating white shrimp.

The following portions of Zone 1 shall remain open until 6 a.m., Friday, August 1, 1997:

1. Lake Pontchartrain and Middle Ground, not to include any sanctuary or normally closed areas of the lake;
2. Lake Borgne and the Mississippi Sound;
3. Chef Menteur and Rigolets Passes;
4. Mississippi River Gulf Outlet; and
5. the Intracoastal Waterway from the overhead power lines at the Inner Harbor Navigation Canal east to its junction with the Mississippi River Gulf Outlet.

The passes and tributaries of these waterbodies shall be closed.

The open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D) shall remain open to shrimping until further notice.

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Texas State Line, shall also remain open until further notice.

James H. Jenkins, Jr.  
Secretary

9708#005

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

#### Shrimp Season Closure—Zone 3

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters; and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 1997 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1997 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary hereby declares:

The 1997 Spring Inshore Shrimp Season shall be closed in all of Zone 3, of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island west to the Louisiana/Texas State Line, at 6 a.m., Friday, July 25, 1997.

Small white shrimp have begun to show up in shrimp samples taken by department personnel throughout Zone 3. The number of white shrimp is expected to increase substantially over the next few weeks.

James H. Jenkins, Jr.  
Secretary

9708#004

# Rules

## RULE

**Department of Agriculture and Forestry  
Forestry Commission  
and  
Department of Revenue and Taxation  
Tax Commission**

**1997 Timber Stumpage Values  
(LAC 7:XXXIX.101)**

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue and Taxation, Tax Commission amends rules regarding the value of timber stumpage for calendar year 1997. These rules comply with and are enabled by R.S. 47:633.

### Title 7

#### AGRICULTURE AND ANIMALS

##### Part XXXIX. Forestry

##### Chapter 1. Timber Stumpage

##### §101. Stumpage Values

The Louisiana Forestry Commission, and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1997:

1. Pine Trees and Timber	\$ 348.00/MBF	\$ 43.50/Ton
2. Hardwood Trees and Timber	\$ 188.58/MBF	\$ 19.85/Ton
3. Pine Chip and Saw	\$ 88.80/Cord	\$ 32.89/Ton
4. Pine Pulpwood	\$ 23.95/Cord	\$ 8.87/Ton
5. Hardwood Pulpwood	\$ 15.05/Cord	\$ 5.28/Ton

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

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR

21:930 (September 1995), LR 21:1069 (October 1995), amended by the Louisiana Forestry Commission and Louisiana Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997).

Billy Weaver, Chairman  
Forestry Commission

Malcolm Price, Chairman  
Tax Commission

9708#039

## RULE

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

**Equine Infectious Anemia and Livestock Auction  
Market Requirements (LAC 7:XXI.Chapter 5)**

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Livestock Sanitary Board has adopted LAC 7:XXI.Chapter 5.

These rules will govern the Equine Infectious Anemia control program whereby the Livestock Sanitary Board identifies and controls equine that are infected with Equine Infectious Anemia and removes infected equine from the population in order to prevent the spread of Equine Infectious Anemia.

These rules comply with the statutory law administered by the Livestock Sanitary Board, R.S. 3:2091-2222, including R.S. 3:2093(1), the enabling legislation.

A preamble to the rules is contained in §513 ("Statement of Purpose") of the rules.

### Title 7

#### AGRICULTURE AND ANIMALS

##### Part XXI. Diseases of Animals

##### Chapter 5. Equine

##### §511. Definitions

Wherever in these EIA rules and regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

*Approved EIA Testing Laboratory*—a laboratory which is authorized by the board to conduct the EIA test analysis on equine blood samples.

*Board*—the Louisiana State Livestock Sanitary Board.

*Buyer*—any person who purchases EIA positive or S branded equine for slaughter.

*Direct to Slaughter*—for shipment or movement from the premises of origin directly to an approved slaughter establishment for the purpose of slaughter without any stopping or diversion except as is necessary or incidental to such shipment.

*EIA Negative Equine*—equine that is currently tested for EIA with a negative test result in accordance with these EIA rules and regulations.

*EIA Positive Equine*—an equine that has completed an EIA test with a positive test result.

*EIA Quarantine*—the secure and physical isolation of EIA positive equine, S branded equine or both in a specific confined area the perimeter of which is at all times at least 200 yards away from all other equine.

*EIA Test*—has the same meaning as test for EIA defined hereinafter.

*Equine*—any member of the family of *Equidae* including horses, mules, burros, donkeys, asses, and zebra.

*Equine Infectious Anemia*—a contagious and infectious disease of equine caused by a lentivirus the symptoms of which can include intermittent fever, depression, weakness, edema, anemia and sometimes death. The disease is also known as Swamp Fever and is sometimes referred to herein as "EIA."

*Equine Quarantined Holding Area*—an area where the secure and physical isolation of only EIA positive equine, S branded equine, or both are confined, the perimeter of which provides for separating by at least 440 yards from all other equine that are not EIA positive equine, S branded equine, or both.

*Exposure to EIA*—in the presence of an EIA positive equine.

*Foal*—an equine less than 1 year old.

*In the Presence of*—coming within 200 yards of the animal or object referred to.

*Owner*—any person who, in any form, possesses, has custody of, or has an ownership interest in an equine. A person is an owner during the period of time of the described relationship. A parent or tutor of an owner who is a minor is also an owner during the period of time that the owner-parent or tutor's minor resides with the parent or tutor. A curator of an owner who has been interdicted is an owner during the period of time that the interdict is an owner.

*Permanent Individual Equine Identification*—one of the following methods of identifying equine:

- a. operational implanted electronic identification transponder with individual number;
- b. legible individual lip tattoo; or
- c. legible individual hot brand or freeze brand other than the brand S or 72A on the left shoulder.

*Person*—any natural person, partnership, limited partnership, limited liability company, corporation, association or any legal entity whatsoever.

*Premises*—any immovable or movable property in which or upon which an equine is, was or could be located.

*Public Livestock Market*—any place, establishment or facility commonly known as a "livestock market," "livestock

auction market," "sales ring," "stockyard," or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment.

*Quarantine*—the secure and physical isolation of equine in a specific confined area the perimeter of which is at all times at least 200 yards away from other equine.

*S Branded Equine*—an equine which has been branded with the letter S at least 3 inches in height on the left shoulder.

*Stall Barn*—a building in which equine are customarily housed.

*Test for EIA*—a test, approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, for scientifically testing equine for the presence of EIA. The test for EIA is also sometimes herein referred to as the "EIA test."

*Testing Veterinarian*—a veterinarian accredited by the United States Department of Agriculture who draws an equine's blood for an EIA test and who submits the blood sample to an approved EIA testing laboratory.

*Verification*—a written statement signed by each owner which includes the name, address, telephone number of each owner, the name of the equine, if any, the permanent individual identification of the equine, and an affirmative attestation of the date, place and the manner of ending the life of the equine.

*VS Form 10-11*—the form provided by the board or the United States Department of Agriculture utilized in EIA testing which provides for information including the name of the laboratory, the case number, the date of completion of the EIA test, the equine owner's name, address, telephone number and the permanent individual identification of the equine and the test results.

*VS Form 1-27 Permit*—a form provided, completed and issued by the board or the United States Department of Agriculture which is required before certain livestock may be moved from the premises of origin.

*Written Proof of EIA Test*—the VS Form 10-11 completed by an approved EIA testing laboratory which, when completed, provides the name of the laboratory, the case number, the date of completion of the EIA test, the equine owner's name, address, telephone number and permanent individual identification of the equine and the test results.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:2091-2097.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:943 (August 1997).

### **§513. Statement of Purpose**

A. The purpose of these EIA rules and regulations is to better identify and control EIA infected equine and to remove EIA infected equine from the population in order to prevent the spread of EIA. Due to the persistent incidence of EIA in the equine population, a more stringent eradication program for removal of infected equine, which includes ending the life of EIA infected equine, is necessary. These EIA rules and regulations should be liberally construed in favor of ending the life of EIA infected equine. The authority granted therein is to be exercised only in carrying out this necessary EIA eradication program.

B. It is understood that title to an equine can be difficult to discern, that custodians and possessors are frequently the only persons exercising authority over nontitled equine and, therefore, effective enforcement of these EIA rules and regulations requires that possessors, custodians, and owners of equine share responsibility for eradication of a disease that has proven destructive to the industry and to equine. It is further understood that if in the board's view effective enforcement would not be jeopardized, the board should direct enforcement against titled owners over custodians and custodians over possessors. Notwithstanding the foregoing, the board may direct enforcement against any or all owners as defined in these EIA rules and regulations in any given case as it shall deem fit in its sole and exclusive judgment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:944 (August 1997).

### **§515. Obligations of Owners**

Any owner of equine that are physically located in Louisiana shall timely accomplish the following mandatory requirements, except as provided in §517 herein:

1. Every owner shall have a permanent individual equine identification for each of their equine completed not later than the time of the initial test for EIA called for herein and as otherwise provided for in these EIA rules and regulations.

2. Every owner shall, at the following times, have their equine tested by an approved EIA testing laboratory with blood samples drawn by a testing veterinarian and shall maintain written proof of and the results of such tests for not less than 24 months.

a. Every owner shall have all of the owner's equine tested for EIA at least every 12 months.

b. Every owner shall have all of the owner's foals first tested for EIA no later than one year after the foals are born.

c. Every owner shall have all of the owner's equine coming into the state accompanied with written proof of said equine having been tested negatively for EIA not more than 12 months prior to the date of the equine's entry into the state.

d. Every owner shall have all equine, for which written proof of a negative EIA test cannot be provided, immediately quarantined, tested for EIA, and permanently and individually identified within 20 days of the date upon which an unfulfilled request for written proof of a negative EIA test is made by an authorized agent of the board.

e.i. Owners must test for EIA any equine, except EIA positive equine and S branded equine, that is for any length of time:

(a). in the presence of any equine quarantined holding area; or

(b). in the presence of an EIA positive equine; or

(c). on the same premises as an EIA positive equine; or

(d). on a premises with a perimeter less than 200 yards from the perimeter of the premises of an EIA positive equine.

ii. Said test shall be conducted no earlier than 30 days after the date of the EIA test of the EIA positive equine.

iii. The owners shall ensure that said test for EIA is conducted no sooner than 30 days and, to the extent possible, no later than 60 days from the last date upon which the owners' equine was in the presence of the EIA positive equine or in any of the aforementioned places, but, in any event, the said EIA test shall be conducted.

f. Every owner shall have all equine that are to have their ownership changed tested for EIA within six months prior to the change.

g.i. Every owner offering equine for sale at public livestock markets without written proof of a negative EIA test conducted within six months of sale or without permanent individual equine identification shall have the equine quarantined, fitted with permanent individual equine identification if not already so fitted, tested for EIA and the results of a negative EIA test before the equine may be removed from quarantine.

ii. All such owners shall have the blood sample drawn for the EIA test before the equine leaves the public livestock market.

iii. If no veterinarian is available for official EIA testing of equine at a public livestock market, EIA testing shall be conducted by an authorized agent of the board.

iv. Prior to the drawing of blood for the EIA test required by §515.A.2, the owner shall authorize payment of the testing fee for the EIA test to the testing veterinarian.

v. The purchaser of the equine shall pay the identification fee before the equine leaves the public livestock market.

h. Every owner offering equine for sale at public livestock markets without permanent individual equine identification shall have said equine fitted with permanent individual equine identification before said equine leaves the public livestock market.

3. Every owner shall have all of the owner's equine stabled at a racetrack governed by the Louisiana State Racing Commission which are EIA positive immediately and individually quarantined and removed from the racetrack. Owners of other equine which were in the same or directly adjacent stall barns as an EIA positive equine shall be tested for EIA. The EIA testing shall, to the extent possible, as determined by the board, be conducted no sooner than 30 days and no later than 60 days after the date upon which the EIA positive equine was removed from the presence of the equine being tested but, in any event, the said EIA test shall be conducted.

4. Every owner shall immediately, upon receipt of knowledge of a positive EIA test, quarantine and thereafter maintain quarantine of all EIA positive equine until the end of the equine's life as provided herein.

5.a. Every owner shall have all equine which test positive for EIA branded by an authorized agent of the board with a 72A brand at least 3 inches in height on the left shoulder immediately upon receipt of the positive EIA test report.

b. Upon request by the owner to the board, an owner shall be permitted to retest the EIA positive equine by a veterinarian employed by the board prior to a 72A brand being placed on the EIA positive equine.

6. In no event shall any EIA positive equine be moved from one immovable premises to another without a VS Form

1-27 Permit issued by an authorized agent of the board accompanying the EIA positive equine.

7. Every owner who receives notice of a positive EIA test shall inform all other owners of the relevant equine of the test results within 24 hours of having received notice of the EIA test results.

8.a. Every owner shall cause the ending of the life of or end the life of all equine testing positive for EIA, immediately upon notice of the positive result of the EIA test and shall provide verification of the death of such equine by written and signed statement of the owner which shall be furnished to the office of the State Veterinarian.

b. In the event any EIA positive equine is to be sold for slaughter, the owner shall secure a VS Form 1-27 Permit issued by an authorized agent of the board before the equine may be moved from the premises where the EIA positive equine was quarantined and the owner shall cause the EIA positive equine to be accompanied with the VS Form 1-27 Permit issued by an authorized agent of the board when the EIA positive equine is en route to or at the public livestock market.

c. When the equine is sold for slaughter a properly completed VS-Form 1-27 Permit may serve as the verification called for herein.

9.a. Upon written or oral request by an authorized agent of the board, all owners shall immediately make available written proof of an EIA test demonstrating compliance with the EIA testing requirements of these EIA rules and regulations. If the requested written proof is not provided to an authorized agent of the board, the equine shall be presumed to be untested.

b. When a change of possession, custody or ownership of an equine occurs, the owner transferring possession, custody or ownership shall physically transfer to the transferee written proof of the most recent EIA test of the equine transferred.

10. Every owner of equine shall provide the names, addresses and telephone numbers of all other owners, if any, to the board upon the request of an authorized agent of the board.

11. Every owner shall, without prior notice, permit and assist authorized agents of the board in the inspection of equine and inspections to determine compliance with these EIA rules and regulations, including inspection of the equine's permanent individual equine identification, inspection of the manner in which any EIA quarantine is being maintained, inspection of the collection of blood samples for EIA tests and inspections relating to the establishment of EIA quarantines.

12. All owners of an equine are responsible and liable in solido to the board for any violation of these EIA rules and regulations involving that equine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:945 (August 1997).

#### **§517. Exceptions**

A. Notwithstanding any other provision hereof, the written proof of EIA test and the requirements of these EIA rules and regulations need not include permanent individual equine

identification of equine for those equine that temporarily enter Louisiana from another state and that depart Louisiana before the passage of 12 months since such equine's last EIA test. This exception does not apply to equine offered for sale at a public livestock market. All equine, including those temporarily in Louisiana from another state that are offered for sale at a public livestock market, and their owners are subject to all requirements of §515.A.2.g including those pertaining to permanent individual equine identification.

B. Upon request by any owner, any mare or dam testing positive for EIA that is at least 270 days into term or has a nursing foal no more than 120 days of age may be quarantined to the owner's premises prior to ending the mare's or dam's life until not later than 20 days after either her foal dies or reaches an age of 120 days by which time the mare's or dam's life shall be ended. Notwithstanding the foregoing exception, all owners shall have the EIA positive mare or dam branded with a 72A brand at least 3 inches in height on the left shoulder immediately upon receipt of the EIA positive test report.

C. Notwithstanding any other provision hereof, all owners of equine which tested positive for EIA prior to February 1, 1994 shall be permitted to confine such equine to a quarantine approved by the board in lieu of ending the EIA positive equine's life. However, in the event such a quarantine is elected by the owner and such a quarantine is thereafter shown to have been violated and the board can demonstrate, after notice and hearing, that the quarantine was not, in every respect, maintained in accordance with these EIA rules and regulations and any special conditions, then, in that event, the owner shall, within 20 days of such finding, cause the ending of the life of, end the life of, or sell for slaughter any EIA positive equine so found in violation of the quarantine.

D. The seller of any equine which is sold at any public livestock market with gross proceeds from the sale being less than \$50 shall not be required to pay the testing fee required herein for the EIA test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:946 (August 1997).

#### **§521. Collection and Submission of Blood Samples**

A. All blood samples for EIA testing must be drawn by a testing veterinarian and submitted to an approved EIA testing laboratory. The seller of any equine sold at a public livestock market in which the gross proceeds from the sale are less than \$50 may request that the blood sample be drawn by authorized agents of the board, which, if granted, shall satisfy the requirements of these EIA rules and regulations in that respect.

B. Blood samples submitted to the approved EIA testing laboratory for official EIA testing shall be accompanied by and submitted with a VS Form 10-11, Equine Infectious Anemia Laboratory Test Report, signed by the testing veterinarian, with completed information as to the equine owner's name, address, telephone number, date blood sample drawn and permanent individual identification of the equine.

C. Blood samples in nonsterile tubes shall not be accepted for testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.



HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:946 (August 1997).

#### **§523. Penalties**

A. The penalty for a violation of these EIA rules and regulations shall be a fine of up to \$1,000 for each violation.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

#### **§525. Enforcement**

In addition to those relevant provisions of law, the board may do the following, as is necessary, to carry out the board's powers and duties and to accomplish the purpose of the EIA eradication program.

1. The board may brand and permanently, individually identify equine.

2. The board may quarantine equine, EIA positive equine and equine in their presence, cause the ending of the life of EIA positive equine, end the life of EIA positive equine or cause the sale of EIA positive equine for slaughter.

3. An authorized agent of the board may enter any premises or place where equine are present during reasonable hours with or without prior notice for the purpose of determining whether these EIA rules and regulations have been violated and to inspect the equine for the presence of EIA and exposure related to EIA. A testing veterinarian employed by the board may draw blood samples from the equine present for the EIA test.

4.a. Any authorized agent of the board shall have access to, and may enter at all reasonable hours, all places of business dealing in or with equine and all places of business where books, papers, accounts, records, or other documents related to equine are maintained.

b. The board may subpoena, and any authorized agent of the board may inspect, copy, audit or investigate any of the books, papers, accounts, records, or other documents pertaining to equine, all for the purpose of determining whether there is compliance with the provisions of R.S. 3:2091-2100, and with these EIA rules and regulations.

c. The authority granted in §525.A.4.b shall also extend to books, papers, accounts, records, or other documents of persons doing business with the above referenced places of business.

5. The board may apply to a court of competent jurisdiction for a warrant to conduct any reasonable searches and seizures as is necessary to carry out the board's powers and duties not already provided for in these EIA rules and regulations.

6. The board may declare abandoned any equine with no apparent owner. The board is authorized to seize, test for EIA and fit with permanent individual identification any equine that has been declared abandoned. The board may also cause the ending of the life of, end the life of, or sell for slaughter any EIA positive equine that has been declared abandoned. Prior to any declaration of abandonment on the

grounds of having no apparent owner, the board shall make reasonable inquiry in the geographic area where the relevant equine was initially located, and such reasonable inquiry shall include placing an advertisement in no less than two publications in the print media of greatest circulation near the geographic area where the equine was found. Further, no declaration that an equine is abandoned shall be made until 15 days have passed since the last publication seeking the owner was made.

7. The board may issue written orders in preventing, controlling or eradicating EIA, and a violation of any such order shall constitute a violation of these EIA rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

#### **§527. Fees**

A. There shall be a testing fee of not more than \$18 per EIA test at all public livestock markets. All public livestock markets shall collect the testing fee of not more than \$18 per EIA test from sellers of equine which arrive at public livestock markets untested for EIA within six months prior to the equine's sale or offering for sale. The public livestock market shall forward the testing fee to the testing veterinarian.

B. There shall be an identification fee of \$5 at all public livestock markets. All public livestock markets shall collect an identification fee of \$5 per equine from purchasers of equine for all equine which arrive at public livestock markets untested for EIA within six months prior to the equine's sale or offering for sale. The public livestock market shall forward the fee to the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

#### **§529. Approved Equine Infectious Anemia Testing Laboratories**

A. No person shall operate an approved EIA testing laboratory without first obtaining approval from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, and from the board.

B. The conditions for approving an EIA testing laboratory are as follows:

1. Any person applying for an EIA testing laboratory approval must submit a written application for approval by the board to the office of the State Veterinarian.

2. An inspection of the facility must be made by a representative of the office of the State Veterinarian who shall submit a report to the board indicating whether or not the person applying for an EIA testing laboratory approval has the facilities and equipment which are called for by the United States Department of Agriculture, currently contained in the Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

3. Any person applying for an EIA testing laboratory approval must agree in writing to operate the approved EIA

testing laboratory in conformity with the requirements of the United States Department of Agriculture, currently contained in Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. If the application is given preliminary approval by the board, the person applying will proceed with successful completion of training, examination, and inspection by the United States Department of Agriculture.

5. Laboratory check test results of the United States Department of Agriculture shall be provided to the State Veterinarian for final approval by the board.

6. All EIA testing laboratories which have been approved by the United States Department of Agriculture, prior to the effective date of this regulation, shall be deemed approved at the time this regulation goes into effect.

C.1. Approved EIA testing laboratories must maintain a work log clearly identifying each individual blood sample, EIA test result and VS Form 10-11, all of which must be preserved and available for inspection, for a period of time of not less than 24 months from the date of the EIA test.

2. Approved EIA testing laboratories must maintain on file and make available for inspection a copy of all VS 10-11 forms for a period of 24 months.

3. Approved EIA testing laboratories must at all times meet all the requirements of the United States Department of Agriculture, including those requirements currently contained in Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. Blood samples shall be periodically collected and approved EIA testing laboratories periodically inspected by a representative of the office of the State Veterinarian with or without prior notification.

5. Approved EIA testing laboratories shall immediately report by postage prepaid U.S. first class mail, telephone and telephonic facsimile all positive EIA test results to the State Veterinarian's office.

6. The State Veterinarian shall renew the approval of approved EIA testing laboratories in January of each year, provided the approved EIA testing laboratories maintain the standards required by this regulation and by the United States Department of Agriculture, currently contained in Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

7. Approved EIA testing laboratories must submit the white original of each VS Form 10-11 not less than monthly to the board.

8. Approved EIA testing laboratories may charge a fee to the testing veterinarian for conducting an EIA test.

D. All records of EIA tests conducted by an approved EIA testing laboratory shall contain the name of the approved EIA testing laboratory.

E. An approved EIA testing laboratory may have its approval canceled if the board finds that the approved laboratory has failed to meet the requirements of the EIA rules and regulations, has falsified its records or reports, or has failed to maintain the standards required by this regulation and by the United States Department of Agriculture, currently contained in Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

### §531. Equine Quarantined Holding Area

A. Any person desiring to operate an equine quarantined holding area must file a written application for approval of the facility to the board and shall have:

1. the equine quarantined holding facility and area inspected and approved by the board; and
2. agree, in writing, to comply with these EIA rules and regulations.

B. No other equine except equine consigned for slaughter shall be kept in an equine quarantined holding area and all equine held therein shall be S branded.

C. No equine shall be kept in the equine quarantined holding area longer than 60 days by which time the life of any such equine shall be ended.

D. No equine shall be released from an equine quarantined holding area except to be delivered direct to slaughter.

E. The equine quarantined holding area shall be an area where EIA positive equine, S branded equine or both are kept at least 440 yards from all other equine at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:948 (August 1997).

### §533. Other

A. The permit for operating an equine quarantined holding area upon approval shall be issued by the board and shall be subject to renewal annually upon such terms, conditions and requirements as the initial issuance or upon terms, conditions and requirements as are necessary to carry out the purposes of these EIA rules and regulations.

B. All equine that arrive at a public livestock market, that have had a blood sample drawn for an EIA test, been fitted with a permanent individual equine identification, and that have had their fee paid, may be moved by the purchaser to the purchaser's premises and, if so moved, shall be held by the purchaser under quarantine until the EIA test results are received.

C. For purposes of these EIA rules and regulations the date of the drawing of the blood sample used for an EIA test shall be deemed the date of the conduct of the EIA test sometimes referred to as the date of the EIA test.

D. No person may import into Louisiana any equine that is EIA positive.

E. Authorized buyers for approved slaughter establishments may request that any equine purchased by the approved slaughter establishment at a public livestock market be restricted to slaughter. Upon such request, an authorized agent of the board shall place an S brand on said equine and shall issue a VS Form 1-27 Permit before the said equine may leave the public livestock market.

F. No person shall conspire with another person or aid and abet another person in the violation of these EIA rules and regulations.

G. No person shall give false information, in any form, to the board or any representative thereof.

H. No equine under EIA quarantine or quarantine may be moved except with a VS form 1-27 permit.

I. No equine under EIA quarantine or quarantine may be sold other than directly to slaughter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:948 (August 1997).

### §535. Severability

If any part of these EIA rules and regulations is declared to be invalid for any reason by any court of competent jurisdiction, said declaration shall not affect the validity of any other part not so declared.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:949 (August 1997).

Bob Odom  
Commissioner

9708#040

## RULE

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

#### Sanitary Disposal of Dead Poultry (LAC 7:XXI.101 and 707)

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with provisions of the Administrative Procedure Act, the Department of Agriculture and Forestry, Livestock Sanitary Board amends the regulations governing the sanitary disposal of dead poultry. These rules comply with and are enabled by R.S. 3:2091 et seq.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

### Chapter 1. General Provisions

#### §101. Definitions

\*\*\*

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

\*\*\*

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

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

(June 1985), amended LR 12:289 (May 1986), LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997).

### Chapter 7. Poultry

#### §707. Sanitary Disposal of Dead Poultry

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

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

1. Disposal Pits. Disposal pits shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. Disposal pits that are currently in use will be allowed to operate until July 1, 1997.

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

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

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

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

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

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

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

C. In the event of the death of more than 1 percent of broilers or 0.5 percent of pullets or breeders over 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 20:550 (August 1994), LR 23:949 (August 1997).

Bob Odom  
Commissioner

9708#021

## RULE

### Department of Economic Development Racing Commission

#### Bleeder Medication (LAC 35:I.1507)

The Racing Commission amends LAC 35:I.1507, "Bleeder Medication," to make more horses accessible/eligible to race (change from 14th to 13th day under Subsection E.1 - entry cycle is 14 days).

## Title 35 HORSE RACING

### Part I. General Provisions

#### Chapter 15. Permitted Medication

##### §1507. Bleeder Medication

A. - E. ...

1. First time, after the expiration of the 13th day he is placed on the bleeder list.

2. - 6. ...

F. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:174 (May 1980), amended LR 9:547 (August 1983), amended by the Department of Economic Development, Racing Commission LR 15:7 (January 1989), LR 23:950 (August 1997).

Paul D. Burgess  
Executive Director

9708#023

## RULE

### Department of Economic Development Racing Commission

#### Qualifications for Jockey/Apprentice Jockey; Applicant for a License (LAC 46:XLI.701 and 703)

The Racing Commission amends LAC 46:XLI.701-703, "Qualifications for Jockeys/Apprentice Jockeys" and "Applicant for a License" to eliminate probationary rides/mounts and to prevent anyone from riding while not licensed as a jockey or apprentice jockey.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XLI. Horseracing Occupations

#### Chapter 7. Jockeys and Apprentice Jockeys

##### §701. Qualifications for Jockey/Apprentice Jockey

Any person desiring to participate in this state as a jockey and has never ridden in a race may be issued a jockey or apprentice jockey license upon the recommendation of the stewards granting permission to such person for the purpose of riding in two races to establish the qualifications and ability of such person for the license, provided, however:

1. such person has the qualifications of a permittee and has at least one year of experience with racing stables;

2. a licensed trainer certifies in writing to the stewards that such person has demonstrated sufficient horsemanship to be granted a jockey or apprentice jockey license;

3. the starter has schooled such person breaking from the starting gate with other horses and approves such person as capable of starting a horse properly from the starting gate in a race;

4. the stewards in their sole discretion are satisfied such person intends to become a licensed jockey, possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other riders in the race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:169.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:26 (January 1977), repromulgated LR 4:275 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 23:950 (August 1997).

##### §703. Applicant for a License

A. In addition to rules applicable to permittees, an applicant for a license as a jockey or apprentice jockey:

1. must have served at least one year with racing stables;

2. must provide an annual medical affidavit certifying such person is physically and mentally capable of performing the activities and duties of a licensed jockey or exercise person.

B. The stewards may require that any jockey or exercise person provide blood or urine samples for analysis after consultation with the track physician. Should a jockey or exercise person fail to comply with this requirement this person shall be suspended and referred to the commission to show cause for refusing to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150, R.S. 4:151 and R.S. 4:169.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:27 (January 1977), repromulgated LR 4:275 (August 1978), amended LR 10:593 (August 1984), amended by the Department of Economic Development, Racing Commission, LR 23:950 (August 1997).

Paul D. Burgess  
Executive Director

9708#020

**RULE**

**Department of Economic Development  
Racing Commission**

**Racing a Horse Under  
Investigation (LAC 35:I.1733)**

The Racing Commission amends LAC 35:I.1733, "Racing a Horse Under Investigation," to prevent a horse under investigation from running until after the stewards hearing is held.

**Title 35**

**HORSE RACING**

**Part I. General Provisions**

**Chapter 17. Corrupt and Prohibited Practices**

**§1733. Racing a Horse Under Investigation**

A. When a report as described in §1729 is received from the state chemist, the state steward shall immediately advise the trainer of his rights to have the "split" portion of the sample tested at his expense. The stable shall remain in good standing pending a ruling by the stewards, which shall not be made until the split portion of the original sample is confirmed positive by a laboratory chosen by the trainer from a list of referee laboratories. The horsemen's bookkeeper shall not release any purse monies until the results of the split portion of the sample are received by the commission. The horse allegedly to have been administered any such drug or substance shall not be allowed to enter in a race during the investigation and hearing.

B. - C. ...

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

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR 4:287 (August 1978), amended LR 7:262 (May 1981), LR 9:755 (November 1983), amended by the Department of Economic Development, Racing Commission, LR 18:367 (April 1992), LR 23:951 (August 1997).

Paul D. Burgess  
Executive Director

9708#019

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 1929—Accounting and  
Uniform Governmental Handbook**

In accordance with R.S. 49:950 et seq., the Board of Elementary and Secondary Education revised Bulletin 1929,

Louisiana Accounting and Uniform Governmental Handbook for Local and State School Boards, revised 1996. The handbook is referenced in the *Louisiana Administrative Code*, Title 28. The only revisions to Bulletin 1929 are program title (heading) changes as follows:

- 4533 IASA
- 4540 Improving America's Schools Act
- 4541 Title I
- 4542 Title I, Part C - Migrant
- 4543 Title VI
- 4544 Title IV
- 4546 Other IASA Programs
- 113 Therapists/Specialists/Counselors
- 1510 Improving America's Schools Act (IASA)
- 1520 Bilingual (Title VII)
- 2211 Regular Education
- 2212 Special Education Programs

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education**

**Chapter 9. Bulletins, Regulations, and State Plans**

**§912. Accounting and Reporting Procedures**

**Bulletin 1929**

1. Bulletin 1929, Revised Louisiana Accounting and Governmental Handbook for Local School Boards, revised 1996 is adopted.

2. The primary purpose of the Louisiana Accounting and Uniform Governmental Handbook for Local School Boards is to serve as a vehicle for program cost accounting at the local and state levels. This handbook attempts to produce comprehensive and compatible sets of standardized terminology for use in education management for financial reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and 17:92.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20:1097 (October 1994), amended LR 23:951 (August 1997).

Bulletin 1929 may be seen in its entirety in the Office of the State Register located on the Fifth Floor of the Capitol Annex, in the Office of Finance and Management in the State Department of Education, or in the Office of the Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Weegie Peabody  
Executive Director

9708#068

**RULE**

**Department of Environmental Quality  
Office of Waste Services  
Hazardous Waste Division**

**Marathon Oil Delisting Petition  
(LAC 33:V.105 and Chapter 49.Appendix E)  
(HW057S)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Division regulations, LAC 33:V.105.M and Chapter 49.Appendix E (HW057S).

Marathon Oil petitioned to exclude from the hazardous waste regulations (delist) the residual solids resulting from thermal desorption recycling of process solids generated at Marathon's refinery in Garyville, Louisiana. The department is required by the Administrative Procedure Act and the Louisiana hazardous waste regulations to process petitions for delisting by formal rulemaking.

This rule contains substantive changes to proposed rule HW057, to grant Marathon Oil's petition, specifically in LAC 33:V.Chapter 49.Appendix E.Table E1. The substantive changes affect the reference of constituents of concern for EPA hazardous waste numbers K048-K051, F037, and F038 identified in the first Paragraph of LAC 33:V.Chapter 49.Appendix E.Table E1 and the proposed delisting levels listed in conditions (3)(A) and (3)(B). Changes are also made to complete the listing of Marathon's optional testing requirements in conditions (4) and (4)(A) of the exclusion conditions.

As of July 1, 1997, the department officially changed the name of the Office of Solid and Hazardous Waste to the Office of Waste Services. This name change is being made at this time in the text of this rule in LAC 33:V.Chapter 49.Appendix E.Table E1.Condition (5).

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

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental  
Quality—Hazardous Waste**

**Chapter 1. General Provisions and Definitions**

**§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility of TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC

33:V.109. Those wastes which are excluded from regulation are found in this Section.

\* \* \*

[See Prior Text in A-M.1]

a. the petitioner must demonstrate to the satisfaction of the administrative authority that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or an acutely hazardous waste;

b. based on a complete application, the administrative authority must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of LAC 33:V.4903; and

c. facilities that have successfully petitioned are listed in LAC 33:V.Chapter 49.Appendix E.

\* \* \*

[See Prior Text in M.2-M.10]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997).

**Chapter 49. Lists of Hazardous Wastes**

**Appendix E. Wastes Excluded Under LAC 33:V.105.M**

Table E1 - Wastes Excluded	
Facility	Address
Marathon Oil Co.	Garyville, LA
Waste Description	
Residual solids generated from the thermal desorption treatment of the following wastes: EPA Hazardous Waste Number K048, dissolved air flotation (DAF) float; K049, slop oil emulsion solids; K050, heat exchanger bundle cleaning sludge; K051, American Petroleum Institute (API) separator sludge; F037, primary oil/water/solids separation sludge; and F038, secondary emulsified oil/water/solids separation sludge. The constituents of concern for K048-K051 wastes are listed as hexavalent chromium and lead (see LAC 33:V. 4901). The constituents of concern for F037 and F038 wastes are listed as hexavalent chromium, lead, benzene, benzo(a)prylene, and chrysene (see LAC 33:V.4901). Marathon must implement a testing program that meets the following conditions for the exclusion to be valid:	

**(1) - Testing:**

Sample collection and analyzes, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110. If the department judges the desorption process to be effective under the operating conditions used during the initial verification testing, Marathon may replace the testing required in condition (1)(A) with the testing required in condition (1)(B). Marathon must continue to test as specified in condition (1)(A) until and unless notified by the department in writing that testing in condition (1)(A) may be replaced by condition (1)(B), or that testing requirements may be reduced or terminated as described in conditions (1)(C) and (1)(D) to the extent directed by the department.

**(1)(A) - Initial Verification Testing:**

During at least the first four weekly operating periods of full-scale operation of the thermal desorption unit, Marathon must monitor the operating conditions of the thermal desorption unit to maintain a minimum residual solids temperature throughout the high temperature unit of 870°F. The residual solids must be analyzed as weekly composites. The weekly composites must be composed of a minimum of two representative grab samples from each operating day during each weekly period of operation. The samples must be analyzed for the constituents listed in condition (3) prior to disposal of the residual solids. Marathon must report the operational and analytical test data, including quality control information, obtained during this initial period, no later than 90 days after initiating full-scale processing.

**(1)(B) - Subsequent Verification Testing:**

Following notification of approval by the department, Marathon may substitute the following testing conditions for those in condition (1)(A). Marathon must continue to monitor operating conditions and analyze samples representative of each month of operation. The samples must be composed of eight representative samples from randomly chosen operating days during the four-week period of operation of each month. These monthly representative composite samples must be analyzed for the constituents listed in condition (3) prior to the disposal of the residual solids. Marathon may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.

**(1)(C) - Termination of Monthly Organic Testing:**

Marathon must continue to monitor unit operating conditions and perform testing as required under condition (1)(B), for the constituents listed in condition (3)(B), until the analyzes submitted under condition (1)(B) show a minimum of three consecutive monthly representative samples with levels of constituents significantly below delisting levels listed in condition (3)(B). Following notification of approval by the department, Marathon may terminate monthly testing for the organic constituents found in condition (3)(B). Following termination of monthly testing for organic constituents, Marathon must test a representative composite sample, composited over a one-week time period, for all constituents listed in condition (3)(B) on a quarterly basis. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the quarterly sample, Marathon must re-institute testing as required in condition (1)(B).

**(1)(D) - Termination of Monthly Inorganic Testing:**

Marathon must continue to monitor unit operating conditions and perform testing as required under condition (1)(B), for the constituents listed in condition (3)(A), until the analyzes submitted under condition (1)(B) show a minimum of three consecutive monthly representative samples with levels of constituents significantly below delisting levels listed in condition (3)(A). Following notification of approval by the department, Marathon may terminate monthly testing for the inorganic constituents found in condition (3)(A). Following termination of monthly testing for inorganic constituents, Marathon must test a representative composite sample, composited over a one-week time period, for all constituents listed in condition (3)(A) on a quarterly basis. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in the quarterly sample, Marathon must re-institute testing as required in condition (1)(B).

**(2) - Waste Holding and Handling:**

Marathon must store as hazardous wastes all residual solids generated until each batch has completed verification testing, as specified in conditions (1)(A) - (1)(D), and has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of residual solids are below all of the applicable levels set forth in condition (3), then the residual solids thereby become nonhazardous solid wastes and may be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any weekly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the residual solids generated during the corresponding period must be retreated to meet the delisting levels or managed and disposed of in accordance with subtitle C of RCRA.

**(3) - Delisting Levels:**

The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V.4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter):

**(3)(A) - Inorganic Constituents:**

Antimony - 0.22; Arsenic - 0.40; Barium - 72; Beryllium - 0.14; Cadmium - 0.18; Chromium - 3.6; Lead - 0.54; Mercury - 0.072; Nickel - 3.6; Selenium - 1.8; Silver - 7.2; Vanadium - 7.2.

**(3)(B) - Organic Constituents:**

Acenaphthene - 72; Benzene - 0.18; Benzo(a)anthracene - 0.050; Benzo(a)pyrene - 0.050; Benzo(b)fluoranthrene - 0.050; Bis(2-ethylhexyl)phthalate - 0.22; Chrysene - 0.05; Ethylbenzene - 25; Fluoranthrene - 72; Fluorene - 72; Napthalene - 36; Pyrene - 72; Toluene - 36.

**(4) - Changes in Operating Conditions:**

After completing the initial verification test period in condition (1)(A), if Marathon significantly changes the operating conditions specified in the petition, Marathon must notify the department in writing. Following receipt of written approval by the department, Marathon must re-institute the testing required in condition (1)(A) for a minimum of four weekly operating periods. Marathon must report unit operating conditions and test data required by condition (1)(A), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, Marathon may replace testing condition (1)(A) with (1)(B), or reduce or terminate testing requirements as described in conditions (1)(C) and (1)(D) to the extent directed by the department. Marathon must fulfill all other requirements in condition (1).

**(4)(A) - Processing Equipment:**

Marathon may elect to change thermal desorption processing equipment based on operational performance and economic considerations. In the event that Marathon changes operating equipment, i.e., generic thermal desorption units, Marathon must re-institute processing and initiate testing required in condition (1)(A) for a minimum of four weekly operating periods. Marathon must report unit operating conditions and test data required in condition (1)(A), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, Marathon may replace testing condition (1)(A) with (1)(B), or reduce or terminate testing requirements as described in conditions (1)(C) and (1)(D) to the extent directed by the department. Marathon must fulfill all other requirements in condition (1).

**(4)(B) - Batch Processing:**

Marathon may periodically elect to change operating conditions to accommodate batch processing of single-event waste generations. In the event that Marathon initiates batch processing and changes the operating conditions established under condition (1), Marathon must re-institute the testing required in condition (1)(A) during such batch processing events and monitor unit operating conditions and perform testing required by condition (1)(A), as appropriate. Following the completion of batch processing operations, Marathon must return to the operating conditions applicable prior to initiation of the batch processing and may return to the testing conditions that were applicable prior to the initiation of the batch processing activities.



(5) - Data Submittal:

Marathon must notify the department in writing at least two weeks prior to initiating condition (1)(A). The data obtained during condition (1)(A) must be submitted to the Assistant Secretary of the Office of Waste Services, LDEQ, 7290 Bluebonnet Road, Baton Rouge, LA 70810, within the specified 90 days. Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on-site for a minimum of five years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time will be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

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

In the event that any of this information is determined by the department, in its sole discretion, to be false, inaccurate, or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had been in effect."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997).

H. M. Strong  
Assistant Secretary

9708#066

**RULE**

**Department of Environmental Quality  
Office of Waste Services  
Solid Waste Division**

**Financial Assurance for Local Governments  
(LAC 33:VII.315 and 727)(SW024)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste Division regulations, LAC 33:VII.315 and 727 (SW024).

The existing regulations specify several mechanisms by which owners and operators of municipal solid waste landfills may provide financial assurance for closure and post-closure of these facilities. These regulations increase the flexibility available to local governments to make the required demonstration of financial assurance. This action is necessary to make the state regulations consistent with the federal Subtitle D regulations.

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

**Title 33  
ENVIRONMENTAL QUALITY  
Part VII. Solid Waste  
Subpart 1. Solid Waste**

**Chapter 3. Scope and Mandatory Provisions of the Program**

**§315. Mandatory Provisions**

All persons conducting activities regulated under these regulations shall comply with the following provisions:

\*\*\*

[See Prior Text in A-G.3.b]

4. Financial Assurance. Existing Types I, II, or III facilities that are owned or operated by local governments must comply with the financial assurance requirements in LAC 33:VII.727 no later than April 9, 1997. The administrative authority may waive the requirements of this Section for up to one year until April 9, 1998, for good cause if an owner or operator demonstrates that the April 9, 1997, effective date for the requirements of this Section does not provide sufficient time to comply with these requirements and that such a waiver will not adversely affect human health and the environment. All other facilities must comply by February 20, 1995.

\*\*\*

[See Prior Text in G.5-R.2]

AUTHORITY NOTE: Promulgated in accordance with R.S.30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997).

**Chapter 7. Solid Waste Standards**

**Subchapter E. Financial Assurance for All Processors and Disposers of Solid Waste**

**§727. Financial Assurance**

\*\*\*

[See Prior Text in A-A.2.i.ix.(l)]

**SOLID WASTE FACILITY CORPORATE GUARANTEE FOR LIABILITY COVERAGE CLOSURE, AND/OR POST-CLOSURE CARE**

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

Recitals

\*\*\*

[See Prior Text in 1-12]

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 3:VII.727.A.2.i.ix.(l), effective on the date first above written.

Effective date: \_\_\_\_\_

[Name of Guarantor]

[Authorized signature for guarantor]

[Typed name and title of person signing]

Thus sworn and signed before me this [date].



j. Local Government Financial Test. An owner or operator that satisfies the requirements of Subsection A.2.j.i-iii of this Section may demonstrate financial assurance up to the amount specified in Subsection A.2.j.iv of this Section.

i. Financial Component

(a). The owner or operator must satisfy the following conditions, as applicable:

(i). if the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of *Aaa*, *Aa*, *A*, or *Baa*, as issued by *Moody's*, or *AAA*, *AA*, *A*, or *BBB*, as issued by *Standard and Poor's*, on all such general obligation bonds; or

(ii). the owner or operator must satisfy the ratio of cash plus marketable securities to total expenditures being greater than or equal to 0.05 and the ratio of annual debt service to total expenditures less than or equal to 0.20 based on the owner or operator's most recent audited annual financial statement.

(b). The owner or operator must prepare its financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have its financial statements audited by an independent certified public accountant (or appropriate state agency).

(c). A local government is not eligible to assure its obligations under Subsection A.2.j of this Section if it:

(i). is currently in default on any outstanding general obligation bonds;

(ii). has any outstanding general obligation bonds rated lower than *Baa* as issued by *Moody's* or *BBB* as issued by *Standard and Poor's*;

(iii). operated at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years; or

(iv). receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate state agency) auditing its financial statement as required under Subsection A.2.j.i.(b) of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

(d). The following terms used in this Subsection are defined as follows:

(i). *Deficit*—total annual revenues minus total annual expenditures.

(ii). *Total Revenues*—revenues from all taxes and fees, but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

(iii). *Total Expenditures*—all expenditures, excluding capital outlays and debt repayment.

(iv). *Cash Plus Marketable Securities*—all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

(v). *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

ii. Public Notice Component. The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Section or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.709.E.6. For the first year the financial test is used to assure costs at a particular facility, the reference may be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with *Government Accounting Standards Board Statement 18* assures compliance with this public notice component.

iii. Recordkeeping and Reporting Requirements

(a). The local government owner or operator must place the following items in the facility's operating record:

(i). a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Subsection A.2.j.iv of this Section. It must provide evidence that the local government meets the conditions of Subsection A.2.j.i.(a), (b), and (c) of this Section, and certify that the local government meets the conditions of Subsection A.2.j.i.(a), (b), (c), ii, and iv of this Section;

(ii). the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years and unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

(iii). a report to the local government from the local government's independent certified public accountant or the appropriate state agency based on performing an agreed upon procedures engagement relative to the financial ratios required by Subsection A.2.j.i.(a)(ii) of this Section, if applicable, and the requirements of Subsection A.2.j.i.(b) and (c).(iii) and (iv) of this Section. The certified public accountant or state agency's report should state the procedures performed and the certified public accountant or state agency's findings; and

(iv). a copy of the comprehensive annual financial report (CAFR) used to comply with Subsection A.2.j.ii of this Section (certification that the requirements of *General Accounting Standards Board Statement 18* have been met).

(b). The items required in Subsection A.2.j.iii.(a) of this Section must be placed in the facility operating record as follows:

(i). in the case of closure and post-closure care, either before the effective date of this Section, which is April 9, 1997, or prior to the initial receipt of waste at the facility, whichever is later; or

(ii). in the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of LAC 33:VII.709.E.6.

(c). After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

(d). The local government owner or operator is no longer required to meet the requirements of Subsection A.2.j.iii of this Section when:

(i). the owner or operator substitutes alternate financial assurance, as specified in this Section; or

(ii). the owner or operator is released from the requirements of this Section in accordance with Subsection A.1 or 2 of this Section.

(e). A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the administrative authority that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

(f). The administrative authority, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Section.

iv. Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under Subsection A.2.j of this Section is determined as follows:

(a). if the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue;

(b). if the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR part 280, PCB storage facilities under 40 CFR part 761, and hazardous waste treatment, storage, and disposal facilities

under 40 CFR parts 264 and 265, or corresponding state programs, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under Subsection A.2.j of this Section. The total that may be assured must not exceed 43 percent of the local government's total annual revenue;

(c). the owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in Subsection A.2.j.iv.(a) and (b) of this Section.

k. Local Government Guarantee. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by Subsection A.1-2 of this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Subsection A.2.j of this Section, and must comply with the terms of a written guarantee.

i. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.709.E.6. The guarantee must provide that:

(a). if the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

(i). perform, or pay a third party to perform closure, post-closure care, and/or corrective action as required; or

(ii). establish a fully funded trust fund as specified in Subsection A.2.d of this Section in the name of the owner or operator;

(b). the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the administrative authority. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

(c). if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the administrative authority. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the administrative authority.

ii. Recordkeeping and Reporting

(a). The owner or operator must place a certified copy of the guarantee, along with the items required under Subsection A.2.j.iii of this Section, into the facility's operating record before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the

corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.709.E.6.

(b). The owner or operator is no longer required to maintain the items specified in Subsection A.2.k.ii of this Section when:

(i). the owner or operator substitutes alternate financial assurance as specified in this Section; or

(ii). the owner or operator is released from the requirements of this Section in accordance with Subsection A.1-2 of this Section.

(c). If a local government guarantor no longer meets the requirements of Subsection A.2.j of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the administrative authority. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

1. Use of Multiple Mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by Subsection A.1-2 of this Section, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment may not be combined with other instruments. The mechanisms must be as specified in Subsection A.2.d-i of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

m. Discounting. The administrative authority may allow discounting of closure and post-closure cost estimates in Subsection A.2 of this Section, and/or corrective action costs in Subsection A.1 of this Section up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

i. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer so stating;

ii. the state finds the facility in compliance with applicable and appropriate permit conditions;

iii. the administrative authority determines that the closure date is certain and the owner or operator certifies that there are no foreseeable factors that will change the estimate of site life; and

iv. discounted cost estimates must be adjusted annually to reflect inflation and years of remaining life.

[See Prior Text in B-B.2]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1316 (October 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997).

H. M. Strong  
Assistant Secretary

## RULE

### Department of Environmental Quality Office of Water Resources Water Pollution Control Division

Louisiana Pollutant Discharge  
Elimination System (LPDES) Program  
(LAC 33:IX.2341, 2443, 2531, 2533,  
2709 and Appendix N)(WP024\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Pollution Control Division regulations, (LAC 33:IX.2341, 2443, 2531, 2533, 2709, and Appendix N) (WP024\*).

This rule is identical to a federal law or regulation, 40 CFR part 136, 1996; 40 CFR chapter 1, subchapter N, parts 401-402, 404-471, 1996; 60 FR 40230, August 7, 1995 (parts 122 and 124); 60 FR 54764, October 25, 1995 (part 403 only); and 61 FR 15566, April 8, 1996 (part 403 only), which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division. No fiscal or economic impact will result from the rule. Therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4). This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

The rule establishes application procedures for phase II storm water discharges (point source discharges from commercial, retail, and institutional facilities and from municipal separate storm sewers systems serving populations less than 100,000). The dates for adoption by reference of 40 CFR part 136 and 40 CFR chapter 1, subchapter N, parts 401-402 and 404-471 are updated from 1994 to 1996. The rule also removes chromium in sewage sludge that is land applied from the list of regulated pollutants for which a removal credit may be available, and adds it to the list of unregulated pollutants that are eligible for a removal credit. Additionally, the rule includes new language and references to recent changes in land disposal restrictions as they apply to development of specific limits by POTWs and to local limits.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part IX. Water Quality

### Chapter 23. The Louisiana Pollutant Discharge

#### Elimination System (LPDES) Program

### Subchapter B. Permit Application and Special LPDES Program Requirements

#### §2341. Storm Water Discharges

##### A. Permit Requirement

1. Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain an LPDES permit except:

\* \* \*

[See Prior Text in A.1.a - A.8]

9. On and after October 1, 1994, dischargers composed entirely of storm water, that are not otherwise already required by Subsection A.1 of this Section to obtain a permit, shall be required to apply for and obtain a permit according to the application requirements in Subsection G of this Section. The state administrative authority may not require a permit for discharges of storm water as provided in Subsection A.2 of this Section or agricultural storm water runoff which is exempted from the definition of point source at LAC 33:IX.2313 and 2315.

\* \* \*

[See Prior Text in B - D.2.h]

E. Application Deadlines Under Subsection A.1 of this Section

\* \* \*

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

b. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant, or uncontrolled sanitary landfill, permit application requirements are contained in Subsection G of this Section.

\* \* \*

[See Prior Text in E.2 - F.5]

G. Application Requirements for Discharges Composed Entirely of Storm Water Under Clean Water Act Section 402(p)(6). Any operator of a point source required to obtain a permit under Subsection A.9 of this Section shall submit an application in accordance with the following requirements.

1. Application Deadlines. The operator shall submit an application in accordance with the following deadlines:

a. a discharger which the state administrative authority determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state shall apply for a permit to the state administrative authority within 180 days of receipt of notice, unless permission for a later date is granted by the state administrative authority (see LAC 33:IX.2443.C); or

b. all other dischargers shall apply to the state administrative authority no later than August 7, 2001.

2. Application Requirements. The operator shall submit an application in accordance with the following requirements, unless otherwise modified by the state administrative authority:

a. individual application for nonmunicipal discharges (the requirements contained in Subsection C.1 of this Section);

b. application requirements for municipal separate storm sewer discharges (the requirements contained in Subsection D of this Section);

c. notice of intent to be covered by a general permit issued by the state administrative authority (the requirements contained in LAC 33:IX.2345.B.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997).

## §2443. Permits Required on a Case-by-Case Basis

\* \* \*

[See Prior Text in A - B]

C. Prior to a case-by-case determination that an individual permit is required for a storm water discharge under this Section (see LAC 33:IX.2341.A.1.e, C.1.e, and G.1.a), the state administrative authority may require the discharger to submit a permit application or other information regarding the discharge under Section 308 of the CWA. In requiring such information, the state administrative authority shall notify the discharger in writing and shall send an application form with the notice. The discharger must apply for a permit under LAC 33:IX.2341.A.1.e and C.1.e within 60 days of notice or under LAC 33:IX.2341.G.1.a within 180 days of notice, unless permission for a later date is granted by the state administrative authority. The question whether the initial designation was proper will remain open for consideration during the public comment period under LAC 33:IX.2417 and in any subsequent hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997).

### Subchapter N. Adoption by Reference

The Louisiana Department of Environmental Quality adopts by reference the following federal requirements.

#### §2531. 40 CFR Part 136

Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 1996, in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997).

#### §2533. 40 CFR Subchapter N

Title 40 (Protection of the Environment) CFR, chapter 1, subchapter N (Effluent Guidelines and Standards), revised July 1, 1996, parts 401 and 402, and parts 404 - 471 in their entirety.

(Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in part 403 of subchapter N have been included in these regulations as Subchapter T.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997).

### Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution

#### §2709. National Pretreatment Standards: Prohibited Discharges

\* \* \*

[See Prior Text in A - B.8]

C. Development of Specific Limits by POTW

1. Each POTW developing a POTW pretreatment program pursuant to LAC 33:IX.2715 shall develop and enforce specific limits to implement the prohibitions listed in Subsections A.1 and B of this Section. Each POTW with an approved pretreatment program shall continue to develop

these limits as necessary and effectively enforce such limits. In addition, the POTW may establish such limits as necessary to address the land disposal restrictions at 40 CFR 268.40 (40 CFR, July 1, 1996, as amended in 61 FR 36419, July 9, 1996, and 61 FR 43927, August 26, 1996).

\*\*\*

[See Prior Text in C.2 - C.3]

D. Local Limits. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with Subsection C of this Section, including those standards established to address land disposal restrictions at 40 CFR 268.40 (40 CFR, July 1, 1996, as amended in 61 FR 36419, July 9, 1996, and 61 FR 43927, August 26, 1996), such limits shall be deemed pretreatment standards for the purposes of Section 307(d) of the Act.

\*\*\*

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997).

**Appendix N**

**Pollutants Eligible for a Removal Credit**

**I. Regulated Pollutants in 40 CFR Part 503 Eligible for a Removal Credit**

Pollutants	Use or Disposal Practice		
	LA	SD	I
Arsenic	X	X	X
Beryllium			X
Cadmium	X		X
Chromium		X	X
Copper	X		
Lead	X		X
Mercury	X		X
Molybdenum	X		
Nickel	X	X	X
Selenium	X		
Zinc	X		
Total hydrocarbons			X <sup>1</sup>

Key:

LA = land application

SD = surface disposal site without a liner and leachate collection system

I = firing of sewage sludge in a sewage sludge incinerator

<sup>1</sup> = The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons in subpart E in 40 CFR part 503 are met when sewage sludge is fired in a sewage sludge incinerator: Acrylonitrile, Aldrin/Dieldrin (total), Benzene, Benzidine, Benzo(a)pyrene, Bis(2-chloroethyl)ether, Bis(2-ethylhexyl)phthalate, Bromodichloromethane, Bromoethane, Bromoform, Carbon

tetrachloride, Chlordane, Chloroform, Chloromethane, DDD, DDE, DDT, Dibromochloromethane, Dibutyl phthalate, 1,2-dichloroethane, 1,1-dichloroethylene, 2,4-dichlorophenol, 1,3-dichloropropene, Diethyl phthalate, 2,4-dinitrophenol, 1,2-diphenylhydrazine, Di-n-butyl phthalate, Endosulfan, Endrin, Ethylbenzene, Heptachlor, Heptachlor epoxide, Hexachlorobutadiene, Alpha-hexachlorocyclohexane, Beta-hexachlorocyclohexane, Hexachlorocyclopentadiene, Hexachloroethane, Hydrogen cyanide, Isophorone, Lindane, Methylene chloride, Nitrobenzene, N-Nitrosodimethylamine, N-Nitrosodi-n-propylamine, Pentachlorophenol, Phenol, Polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzo-p-dioxin, 1,1,2,2-tetrachloroethane, Tetrachloroethylene, Toluene, Toxaphene, Trichloroethylene, 1,2,4-Trichlorobenzene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, and 2,4,6-Trichlorophenol.

**II. Additional Pollutants Eligible for a Removal Credit (milligrams per kilogram—dry weight basis)**

Pollutant	Use or Disposal Practice			
	LA	SD		I
		Un-lined <sup>1</sup>	Lined <sup>2</sup>	
Arsenic			<sup>3</sup> 100	
Aldrin/Dieldrin (Total)	2.7			
Benzene	<sup>3</sup> 16	140	3400	
Benzo(a)pyrene	15	<sup>3</sup> 100	<sup>3</sup> 100	
Bis(2-ethylhexyl)phthalate		<sup>3</sup> 100	100	
Cadmium		<sup>3</sup> 100	<sup>3</sup> 100	
Chlordane	86	<sup>3</sup> 100	<sup>3</sup> 100	
Chromium	4		<sup>3</sup> 100	
Copper		<sup>3</sup> 46	<sup>3</sup> 100	1400
DDD, DDE, DDT (Total)	1.2	2000	2000	
2,4 Dichlorophenoxy-acetic acid		7	7	
Fluoride	730			
Heptachlor	7.4			
Hexachlorobenzene	29			
Hexachlorobutadiene	600			
Iron	<sup>3</sup> 78			
Lead		<sup>3</sup> 100	<sup>3</sup> 100	
Lindane	84	<sup>3</sup> 28	<sup>3</sup> 28	
Malathion		0.63	0.63	
Mercury		<sup>3</sup> 100	<sup>3</sup> 100	
Molybdenum		40	40	
Nickel			<sup>3</sup> 100	
N-Nitrosodimethylamine	2.1	0.088	0.088	

Pentachlorophenol	30			
Phenol		82	82	
Polychlorinated biphenyls	4.6	<50	<50	
Selenium		4.8	4.8	4.8
Toxaphene	10	<sup>3</sup> 26	<sup>3</sup> 26	
Trichloroethylene	<sup>3</sup> 10	9500	<sup>3</sup> 10	
Zinc		4500	4500	4500

**Key:**

LA = land application

SD = surface disposal

I = incineration.

<sup>1</sup> = Sewage sludge unit without a liner and leachate collection system.

<sup>2</sup> = Sewage sludge unit with a liner and leachate collection system.

<sup>3</sup> = Value expressed in grams per kilogram—dry weight basis.

<sup>4</sup> = Value to be determined on a case-by-case basis.

Linda Korn Levy  
Assistant Secretary

9708#031

**RULE**

**Department of Health and Hospitals  
Board of Nursing**

**Licensure Eligibility and Educational  
Programs (LAC 46:XLVII.Chapters 33 and 35)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing, pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919, has amended Title 46:XLVII pertaining to the licensure eligibility requirements of the board.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**Chapter 33. General**

**Subchapter D. Registration and Licensure**

**§3349. Licensure by Examination**

\* \* \*

B. Requirements for eligibility to take the NCLEX-RN in Louisiana include:

1. evidence of good moral character;
2. successful completion of a nursing education program approved by the board, or successful completion of a nursing education program located in another country or approved by another board of nursing which program meets or exceeds the educational standards for nursing education programs in Louisiana;

3. recommendation by the director of the school of nursing;

4. completion of the application form to include criminal records check as directed by the executive director of the board;

5. remittance of the required fee;

6. freedom from violations of this Part or of LAC 46:XLVII.3354;

7. freedom from acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46:XLVII.3331; or if found guilty of committing such acts or omissions, the board finds, after investigation, that sufficient restitution, rehabilitation, and education have occurred; and

8. evidence of proficiency in the English language if a graduate of a nursing program offered in a foreign country. Graduates of foreign nursing schools (except Canadian schools) must produce evidence of successful completion of the Commission on Graduates of Foreign Nursing Schools (COGNFS) Examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 37:920 and 37:921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended LR 11:348 (April 1985), LR 13:254 (June 1987), LR 13:394 (July 1987), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1572 (December 1993), LR 21:574 (June 1995), LR 21:804 (August 1995), LR 23:960 (August 1997).

**§3351. Licensure by Endorsement**

Requirements for licensure by endorsement include:

1. evidence of good moral character;
2. evidence of initial licensure under the laws of another state, territory, or country;
3. evidence of a current licensure issued directly from the jurisdiction of last employment;
4. successful completion of a nursing education program approved by the board, or successful completion of a nursing education program located in another country or approved by another board of nursing which program meets or exceeds the educational standards for nursing education programs in Louisiana;
5. successful completion of a licensing examination which is comparable to that required for licensure by examination in Louisiana at the time of applicant's graduation;
6. freedom from violations of this Part or of LAC 46:XLVII.3354;
7. freedom from acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46:XLVII.3331; or if found guilty of committing such acts or omissions, the board finds, after investigation, that sufficient restitution, rehabilitation, and education have occurred;
8. remittance of the required fee;

9. completion of the required application for endorsement, including a criminal records check and the submission of required documents, within one year. School records submitted by the applicant or a third party will not be accepted; and

10. evidence of proficiency in the English language if a graduate of a nursing program offered in a foreign country.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1572 (December 1993), LR 21:804 (August 1995), LR 23:960 (August 1997).

### §3353. Temporary Permits

\* \* \*

B. A 90-day permit to practice as a registered nurse may be issued to any nurse currently registered in another state, territory, or country, pending receipt of endorsement credentials providing that said nurse has filed a complete application for licensure by endorsement and provided that:

\* \* \*

3. There is no evidence of violation of this Part or of LAC 46:XLVII.3354. If information relative to violations of this Part or of LAC 46:XLVII.3354, or an investigation of same, is received during the 90-day permit interval, the permit shall be recalled and licensure denied or delayed in accordance with LAC 46:XLVII.3354.

4. There is no allegation of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46:XLVII.3331. If information relative to such acts or omissions, is received during the 90-day permit interval, the permit shall be recalled and licensure denied until such time as the person requests to appear before the board to show cause as to why licensure should not be denied.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1573 (December 1993), LR 23:961 (August 1997).

### §3354. Denial or Delay of Licensure, Reinstatement, or the Right to Practice Nursing as a Student Nurse

A. Denial of Licensure, Reinstatement, or the Right to Practice Nursing as a Student Nurse

1. Applicants for licensure, reinstatement, or the right to practice as a student nurse shall be denied approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course, if the applicant:

a. knowingly falsifies any documents submitted to the board or the nursing school; or

b. has pled guilty, nolo contendere, been convicted of, or committed a:

i. "crime of violence" as defined in R.S. 14:2(13), or any of the following crimes: first degree feticide, second degree feticide, aggravated assault with a firearm, stalking, false imprisonment-offender armed with a dangerous weapon, incest, aggravated incest, molestation of a juvenile, sexual battery of the infirm; or

ii. crime which involves distribution of drugs. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar

programs shall not negate or diminish the requirements of this Section.

2. Applicants who are denied licensure, reinstatement, or the right to practice nursing as a student nurse shall not be eligible to submit a new application, unless the grounds for denial are falsification of records and until the following conditions are met:

a. a minimum of five years has passed since the denial was issued;

b. the applicant presents evidence that the cause for the denial no longer exists; and

c. a hearing or conference is held before the board to review the evidence, to afford the applicant the opportunity to prove that the cause for the denial no longer exists, and to provide an opportunity for the board to evaluate changes in the person or conditions.

B. Delay of Licensure, Reinstatement, or the Right to Practice Nursing as a Student Nurse

1. Applicants for licensure, reinstatement, and for practice as a student nurse shall be delayed approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course, if the applicant:

a. has any pending disciplinary action or any restrictions of any form by any licensing/certifying board in any state; or

b. has a pending criminal charge that involves any violence or danger to another person, or involves a crime which constitutes a threat to patient care; or

c. has pled guilty, nolo contendere, been convicted of or committed a crime that reflects on the ability of the person to practice nursing safely, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole. If the crime is a "crime of violence" as defined in R.S. 14:2(13) or any of the following crimes: first degree feticide, second degree feticide, aggravated assault with a firearm, stalking, false imprisonment-offender armed with a dangerous weapon, incest, aggravated incest, molestation of a juvenile, sexual battery of the infirm, the applicant shall be denied.

For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

2. Applicants who are delayed licensure, reinstatement, or the right to practice nursing as a student nurse shall not be eligible to submit a new application until the following conditions are met:

a. the applicant presents sufficient evidence that the cause for the delay no longer exists; and

b. a hearing or conference is held before the board to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay no longer exists, and to provide an opportunity for the board to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 23:961 (August 1997).



**§3355. Renewal of License**

\*\*\*

C. An inactive or lapsed license may be reinstated by submitting a completed application, paying the required fee, and meeting all other relevant requirements, provided there is no evidence of violation of this Part or of LAC 46:XLVII.3354, or no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 or LAC 46:XLVII.3331. Any person practicing as a registered nurse during the time one's license is inactive or has lapsed is considered an illegal practitioner and is subject to the penalties provided for violation of this Part and will not be reinstated until the disciplinary action is resolved.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 16:1061 (December 1990), LR 23:962 August (1997).

**Chapter 35. Nursing Educational Programs**

**§3517. Student Selection and Guidance**

\*\*\*

B. Qualified applicants shall be considered for admission without discrimination and in compliance with applicable state and federal laws and regulations.

\*\*\*

I. Students shall not be eligible to enroll in a clinical nursing course based on evidence of grounds for denial of licensure in accordance with R.S. 37:921, LAC 46:XLVII.3331 and LAC 46:XLVII.3354.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 23:962 (August 1997).

**§3536. Approval for Nursing Education Programs Whose Administrative Control is Located in Another State Offering Programs, Courses, and/or Clinical Experience in Louisiana**

\*\*\*

B. Course/Clinical Offerings. Out-of-state nursing programs offering courses/clinical experiences in Louisiana are expected to maintain the standards required of Louisiana-based programs. The board reserves the right to withdraw the approval of such offerings if adherence to these standards is not maintained. To receive approval by the Board of Nursing for course/clinical offerings in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met:

\*\*\*

**3. Students**

a. ...

b. Students shall not be eligible to enroll in a clinical nursing course based on evidence of grounds for denial of licensure in accordance with R.S. 37:921, LAC 46:XLVII.3331 and LAC 46:XLVII.3354.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), amended LR 23:962 (August 1997).

Barbara L. Morvant  
Executive Director

9708#035

**RULE**

**Department of Health and Hospitals  
Board of Nursing**

Officers of the Board; Registration and Licensure; and License Renewal (LAC 46:XLVII.3303, 3347 and 3355)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919, has amended LAC 46:XLVII pertaining to the renewal dates of the board.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**Chapter 33. General**

**Subchapter A. Board of Nursing**

**§3303. Officers of the Board**

A. The officers of the board shall consist of a president and a vice president.

\*\*\*

D. The duties of the officers shall be as follows:

\*\*\*

2. The vice president shall prepare the annual budget, review financial records periodically and present a report at each regular meeting of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:914 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:73 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 23:962 (August 1997).

**Subchapter D. Registration and Licensure**

**§3347. Registration and Licensure**

\*\*\*

C. The board shall issue a certificate of registration, carrying a permanent registration number, designating the date of issuance, the authorization to practice as a registered nurse in Louisiana, and signed by the president and the vice president of the board, to all applicants who qualify for initial licensure.

D. The executive director, or a designee of the board, shall record the registration of the permanent records of the board and shall issue a license to practice, valid from the date of issuance until January 31. For individuals registered between January 1 and January 31, the board shall issue a license to practice, valid from the date of issuance until January 31 of the next year.



AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:920.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 23:962 (August 1997).

**§3355. Renewal of License**

A. Every person holding a license to practice as a registered nurse, and intending to practice during the ensuing year, shall renew their license annually prior to the expiration of their license. The board shall mail an application for renewal of a license to every person who holds a current license. The licensee shall complete the renewal form and return to the board before January 1. Upon receipt of the application and the renewal fee as required under LAC 46:XLVII.3361, the board shall verify the accuracy of the application and issue to the licensee a license of renewal for the current year beginning February 1 and expiring January 31. Incomplete applications will be returned. Applications postmarked after December 31 will be considered late and subject to the fee as required under LAC 46:XLVII.3361 for late renewals. Failure to renew a license prior to expiration subjects the individual to forfeiture of the right to practice.

1. Change of Address. Notify the office of the board in writing within 30 days if a change of address has occurred.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:920.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 16:1061 (December 1990), amended LR 23:963 (August 1997).

Barbara L. Morvant  
Executive Director

9708#034

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Certified Animal Euthanasia  
Technicians (LAC 46:LXXXV.1201)**

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1201 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1558 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 12. Certified Animal Euthanasia Technicians**

**§1201. Applications for Certificates of Approval**

A. ...

B. In addition to the application form, the board may require that the applicant furnish all of the following:

1. - 3. ...

4. certified scores on any previous examinations in animal euthanasia and/or proof of successful completion of a board-approved course in animal euthanasia within a three-year period;

5. - 9. ...

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:963 (August 1997).

Charles B. Mann  
Executive Director

9708#050

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Fees (LAC 46:LXXXV.501 and 503)**

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.Chapter 5 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 5. Fees**

**§501. Fees**

The board hereby adopts and establishes the following fees:

**LICENSES**

Annual renewal-active license	\$125
Annual renewal-inactive license	\$ 75
Duplicate license	\$ 25
Original license fee	\$100
Temporary license	\$100
Exams:	
Clinical Competency Test (CCT)	\$190
National Board Examination (NBE)	\$215
State Board Examination	\$175

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:963 (August 1997).

**§503. Exemption of Fee**

A. The board may exempt a veterinarian licensed in the state of Louisiana from the annual license renewal fee if:

1. - 2. ...

3. Repeal.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 10:208 (March 1984), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:963 (August 1997).

Charles B. Mann  
Executive Director

9708#045

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Licensure Procedures  
(LAC 46:LXXXV.301-307)**

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.Chapter 3 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 3. Licensure Procedures**

**§301. Applications for Licensure**

A. ...

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

1. - 6. ...

7. three letters of recommendation from licensed veterinarians or other professionals, none of whom may be members of the applicant's family or currently enrolled in the same veterinary school curriculum as the applicant. Said references are to be furnished for the purpose of determining the applicant's professional capabilities and ethical standards;

8. prior to licensure in Louisiana, a foreign veterinary school graduate must provide a copy of the "Educational Commission for Foreign Veterinary Graduates" or "ECFVG" certificate to the board.

C. ...

D. The board may reject any applications which do not contain full and complete answers and/or information as requested, and may reject any application, or take action against the license of any licensee, if any of the information furnished in the application is fabricated, false, misleading or incorrect.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 10:464 (June 1984), amended by the Department of Health and Hospitals, Board of Veterinary Medicine,

LR 16:224 (March 1990), LR 19:343 (March 1993), LR 23:964 (August 1997).

**§302. Renewals**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), repealed LR 23:964 (August 1997).

**§303. Examinations**

**A. Examinations Required for Licensure**

1. The board requires that all applicants for licensure to practice veterinary medicine in the state of Louisiana shall pass the national examination in addition to any and all state examinations (herein defined as such written examination, oral interviews and/or practical demonstrations as the board may request or require).

2. The Board of Veterinary Medicine shall annually adopt national examination(s) as the board deems appropriate. Said examinations are hereafter referred to as the "national examination(s)."

3. All applications, correspondence, and examinations shall be in the English language.

4. A candidate for examination must be:

- a. a graduate of an AVMA accredited school or college of veterinary medicine; or
- b. currently enrolled in the ECFVG program or certified by the ECFVG program; or
- c. currently enrolled in the fourth year of veterinary school.

**B. National Examinations**

1. All applicants for licensure must take and successfully pass the national examinations as a condition for licensure in Louisiana.

2. The board hereby adopts the passing scores on the national examinations set by the NBEC and adopted or endorsed by the AAVSB.

3. Scores shall be valid for a period of five years from the date of the examination administration.

4. The requirement for taking the national examinations may be waived when an applicant:

- a. holds a currently valid license in good standing in another state, district, or territory of the United States; and
- b. has been employed as a licensed veterinarian in a full-time private practice or its equivalent as determined by a majority vote of the board for the five years immediately preceding his application.

5. An applicant who cannot demonstrate eligibility for a waiver of the national examinations will be required to provide official copies of his scores to the board. Said scores shall be no more than five years old.

6. An applicant whose scores are greater than five years old and who cannot demonstrate eligibility for a waiver of the national examinations must satisfy one of the following options:

- a. applicant may retake and successfully pass the national examinations; or
- b. applicant may apply to the board for a determination of experience and education deemed to be equivalent to the requirements for eligibility of waiver of these examinations.

**C. State Examination**

1. A state board examination shall be required of all applicants for licensure in Louisiana. No person shall obtain any license to practice veterinary medicine without successfully passing the Louisiana state board examination. No waivers of the state board examination shall be granted.

2. The state board examination shall consist of no fewer than 25 questions taken from the veterinary practice act statutes and rules promulgated by the board. This test may also contain items taken from statutes and/or regulations promulgated by the other state and federal agencies deemed by the board to be pertinent to the practice of veterinary medicine.

3. Prior to taking the examination, applicants will be provided with copies of all rules, regulations, and statutes from which items on the RPC examination may be taken.

4. The state board examination may be prepared, administered and graded by the members of the Board of Veterinary Medicine or may be prepared, administered and/or graded, in whole or in part, by any person, firm, corporation or other entity selected, requested or designated to do so by the Board of Veterinary Medicine.

5. The state board examination shall be administered monthly or as often as is practicable and necessary. To be eligible to sit for the state board, an applicant shall demonstrate that he is a graduate of an accredited school of veterinary medicine or eligible for graduation within not less than 60 days of the date that the examination is administered.

6. Scores shall be valid for a period of five years from the date of the examination administration.

D. Any applicant who fails to take and/or pass all required examinations in a continuous five-year period shall be required to retake all examinations whose scores are greater than five years old, unless the applicant can demonstrate eligibility for a waiver as described in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:344 (March 1993), LR 19:1327 (October 1993), LR 23:964 (August 1997).

**§305. Renewals**

A. Pursuant to R.S. 37:1524 and 37:1525, all licenses must be renewed annually. Failure to renew a license shall be considered a violation of the rules of professional conduct. Licenses which are not renewed within 60 days of the deadline for renewal will be suspended or revoked by majority vote of the board at the next available board meeting.

B. Persons failing to renew their license by more than 60 days after the annual deadline will receive one notification via certified mail prior to a suspension of the license. Such notice will advise of actions to be taken by the board in conjunction with the failure to renew. These actions may include the imposition of a late fee and/or a fine for reinstatement of the license. The board may also elect to publish, in its own newsletter and/or publications of the LVMA, and distribute to

other parties, the names of such persons holding suspended or revoked licenses. The distribution of this list may include, but is not limited to, the Office of State Narcotics, the federal Drug Enforcement Administration, and Food and Drug Administration, drug supply wholesalers, veterinary supply wholesalers, Board of Pharmacy, and the LVMA.

C. It is the duty of the licensee to maintain a current address with the office of the Board of Veterinary Medicine and to notify the board's office if an annual re-registration form is not received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), amended LR 23:965 (August 1997).

**§307. Temporary Permits**

A. The board may issue temporary licenses when the following conditions are satisfied:

1. Applicant must make full application for licensure; such application is to include:

a. payment of fee to enroll in the next available state board examination; and

b. transfer of scores on the national examinations which meet or exceed the passing score for Louisiana for the specific examination date and payment of fee for those transfers, except where applicant meets the criteria for eligibility of waiver as found in §303.B; and

c. payment of fee for temporary licensure.

2. - 5. ...

B. - D. ...

E. No person who has failed the state board examination may receive a temporary license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:48 (January 1993), LR 23:965 (August 1997).

Charles B. Mann  
Executive Director

9708#044

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Operations of the Board  
(LAC 46:LXXXV.101-106)**

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.Chapter 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 1. Operations of the Board of Veterinary Medicine**

**§101. Information, Agency Office, Request for Rules or Action**

A. **Principal Office.** The board shall maintain its principal office in Baton Rouge, Louisiana, where the records of the board shall be maintained for public inspection by any interested parties during regular office hours.

B. **Requests for Copies of Public Records.** Persons who wish to receive notices of meetings, copies of meeting minutes, copies of the notice of intent for a rule change, or any other public information from the board office must submit a written request. The board shall charge the fee set by the Division of Administration for providing copies and mailing documents so requested. Payment may be requested in advance of mailing or otherwise providing documents. Any person indebted to the board may be denied further services until such time as the indebtedness has been cleared. The board may provide copies free of charge to other governmental agencies or when the total charges are less than \$1.

C. **Requests to Review Public Records.** Persons who wish to obtain information concerning board activities or to review any public documents on file at the offices of the board, may do so at the principal office of the board during regular business hours. Notices of board meetings, proposed rules, and all other information concerning the activities, functions and actions of the board which are public records shall be available for public inspection at the principal office of the board during regular business hours.

D. **Submitting Information to the Board.** Persons who wish to request adoption, amendment or repeal of rules, who seek to institute disciplinary proceedings, or who have other business of whatever kind or character before the board may do so at the principal office of the board during regular business hours.

E. **Filing a Complaint.** Persons who wish to file a complaint against a licensee of the board or against other persons over whom the board has jurisdiction shall submit a written complaint which is signed and notarized. Complaints must be filed in accordance with all time limitations established by R.S. 37:21.

F. **Reports to Licensees.** The board shall provide a regular report, which shall include but not be limited to: notices of changes in policy, procedure, regulations, and/or statutes by the board or other governmental entities and dispositions of disciplinary cases. Other information deemed by the board to be pertinent in its mission of protecting the public health, safety, and welfare in the practice of veterinary medicine shall be printed and mailed to all licensees and other interested parties who have requested in writing to receive this report. The report shall be published not less than one time per fiscal year and may be published more frequently as the president of the board shall order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:1328 (October 1993), LR 23:966 (August 1997).

**§103. Meetings**

A. The annual meeting of the Board of Veterinary Medicine shall be held during the last quarter of the fiscal year in April, May or June of each year, at a time and place to be announced by posting public notice of the time and place of said meeting 24 hours in advance of such meeting at the principal office of the Board of Veterinary Medicine in Baton Rouge, Louisiana.

B. Additional meetings of the board may be called by the president or by any three members of the board and may be announced by posting notice of the date, time and place of such meeting at least 24 hours in advance thereof, at the principal office of the board located in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:65 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:222 (March 1990), LR 19:345 (March 1993), LR 20:1380 (December 1994), LR 23:966 (August 1997).

**§105. Appeals and Review**

A. **Applicants for Licensure or Examination.** Any applicant desiring to review his or her (hereinafter in this title, the masculine pronouns "he," "him," and "his" shall be deemed to include the feminine pronouns "she," "her," and "hers") national examination and/or the master answer sheet and/or the examination questions shall make arrangements with the national examination service vendor and/or any person, firm, corporation or entity charged by the Board of Veterinary Medicine with the preparation, grading and/or administration of the national examination(s). The Board of Veterinary Medicine shall not provide to applicants:

1. reviews of the questions contained on the national examination;
2. the answers to the questions contained on the national examination; or
3. any applicant's score on the national examination.

B. **Persons Aggrieved by a Decision of the Board**

1. Any person aggrieved by a decision of the board, other than a person against whom disciplinary proceedings have been brought pursuant to R.S. 37:1526 and/or 37:1531, may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. Such petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

3. Upon receipt of such petition, the board may then proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such action as it deems expedient, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter; but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any

offerings, testimony or evidence unless so required by statute or other rules or regulations of the board.

C. Licensee Against Whom Disciplinary Proceedings Have Been Brought. Any person against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1526 and/or 37:1531, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §106.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:65 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), LR 23:966 (August 1997).

### **§106. Complaint Resolution and Disciplinary Procedures**

#### **A. Hearings and Informal Dispositions**

1. The board may call an administrative public hearing for the purpose of determining whether a respondent has violated any portion of the Veterinary Practice Act (R.S. 37:1511 et seq.) or rules pursuant to R.S. 37:1526. Notice of such hearing and subpoenas issued by the board pursuant to such hearing may be delivered by certified, return-receipt-requested mail or by hand-delivery.

2. As provided by the Administrative Procedure Act, R.S. 49:956, the respondent may waive his right to a public hearing and resolve any complaint case by means of informal disposition. The board will offer, via certified, return-receipt-requested mail, this option to a respondent against whom it has been determined that a valid complaint has been received and where, in the opinion of the board, a public hearing is not necessary to effectively and judiciously render a disciplinary action.

3. The respondent may be required to appear before the board, or a duly authorized committee appointed by the board, to discuss the charges and accept or decline disciplinary measures and fines which the committee recommends to the board. Such appearance may be required as part of an informal disposition and/or at an administrative public hearing.

#### **B. Appointing a Complaint Review Committee**

1. As provided by R.S. 37:1518, the board may appoint a committee of persons to conduct investigations for the purpose of discovering violations of the statutes and rules governing the practice of veterinary medicine. Any committee so appointed shall be chaired by a member of the board who will select two other practicing veterinarians to serve as committee members.

2. The functions of the complaint review committee shall be to review all complaints to determine whether or not the board has jurisdiction over the actions described in the complaint, and, upon finding that jurisdiction exists, to:

- a. conduct investigations into the matters described in the complaint; and
- b. to determine the specific statute(s) and/or regulation(s) which appear to have been violated; and
- c. to assess the severity of the violation(s) and to make a recommendation for disciplinary action(s) to be imposed by the board.

3. The appointed members of the complaint review committee shall remain anonymous.

#### **C. Presenting the Findings and Recommendations to the Board**

1. The findings and recommendations of the complaint review committee shall be presented to the respondent in an informal disposition meeting offered as an alternative to an administrative public hearing. The informal disposition may be accomplished by certified, return-receipt-requested mailings or by teleconference at the discretion of the committee chairperson.

2. Any respondent who wishes to accept the findings and recommendations of the complaint review committee and allow the board to ratify those actions without benefit of an administrative public hearing must verify this decision in writing. The respondent shall agree that the board may review the findings and recommendations of the complaint review committee. The respondent shall agree that the board shall not become tainted or prejudiced by its review of the complaint committee's findings and recommendations in the event an administrative hearing is held or in the event an appeal is taken.

3. Upon hearing the findings and recommendations of the complaint review committee, the members of the board may choose to:

- a. accept and ratify the findings, in which case the matter will be considered resolved and a consent order will be drawn up for execution by all parties; or
- b. amend the findings and recommendations of the complaint review committee, in which case the matter shall be returned to the informal disposition process; or
- c. reject the findings and recommendations of the complaint review committee, in which case the board shall indicate the areas in which additional investigation and/or information is required to be able to render a decision as to the merits of the case.

4. At least three members of the board must reach a consensus to render discipline or close a matter brought before it.

5. The member of the board serving as the chairperson of the complaint review committee shall not vote in the matters described in Subsection C.3 and the board president shall vote. However, in the event the vote is tied, the chairperson may vote.

#### **D. The Appeal Process**

1. Except in situations in which the respondent has waived his right to a public hearing and/or to an appeal, the respondent has the right to appeal the decision of the board in accordance with §105.C, whether such decision is rendered by judgment via an administrative public hearing or by decision at an informal disposition meeting. In the aforementioned cases, the 30-day period for making an appeal shall begin on the date recorded on the return-receipt card for the certified mailing of the final judgment or consent order. In the case of refusal to accept a certified letter, the 30-day appeal period shall begin on the date of the mailing of the document.

2. Any other person aggrieved by the decision of the board in a complaint proceeding may appeal that decision in accordance with §105.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), amended LR 23:967 (August 1997).

Charles B. Mann  
Executive Director

9708#016

## RULE

### Department of Health and Hospitals Board of Veterinary Medicine

#### Preceptorship Program (LAC 46:LXXXV.Chapter 11)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.Chapter 11 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 11. Preceptorship Program

##### §1103. Definitions

*Fourth Year*—the final year of study for a Doctor of Veterinary Medicine degree, or equivalent, at an accredited school of veterinary medicine.

\* \* \*

*Preceptorship Program*—a preceptorship program approved by the Louisiana Board of Veterinary Medicine which involves no less than five nor more than 10 weeks.

1. Until April 30, 1998, the program shall consist of not less than five weeks in training in an approved private clinical practice situation under the direct supervision of a practicing licensed veterinarian.

2. On or after May 1, 1998, the program shall consist of not less than eight calendar weeks in training in an approved private clinical practice situation under the direct supervision of a practicing licensed veterinarian.

3. For students graduating in calendar year 1999 and 2000, the program must be performed after May of the third year of study.

4. For students graduating in 2001 and thereafter, the program must be performed after January of the fourth year of study.

5. Changes in the program that are effective on or after May 1, 1998, shall not apply to students graduating in calendar years prior to 1999.

\* \* \*

*Third Year*—the year preceding the final year of study for a Doctor of Veterinary Medicine degree, or equivalent, at an accredited school of veterinary medicine.

*Week in Training*—a week in training shall consist of no more than 40 hours earned during no more than six days within a calendar week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:968 (August 1997).

##### §1119. Preceptorship Attendance Log

Each preceptee shall be required to keep a daily log of his attendance for the duration of the program, and the form shall be reviewed and signed by the preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March 1990), amended LR 23:968 (August 1997).

##### §1121. Evaluations

At the conclusion of the preceptorship program, the preceptor and preceptee shall complete an evaluation form provided by the board and return the completed form to the board office within 10 days of completion of the preceptorship program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March 1990), amended LR 23:968 (August 1997).

Charles B. Mann  
Executive Director

9708#049

## RULE

### Department of Health and Hospitals Board of Veterinary Medicine

#### Professional Conduct—Specialty List (LAC 46:LXXXV.1063)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1063 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 10. Professional Conduct

##### §1063. Specialty List

A. ...

B. A veterinarian may not use the term *specialist* for an area of practice for which there is not AVMA recognized certification.

C. A diplomate of the American Board of Veterinary Practitioners can claim only a specialty for the class of animals in which he specializes, not for medical specialties unless he is board-certified in those medical specialties.

D. The term *specialty* or *specialists* is not permitted to be used in the name of a veterinary hospital unless all veterinary staff are board-certified specialists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:968 (August 1997).

Charles B. Mann  
Executive Director

9708#048

## RULE

### Department of Health and Hospitals Board of Veterinary Medicine

#### Veterinary Practice (LAC 46:LXXXV.Chapter 7)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.Chapter 7 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq. and adopts a rule relative to alternative medicine, §712.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 7. Veterinary Practice

##### §701. Record Keeping

A. It shall be considered unprofessional conduct within the meaning of R.S. 37:1526(14) for a licensed veterinarian to keep improper records. The purpose of these regulations is to produce a record such that a veterinary peer can, by using said records, gain a full understanding of the findings, diagnostic process, reasons for treatment protocol, and applicability of surgical procedures. Records shall be legible, and established and maintained as follows:

1. - 2. ...

B. Patient records shall be maintained for a period of five years and are the responsibility and property of the veterinarian. The veterinarian shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client. The veterinarian shall provide any and all records as requested by the board to the board. Failure to do so shall be considered unprofessional conduct.

C. Copies or synopsis of patient records shall be provided to the client or the client's authorized representative upon request of the client. A reasonable charge for copying and providing patient records may be required by the veterinarian. Refusal to provide such records upon written request by the client shall be considered a violation of the rules of professional conduct within the meaning of R.S. 37:1526. A synopsis record shall include at a minimum the following information: name or identification of animal or herd, name of owner, all dates of treatment, and the complaint, any abnormal findings, diagnosis, and therapy, including the amount administered and the method of administration of all drugs, chemicals and medications, and surgical procedures performed for each date of treatment.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 16:225 (March 1990), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:969 (August 1997).

##### §707. Accepted Livestock Management Practices

The following are hereby declared to be accepted livestock management practices as provided by 37:1514(3):

1. the practice of Artificial Insemination (A.I.) and the nonsurgical impregnation (with frozen embryo) of farm animals to include that performed for a customer service fee or that on individually-owned animals;

2. the procedure involving the collection, processing, and freezing of semen from privately owned animals carried out by NAAB-CSS approved artificial insemination business organizations;

3. the carrying out of schools and short courses, teaching A.I. Techniques to cattlemen, prospective A.I. technicians, and university agricultural students by qualified university faculty, cooperative extension service specialists, and qualified employees of NAAB-CSS approved A.I. organizations;

4. performing the operation of male castration, docking, or earmarking of animals raised for human consumption;

5. performing the operation of dehorning cattle;

6. aiding in the nonsurgical birth process in livestock management;

7. treating animals for disease prevention with a nonprescription medicine or vaccine;

8. branding for identification of animals;

9. reciprocal aid of neighbors in performing accepted livestock management practices without compensation;

10. shoeing horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 9:213 (April 1983), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:969 (August 1997).

##### §709. Surgical Services

A. - B. ...

C. Hot and cold running water should be readily accessible to the surgery room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1330 (October 1993), amended LR 23:969 (August 1997).

##### §711. Definitions for Classification of Practice Facilities

In order to be classified as, advertised as, or use the word "hospital" as defined in §700 in the name of a veterinary facility, all of the following minimum standards and requirements shall be met:

1. - 4. ...

5. Facility shall have access to a diagnostic x-ray machine and development equipment area kept in compliance with state and federal regulations.

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1331 (October 1993), amended LR 23:969 (August 1997).

#### §712. Alternative Medicine

Alternative therapies, including, but not limited to, ultrasonography, magnetic field therapy, holistic medicine, homeopathy, chiropractic treatment, acupuncture, and laser therapy shall be performed only by a licensed veterinarian or under the direct supervision of a licensed veterinarian, except that no unlicensed person may perform surgery, diagnosis, prognosis, or prescribe drugs, medicines, or appliances as stated in §702.A.2 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:970 (August 1997).

Charles B. Mann  
Executive Director

9708#047

### RULE

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

#### Nursing Facility Services—Standards for Payment (LAC 50:II.Chapter 101)

The Department of Health and Hospitals, Bureau of Health Services Financing amends 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 rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Medical Assistance Program

#### Subpart 3. Standards for Payment

#### Chapter 101. Standards for Payment for Nursing Facilities

#### Subchapter A. Abbreviations and Definitions

#### §10101. Definitions

\*\*\*

*Assistant Director of Nursing (ADON)*—a licensed nurse responsible for providing assistance to the Director of Nursing (DON) in a nursing facility with a licensed bed capacity of 101 or more.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23:970 (August 1997).

#### §10121. Nursing Services

A. - B.6. ...

C. Assistant Director of Nursing. If the director of nursing has administrative responsibilities or the nursing facility has a licensed bed capacity of 101 or more, the facility shall have a full-time Assistant Director of Nursing (ADON).

D. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23:970 (August 1997).

#### §10155. Standards for Levels of Care

A. - N.3.d. ...

#### O. Rehabilitation and Complex Levels of Care

1. These levels of care were developed to provide services and care to residents who have sustained severe neurological injury or who have conditions which have caused significant impairment in their ability to independently carry out activities of daily living. Residents shall have, based upon a physician's assessment, the potential for regaining a level of functioning which is feasible. Significant practical improvement must be expected in a prescribed or predetermined period of time. An expectation of complete independence in the activities of daily living is not necessary, but there must be a reasonable expectation of improvement that will be of practical value to the resident measured against his/her condition at the start of care.

2. The health conditions of the individuals who qualify for either of these levels of care are too medically complex or demanding for a typical skilled nursing facility, but no longer warrant care in an acute setting. Reimbursement is available under the Title XIX program for a period not to exceed 90 days if medical eligibility criteria established by the department have been met. Extensions may be requested in 30-day increments up to a maximum of three extensions based on documentation contained in progress reports. Level of care certification cannot exceed a total of six months. The Health Standards Section shall review the documentation submitted by the facility and determine if the applicant meets the criteria for admission certification and continued stay at these levels of care.

3. The rehabilitation and complex levels of care shall utilize the *Consumer Price Index for All Urban Consumers—Southern Region, All Items Economic Adjustment Factors*, as published by the United States Department of Labor to give yearly inflation adjustments. This economic adjustment factor is computed by dividing the value of All Items index for December of the year preceding the rate year (July 1 through June 30) by the value of the All Items index one year earlier (December of the second preceding year). This factor, All Items, will be applied to the total base which excludes fixed cost. Rebasings and interim adjustments to rates shall be calculated in the same manner as for regular nursing facilities.

4. Annual financial and compliance audits are required from the providers of these services. Additional cost reporting documents as requested by the department may also be required. Providers are required to segregate these costs



from all other nursing facility costs and submit a separate annual cost report for each level of care (rehabilitation and complex care services). Medicare cost principles found in the Provider Reimbursement Manual (HIM-15) shall be used to determine allowable costs.

P. Criteria for Certification of SN Rehabilitation and SN-Complex Level of Care, and Provision of Services

1. Medical Eligibility Criteria for Certification of SN-Rehabilitation Level of Care. Residents seeking skilled services at the SN Rehabilitation level of care shall meet all of the following criteria:

a. require an intense, individualized rehabilitation program designed to address severe neurological deficits (not due to a psychiatric disorder) caused from an injury or neurological condition which shall have occurred within six months from the date of admission;

b. have a severe loss of function (not secondary to behavioral deficits) in activities of daily living, mobility, and communication with the potential for significant practical improvement as measured against his/her condition prior to rehabilitation;

c. shall be capable of participating in a minimum of two hours of active (not passive) rehabilitation (OT, PT, ST) per day;

d. require a minimum of 5.5 hours of nursing care per day. Monitoring of behaviors by attendants cannot be considered as meeting the required nursing hours;

e. require aggressive medical support and a coordinated program of care delivered through a multidisciplinary team approach;

f. demonstrate documented, measurable progress toward the reduction of physical, cognitive and/or behavioral deficits to qualify for continued funding at this level of care.

2. Exclusionary Criteria for SN-Rehabilitation Services. Residents meeting any one of the following criteria do not qualify for this level of care:

a. the resident has already participated in a comprehensive rehabilitation effort on an inpatient basis either in an acute care setting or other type of rehabilitation facility;

b. the resident has a neurological condition which is considered to be progressive in nature and where no practical improvement can be expected (e.g., Huntington's Chorea);

c. the resident requires medication adjustment or attention to psychological problems related to a neurological condition or injury but has the ability to carry out the basic activities of daily living;

d. the resident lives out of state and has access to rehabilitation services in his/her state of residence;

e. the resident does not have sufficient mental alertness to actively participate in the program;

f. the resident has a major psychiatric disorder (schizophrenia, manic-depression, etc.) which precludes active participation;

g. the resident with an uncomplicated CVA whose needs can be met at the skilled level of care.

3. Medical Eligibility Criteria for Certification of SN-Complex Level of Care. Residents seeking skilled services at the complex level of care shall meet all of the following criteria:

a. have a neurological injury/condition resulting in severe functional, cognitive and/or physical deficits which shall have occurred within six months from the date of admission;

b. require a level of care and services which are not able to be provided in a typical skilled nursing facility or on an outpatient basis. Facility documentation must specify why an alternative setting is inappropriate or inadequate to meet the needs of the resident;

c. require a minimum of 4.5 hours of nursing care per day;

d. shall be capable of participating in a minimum of two hours of active (not passive) rehabilitation per day.

4. Provision of Therapy Services for SN Rehabilitation and Complex Level of Care. Therapy services must be rendered on a per resident basis by a licensed therapist. Skilled therapy services must meet all of the following conditions:

a. the services must be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a multidisciplinary team including a licensed therapist(s);

b. therapies shall be available and provided at least five days per week. If the resident is unable to participate or refuses to participate, the facility shall document the reason for nonparticipation and shall promptly notify the Health Standards Section;

c. the services must be of a level of complexity and sophistication, or the condition of the resident must be of a nature that requires the judgment, knowledge, and skills of a licensed therapist(s);

d. the services must be provided with the expectation, based on the assessment made by the physician of the resident's restoration potential, that the condition of the resident will improve materially in a reasonable and generally predictable period of time, not to exceed 90 days, or the services must be necessary for the establishment of a safe and effective maintenance program which can be continued after discharge;

e. the services must be considered under accepted standards of medical practice to be specific and effective treatment for the resident's condition;

f. the services must be reasonable and necessary for the treatment of the resident's condition; this includes the requirement that the amount, frequency, and duration of the services must be reasonable and not able to be provided in a less restrictive setting such as outpatient. Documentation by the facility must support that rehabilitation services are actually needed on an inpatient basis. When the resident has behavior or physical limitations that cannot be modified any further, the level of care shall be discontinued. There must be significant practical improvement as measured against the condition or injury prior to the episode which resulted in admission—significant improvement being the ability to self-perform activities of daily living;

g. therapy cannot be provided at the skilled level of care. The medical record shall document why the therapy cannot be provided at a lower level of care;

h. recreational therapies shall not be included when determining compliance with the required number of hours of therapy a day.

5. Criteria for Discharge from the Rehabilitation and Complex Levels of Care

a. there is evidence in the medical record that the resident has achieved stated goals;

b. medical complications preclude an intensive rehabilitation effort. Any regression or deterioration in the resident's medical condition shall immediately be reported to the Health Standards Section;

c. multidisciplinary therapy is no longer needed;

d. no additional practical improvement in function is anticipated;

e. the resident's functional status has remained unchanged for 14 days;

f. the resident has received services for 90 days;

g. if the resident exhibits inability or refuses to participate in therapy, this shall constitute termination of rehabilitation services and/or recertification for level of care. Discharge shall be initiated when the resident fails to participate in five consecutive therapy sessions during a two-week period;

h. the resident has an established behavior management plan.

Q. Documentation Requirements for Vendor Payment

1. Documentation Requirements for the Determination of Medical Eligibility for Vendor Payment. The following documentation requirements shall be submitted to the Health Standards Section for consideration of medical certification at either the rehabilitation or complex levels of care:

a. Form 148 (Notification of Admission/Change);

b. Form 90-L (Request for Level of Care Determination);

c. Level I PAS/RAS (Pre-admission Screening/ Re-admission Screening);

d. history of current condition;

e. presenting problems and current needs;

f. if transferring from an acute care hospital, all therapy evaluations, therapy progress reports, physician's orders and physician progress notes;

g. assessments done by facility field evaluators;

h. evaluations done by all facility therapists participating in the individual treatment plan;

i. preliminary plan of care including services to be rendered; plan should specify frequency, responsible discipline, and projected time frame for completion of each goal.

2. Documentation of Progress. The facility shall document, in detail, progress in meeting goals.

a. Progress reports shall be submitted to the Health Standards office every 30 days. Progress reports shall address the resident's ability to self-perform activities of daily living. If there is no progress in this area, it shall be so stated.

b. Active discharge planning shall be addressed in all progress reports. If the established goal is to return home, involvement by family members or significant others shall be noted in progress reports.

c. It is not necessary that progress reports recapitulate events resulting in admission.

d. It is the responsibility of the facility to promptly notify the Health Standards Section when goals have been achieved or the resident is not making progress toward meeting established goals, regardless of the amount of time in the program.

R. Facility Responsibilities for Participation. The facility seeking to provide services under the rehabilitation and complex level of care must meet all of the following requirements:

1. be licensed to provide nursing facility services and shall admit and maintain residents requiring any nursing facility level of care designation;

2. have a valid Medicaid Program provider agreement for provision of nursing facility services;

3. have entered into a contractual agreement with the Bureau of Health Services Financing to provide rehabilitation and complex care services;

4. be accredited by the Joint Commission on Accreditation on Health Care Organizations (JCAHO) and by the Commission on Accreditation of Rehabilitation Facilities (CARF);

5. have appropriate rehabilitation services to manage the complex functional and psychosocial needs of the residents and appropriate medical services to evaluate and treat the pathophysiologic process. The staff shall have intensive specialized training and skills in rehabilitation;

6. provide an interdisciplinary team of professionals to direct the clinical course of treatment. This team shall include, but is not limited to a physician, registered nurse, physical therapist, occupational therapist, speech/language therapist, respiratory therapist, psychologist, social worker, recreational therapist, and case manager;

7. ensure that the health and rehabilitation needs of every resident in certified for rehabilitation/complex level of care shall be under the supervision of a licensed physiatrist, board-certified or board-eligible in physical medicine and rehabilitation;

8. have policies and procedures to ensure that a licensed physician visits and assesses each resident's care frequently but no less than weekly;

9. have formalized policies and procedures to furnish necessary medical care in cases of emergency and provide 24-hour-a-day access to services in an acute care hospital;

10. have established policies to screen residents who are not appropriate for the program according to the Medicaid medical eligibility criteria or whose needs the facility cannot meet;

11. have each resident assigned to a facility case manager to monitor, measure, and document goal attainment and functional improvement. The case manager shall be responsible for cost containment and appropriate utilization of services. Coverage should stop when further progress toward the established rehabilitation goals are unlikely or can be achieved in a less intensive setting;

12. assure that discharge planning is an integral part of the rehabilitation program and should begin upon the resident's admittance to the facility. Plans of care must be

individualized and aggressive with regard to the projected time frame for discharge. When progress notes show that the resident has not made significant, measurable progress from one review period to the next or that the condition cannot be modified any further, Medicaid will not authorize further reimbursement for rehabilitation. Significant progress should be the ability to self-perform or require only minimal to moderate assistance to perform activities of daily living;

13. provide private rooms for residents demonstrating extraordinary medical and/or behavioral needs. Dedicated treatment space shall be provided for all treating disciplines including the availability of distraction-free individual treatment rooms and areas;

14. provide 24-hour nursing services to meet the medical and behavioral needs with registered nurse coverage 24 hours per day, seven days a week. Management of the resident's daily activities shall be under the direct supervision of a registered nurse;

15. provide appropriate methods and procedures for dispensing and administering medications and biologicals that are in accordance with the organizations issuing the facility's accreditations;

16. have formalized policies and procedures for ongoing staff education in rehabilitation, respiratory, specialized medical services, and other related clinical and nonclinical issues. Staff education shall be provided on a regular basis;

17. provide dietary services to meet the comprehensive nutritional needs of the residents. These services shall be provided under the direction of a registered dietician who shall consult a minimum of two hours per month;

18. provide families/significant others the opportunity to participate in the coordination and facilitation of service delivery and individual treatment plan;

19. provide nonmedical and nonemergency medical transportation services and arrange for medical transportation services to meet the medical/social needs of the residents;

20. provide initial and ongoing integrated, interdisciplinary assessments to develop treatment plans which should address medical/neurological issues such as sensorimotor, cognitive and perceptual deficits, communicative capacity, affect/mood, interpersonal and social skills, behaviors, ADLs, recreation/leisure skills, education/vocational capacities, sexuality, family, legal competency, adjustment to disability, post-discharge services environmental modifications, and all other areas deemed relevant for the individual;

21. assure that the interdisciplinary team meets in conference at least every 14 days to update the individual treatment plan but as often as necessary to address the changing needs of the client;

22. provide appropriate consultation services to meet the needs of clients, including, but not limited to, audiology, orthotics, prosthetics, or any other specialized services;

23. establish a protocol for ongoing contact with professionals in vocational rehabilitation education, mental health, developmental disabilities, Social Security, medical assistance, head injury advocacy groups and any other relevant community agencies;

24. establish protocols to provide for a close working relationship with acute care hospitals capable of caring for persons with brain and upper spinal cord injuries to provide post discharge follow-up, in-service education and on-going training of treatment protocols to meet the needs of residents;

25. establish written policies and procedures to address referrals coming from out of state. The facility must provide written explanation as to what steps were taken to obtain services within the state of residence and why the services were not available or inadequate to meet the needs of the resident. The facility shall seek reimbursement for all level of care services from the state of residence or referral prior to making application for Louisiana Medicaid.

S. - T. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23:970 (August 1997).

## **Subchapter I. Resident Rights**

### **§10161. General Provisions**

A. - E. ...

F. Notice of Rights and Services

F.1 - F.3. ...

4. rules for conduct at the time of their admission and subsequent changes during their stay in the facility:

4.a. ...

b. the resident or legal representative has the right to access all records pertaining to the resident, including clinical records. Photocopies of the entire record or portions of the record shall be made available to the resident within 48 hours from time of oral or written request at a cost comparable to community standards.

5. - 6.c. ...

7. the facility shall inform Medicaid-eligible and potential Medicaid-eligible residents in writing at time of admission and periodically during the resident's stay of the following information:

a. those items and services included in nursing facility services covered under the Medicaid Program for which the resident may not be charged;

b. those items and services that are offered by the facility, but are not covered under the Medicaid Program, the Medicare Program or the facility's per diem rate. The facility may charge the resident if he/she chooses to have these services. The itemized charges for these services shall be made available to the resident;

c. changes made to the items and services that are available in the facility;

d. inform each resident, before or at the time of admission and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare/Medicaid or by the facility's per diem rate;

8. furnish a written description of legal rights which includes:

a. a description of the manner of protecting personal funds as outlined in §10161.J, K, and L;

b. a description of the requirements and procedures for establishing eligibility for Medicaid;

c. a posting of names, addresses, and telephone numbers of all pertinent state client advocacy groups such as the Bureau of Health Services Financing, Health Standards Section, the State Ombudsman Program, the Protection and Advocacy Network, and the Medicaid Fraud Control Unit;

d. a statement that the resident may file a complaint with the Bureau of Health Services Financing, Health Standards Section concerning resident abuse, neglect, and misappropriation of resident property in the facility;

e. inform each resident of the name, specialty, and way of contacting the physician responsible for his/her care;

f. prominently display written information in the facility and provide to residents and applicants on admission oral and written information about how to apply for and use Medicare and Medicaid benefits and how to receive refunds for previous payments covered by such benefits.

G. - M.2.h.ii. ...

i. Access and Visitation Rights. The resident has visitation rights and the facility must provide immediate access to any resident by the following individual or agencies:

M.2.i.i. - M.2.i.viii. ...

ix. the resident may visit overnight outside the facility with family and friends in accordance with the facility policies, physician's orders, and Title XVIII (Medicare) and Title XIX (Medicaid) regulations without the loss of his/her bed. Home visit policies and procedures for arranging home visits shall be fully explained.

M.2.i.ix.(a). ...

(b). The facility must allow certified representatives of the state ombudsman to examine a resident's clinical records with the permission of the resident or the resident's legal representative and consistent with state law.

M.2.i.ix.(c). - M.2.n. ...

o. Smoking. Residents have the right to use tobacco at their own expense under the facility's safety rules and the state's applicable laws and rules. Residents shall be informed of any medical contraindications.

M.2.p. - P.5. ...

Q. Freedom from Restraints and Abuse. Residents shall have the right to be free from verbal, sexual, physical or mental abuse; corporal punishment; involuntary seclusion and/or any physical or chemical restraints imposed for the purpose of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed:

Q.1. - Q.2. ...

3. physical restraint may only be applied in a case of emergency by a qualified licensed nurse who shall document in the medical record the circumstances that necessitated the use of restraints and shall notify the physician immediately thereafter.

Q.4. - Q.4.a.i. ...

5. psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan

(included in the written Plan of Care) designed to eliminate or modify the symptoms for which the drugs are prescribed.

Q.6. - U.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23:973 (August 1997).

## **Subchapter J. Transfer and Discharge Procedure**

### **§10163. General Provisions**

A. - D.1.e. ...

E. For health facilities the written notice as described in §10163 must include the following:

E.1. - E.3. ...

4. a statement regarding appeal rights that reads:

"You or someone acting on your behalf has the right to appeal the health facility's decision to transfer you. If you think you should not have to leave this facility you may file a written request for a hearing postmarked within 30 days after you receive this notice. If you request a hearing, it will be held within 30 days after the facility notifies the Bureau of Appeals of the witnesses who shall testify at the discharge hearing as well as the documents that will be submitted as evidence. You will not be transferred from the facility until a final appeal decision has been reached or until the Bureau of Appeals gives permission for an interim transfer at a prehearing conference held at the request of the facility. The only exception to the above would be that a physician has certified that your being in the facility would present a threat to the health or safety of other individuals in the facility. If you wish to appeal this transfer or discharge, a form to appeal the health facility's decision and to request a hearing is attached. If you have any questions, call the Louisiana Department of Health and Hospitals at the number listed below";

5. the name of the director, and the address, telephone number, and hours of operation of the Bureau of Appeals of the Louisiana Department of Health and Hospitals;

6. the name, address, and telephone number of the state long-term care ombudsman;

7. for health facility residents with developmental disabilities or who are mentally ill, the mailing address and telephone number of the protection advocacy services commission.

F. Appeal of Transfer or Discharge

1. If the resident appeals the transfer or discharge, a statement regarding appeal rights that reads:

"You or someone acting on your behalf has the right to appeal the health facility's decision to transfer you. If you think you should not have to leave this facility you may file a written request for a hearing postmarked within 30 days after you receive this notice. If you request a hearing, it will be held within 30 days after the facility notifies the Bureau of Appeals of the witnesses who shall testify at the discharge hearing as well as the documents that will be submitted as evidence. You will not be transferred from the facility until a final appeal decision has been reached or until the Bureau of Appeals gives permission for an interim transfer at a prehearing conference held at the request of the facility. The only exception to the above would be that a physician has certified that your being in the facility would present a threat to the health or safety of other individuals in the facility. If you wish to appeal this transfer or discharge, a form to appeal the health facility's decision and to request a hearing is attached. If you have any questions, call the Louisiana Department of Health and Hospitals at the number listed below";

F.2. - I.3.b.ii.(b). ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23:974 (August 1997).

Bobby P. Jindal  
Secretary

9708#085

## RULE

### Department of Insurance Office of the Commissioner

#### Regulation 46—Long-Term Care Insurance

Under the authority of R.S. Title 22, Sections 3, 1736(A), 1736(E), and 1737 and Title 49, Section 950 et seq., the Department of Insurance gives notice that the following regulation is effective on January 1, 1998. This action complies with the statutory law administered by the Department of Insurance.

Existing Regulation 46 of the Department of Insurance is repealed as of effective date of this regulation.

#### Section 1. Purpose

The purpose of this regulation is to implement R.S. 22:1731-1737, Long-Term Care Insurance Act, to promote the public interest; to promote the availability of long-term care insurance coverage; to protect applicants for qualified and nonqualified long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices; to facilitate public understanding and comparison of long-term care insurance coverages; and to facilitate flexibility and innovation in the development of long-term care insurance.

#### Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under R.S. 22:1736(A); R.S. 22:1736(E); R.S. 22:1737; and R.S. 49:950 et seq.

#### Section 3. Applicability and Scope

Except as otherwise specifically provided, this regulation applies to all long-term care insurance policies [or certificate issued pursuant to such group policy] delivered, or issued for delivery, in this state on or after the effective date hereof, by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health maintenance organizations; and all similar organizations.

#### Section 4. Definitions

For the purpose of this regulation, the terms *Long-Term Care Insurance*, *Group Long-Term Care Insurance*, *Qualified Long-Term Care Insurance Contract*, *Qualified Long-Term Care Services*, *Commissioner*, *Applicant*, *Policy*, and *Certificate* shall have the following meanings:

A.(1) *Long-Term Care Insurance*—any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative,

maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital.

(2) Such term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. Such term shall also include qualified long-term care insurance contracts. Long-term care insurance may be issued by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health maintenance organizations; or any similar organizations to the extent they are otherwise authorized to issue life or health insurance.

(3) Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

(4) With regard to life insurance, this term does not include life insurance policies which accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and which provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

(5) Notwithstanding any other provision contained herein, any product advertised, marketed or offered as long-term care insurance shall be subject to the provisions set forth in Section 28 of this regulation.

#### B. *Applicant*—

(1) in the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(2) in the case of a group long-term care insurance policy, the proposed certificate holder.

C. *Certificate*—for the purposes of this regulation, any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

D. *Commissioner*—the Insurance commissioner of this state.

E. *Group Long-Term Care Insurance*—a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(1) one or more employers or labor organizations; or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof; for employees or former employees or a combination thereof; or for members or former members, or a combination thereof, of the labor organizations; or

(2) any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(a) is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

(b) has been maintained in good faith for purposes other than obtaining insurance; or

(3) an association or a trust or the trustee(s) of a fund established, created, or maintained for the benefit of members of one or more associations. Prior to advertising, marketing, or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the commissioner that the association or associations have at the outset a minimum of 100 persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws which provide that:

(a) the association or associations hold regular meetings not less than annually to further purposes of the members;

(b) except for credit unions, the association or associations collect dues or solicit contributions from members; and

(c) the members have voting privileges and representation on the governing board and committees.

Thirty days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the commissioner makes a finding that the association or associations does not satisfy those organizational requirements.

(4) a group other than as described in Subsection E.(1), E(2) and E(3), subject to a finding by the commissioner that:

(a) the issuance of the group policy is not contrary to the best interest of the public;

(b) the issuance of the group policy would result in economies of acquisition or administration; and

(c) the benefits are reasonable in relation to the premiums charged.

F. *Policy*—for the purposes of this regulation, any policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; nonprofit health, hospital, or medical service corporation; prepaid health plan; health maintenance organization or any similar organization.

G.(1) *Qualified Long-Term Care Insurance Contract*—any individual or group insurance contract, if it meets the requirements of Section 7702(B) of the *Internal Revenue Code*, as amended, and if:

(a) the only insurance protection provided under the contract is coverage of qualified long-term care services;

(b) the contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under Title XVIII of the Social Security Act, as amended, or would be so reimbursable but for the application of a deductible or coinsurance amount. The requirements of this Paragraph do not apply to contracts where Medicare is a secondary payor, or where the contract makes per diem or other periodic payments without regard to expenses;

(c) the contract is guaranteed renewable;

(d) the contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed. All refunds of premiums, and all policyholder dividends or similar amounts under such contract are to be applied as a reduction in future premiums or to increase future benefits, except that a refund of the aggregate premium paid under the contract may be allowed in the event of death of the insured or a complete surrender or cancellation of the contract; and

(e) the contract contains the consumer protection provisions set forth in Section 7702(B)(g) of the *Internal Revenue Code*.

(2) *Qualified Long-Term Care Insurance Contract*—any life insurance contract which provides long-term care coverage by rider, or as part of the contract, as long as the contract complies with the applicable provisions of Section 7702(B) of the *Internal Revenue Code*, as amended.

H. *Qualified Long-Term Care Services*—necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services to which an insured is eligible for under a qualified long-term care insurance contract, and which are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

#### Section 5. Policy Definitions

No long-term care insurance policy delivered or issued for delivery in this state shall use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:

A. *Activities of Daily Living*—at least bathing, continence, dressing, eating, toileting, and transferring.

B. *Acute Condition*—that the individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his or her health status.

C. *Adult Day Care*—a program for six or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

D. *Bathing*—washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower.

E. *Cognitive Impairment*—a deficiency in a person's short or long-term memory, orientation as to person, place, and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

F. *Continence*—the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

G. *Dressing*—putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs.

H. *Eating*—feeding oneself by getting food into the body from a receptacle (such as a plate, cup, or table) or by feeding tube or intravenously.

I. *Hands-On Assistance*—physical assistance (minimal, moderate, or maximal) without which the individual would not be able to perform the activity of daily living.

J. *Home Health Care Services*—medical and nonmedical services provided to ill, disabled, or infirmed persons in their residences. Such services may include homemaker services, assistance with activities of daily living, and respite care services.

K. *Medicare*—"the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted, and any later amendments or substitutes thereof," or words of similar import.

L. *Mental or Nervous Disorder*—shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

M. *Personal Care*—the provision of hands-on services to assist an individual with activities of daily living.

N. *Skilled Nursing Care, Intermediate Care, Personal Care, Home Care* and other services—shall be defined in relation to the level of skill required, the nature of the care, and the setting in which care must be delivered.

O. *Toileting*—getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

P. *Transferring*—moving into or out of a bed, chair, or wheelchair.

Q. All providers of services, including but not limited to *Skilled Nursing Facility, Extended Care Facility, Intermediate Care Facility, Convalescent Nursing Home, Personal Care Facility, and Home Care Agency*—shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

## Section 6. Policy Practices and Provisions

Unless otherwise noted, all provisions of this Section shall also apply to qualified long-term care insurance contracts.

A. *Renewability*. The terms *guaranteed renewable* and *noncancellable* shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Section 9 of this regulation.

(1) No such policy issued to an individual shall contain renewal provisions other than *guaranteed renewable* or *noncancellable*.

(2) The term *guaranteed renewable* may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(3) The term *noncancellable* may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums, during which

period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

(4) A qualified long-term insurance contract must be guaranteed renewable.

B. *Limitations and Exclusions*. No policy may be delivered or issued for delivery in this state as long-term care insurance if such policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

(1) preexisting conditions or diseases;

(2) mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease;

(3) alcoholism and drug addiction;

(4) illness, treatment or medical condition arising out of:

(a) war or act of war (whether declared or undeclared);

(b) participation in a felony, riot, or insurrection;

(c) service in the armed forces or units auxiliary thereto;

(d) suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; or

(e) aviation (this exclusion applies only to non-fare-paying passengers).

(5) treatment provided in a government facility (unless otherwise required by law); services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services provided by a member of the covered person's immediate family, and services for which no charge is normally made in the absence of insurance;

(6) this Subsection B is not intended to prohibit exclusions and limitations by type of provider or territorial limitations.

C. *Extension of Benefits*. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization, if such institutionalization began while the long-term care insurance was in force and continues without interruption after termination. Such extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

### D. Continuation or Conversion

(1) Group long-term care insurance issued in this state on or after the effective date of this Section shall provide covered individuals with a basis for continuation or conversion of coverage.

(2) For the purposes of this Section, a *basis for continuation of coverage* means a policy provision which maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium, when due. Group policies which restrict provision of benefits and services to, or contain incentives to use certain providers and/or facilities may provide continuation benefits which are substantially equivalent to the benefits of the existing group



policy. The commissioner shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(3) For the purposes of this Section, *a basis for conversion of coverage* means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability.

(4) For the purposes of this Section, *converted policy* means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers and/or facilities, the commissioner, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels, and administrative complexity.

(5) Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than 31 days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(6) Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(7) Continuation of coverage or issuance of a converted policy shall be mandatory, except where:

(a) termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

(b) the terminating coverage is replaced not later than 31 days after termination, by group coverage effective on the day following the termination of coverage:

(i) providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage; and

(ii) the premium for which is calculated in a manner consistent with the requirements of Paragraph (6) of this Section.

(8) Notwithstanding any other provision of this Section, a converted policy issued to an individual who, at the time of conversion, is covered by another long-term care insurance policy which provides benefits on the basis of incurred expenses, may contain a provision which results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100 percent of incurred expenses. Such provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(9) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(10) Notwithstanding any other provision of this Section, any insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

(11) For the purposes of this Section, a *managed-care plan* is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management, or use of specific provider networks.

E. Discontinuance and Replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

(1) shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and

(2) shall not vary or otherwise depend on the individual's health or disability status, claim experience, or use of long-term care services.

F. Premium Rate Filing

(1) An issuer of any contract of long-term care insurance in this state shall file annually, for informational purposes, its rates, rating schedule, and such supporting documentation as necessary to identify the type of long-term care insurance as either qualified or nonqualified, the corresponding policy form number, the percentage(s) of rate adjustments, and the rating methodology.

(2) All filings described in this Section shall be submitted to the commissioner by March 31 of each calendar year.

#### **Section 7. Unintentional Lapse**

Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:



A.(1) Notice Before Lapse or Termination. No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium or a written waiver, dated and signed by the applicant, electing not to designate additional persons to receive notice. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state:

"Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."

The insurer shall notify the insured of the right to change this written designation, no less often than once every two years.

(2) When the policyholder or certificate holder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in Subsection A.(1) need not be met until 60 days after the policyholder or certificate holder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant.

(3) Lapse or Termination for Nonpayment of Premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to Subsection A.(1), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of five days after the date of mailing.

B. Reinstatement. In addition to the requirement in Subsection A, a long-term care insurance policy or certificate shall include a provision which provides for reinstatement of coverage, in the event of lapse, if the insurer is provided proof of cognitive impairment or the loss of functional capacity. This option shall be available to the insured, if requested within five months after termination, and shall allow for the collection of past due premium where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.

## Section 8. Required Disclosure Provisions

Unless otherwise noted, all subsections of Section 8 shall apply to qualified long-term care insurance contracts.

A. Renewability. Individual long-term care insurance policies shall contain a renewability provision. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. This provision shall not apply to policies which do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder.

B. Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to, in writing and signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy, rider, or endorsement.

C. Payment of Benefits. A long-term care insurance policy which provides for the payment of benefits based on standards described as *usual and customary, reasonable and customary* or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

D. Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

E. Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility, other than those prohibited in R.S. 22:1736(D)(2), shall set forth a description of such limitations or conditions, including any required number of days of confinement, in a separate Paragraph of the policy or certificate and shall label such Paragraph, "Limitations or Conditions on Eligibility for Benefits."

F. Disclosure of Tax Consequences. With regard to life insurance policies which provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider, and at the time the accelerated benefit payment request is submitted, that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This Subsection shall not apply to qualified long-term care contracts.

G. Benefit Triggers. Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate Paragraph and shall be labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers shall also be explained in this Section. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified.

H. A qualified long-term care insurance contract must include a disclosure statement in the policy, and in the outline of coverage, that the policy is intended to be a qualified long-term care insurance contract.

[Policies that are not intended to be a qualified long-term care insurance contract must include a disclosure statement in the policy, and in the outline of coverage, that the policy is not intended to be a qualified long-term care insurance contract. The disclosure shall be prominently displayed, and shall read as follows:

This long-term care insurance policy (certificate) is not intended to be a qualified long-term care insurance contract. You need to be aware that benefits received under this policy may create unintended, adverse income tax consequences to you. You may want to consult with a knowledgeable individual about these potential income tax consequences.]

#### Section 9. Prohibition Against Post-Claim Underwriting

A. All applications for long-term care insurance policies or certificates, except those which are guaranteed issue, shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

B.(1) If an application for long-term care insurance contains a question which asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed.

(2) If the medications listed in such application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition.

C. Except for policies or certificates which are guaranteed issue:

(1) The following language shall be set out conspicuously, and in close conjunction with the applicant's signature block, on an application for a long-term care insurance policy or certificate:

CAUTION: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy.

(2) The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

CAUTION: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

(3) Prior to issuance of a long-term care policy or certificate to an applicant age 80 or older, the insurer shall obtain one of the following:

- (a) a report of a physical examination;
- (b) an assessment of functional capacity;
- (c) an attending physician's statement; or
- (d) copies of medical records.

D. A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate, unless it was retained by the applicant at the time of application.

E. Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated, and shall annually furnish this information to the Insurance commissioner in the format prescribed by the National Association of Insurance Commissioners in Appendix A.

#### Section 10. Minimum Standards for Home Health and Community Care Benefits in Long-term Care Insurance Policies

A. A long-term care insurance policy or certificate shall not, if it provides benefits for home health care or community care services, limit or exclude benefits:

(1) by requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided;

(2) by requiring that the insured or claimant first, or simultaneously, receive nursing or therapeutic services, or both, in a home, community, or institutional setting before home health care services are covered;

(3) by limiting eligible services to services provided by registered nurses or licensed practical nurses;

(4) by requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification;

(5) by excluding coverage for personal care services provided by a home health aide;

(6) by requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service;

(7) by requiring that the insured or claimant have an acute condition before home health care services are covered;

(8) by limiting benefits to services provided by Medicare-certified agencies or providers;

(9) by excluding coverage for adult day care services.

B. A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement shall not apply to policies or certificates issued to residents of continuing care retirement communities.

C. Home health care coverage may be applied to the non-home health care benefits provided in the policy or

certificate when determining maximum coverage under the terms of the policy or certificate.

**Section 11. Requirements to Offer Inflation Protection**

A. No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder, in addition to any other inflation protection, the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

(1) increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than 5 percent;

(2) guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status, so long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least 5 percent for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

(3) covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

B. Where the policy is issued to a group, the required offer in Subsection A above shall be made to the group policyholder; except, if the policy is issued to a group defined in Section 4(E)(4) and R.S. 22:1734(4)(d), other than to a continuing care retirement community, the offering shall be made to each proposed certificate holder.

C. The offer in Subsection A above shall not be required of life insurance policies or riders containing accelerated long-term care benefits.

D. Insurers shall include the following information in or with the outline of coverage:

(1) a graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20-year period;

(2) any expected premium increases or additional premiums to pay for automatic or optional benefit increases. An insurer may use a reasonable hypothetical or a graphic demonstration for the purposes of this disclosure.

E. Inflation protection benefit increases, under a policy which contains such benefits, shall continue without regard to an insured's age, claim status, or claim history, or the length of time the person has been insured under the policy.

F. An offer of inflation protection which provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. Such offer shall disclose, in a conspicuous manner, that the premium may change in the future, unless the premium is guaranteed to remain constant.

G.(1) Inflation protection, as provided in Subsection A(1) of this Section, shall be included in a long-term care insurance

policy unless an insurer obtains a rejection of inflation protection, signed by the policyholder, as required in this Subsection. In the case of a qualified long-term care insurance contract, the rejection may be either in the application or on a separate form.

(2) The rejection shall be considered a part of the application and shall state:

I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans \_\_\_\_\_, and I reject inflation protection.

**Section 12. Requirements for Application Forms and Replacement Coverage**

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing such questions may be used. With regard to a replacement policy issued to a group defined by Section 4(E)(1) and R.S. 22:1734(4)(a), the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificate holder has been notified of the replacement.

(1) Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?

(2) Did you have another long-term care insurance policy or certificate in force during the last 12 months?

(a) If so, with which company?

(b) If that policy lapsed, when did it lapse?

(3) Are you covered by Medicaid?

(4) Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)?

B. Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold which are still in force.

(2) List policies sold in the past five years which are no longer in force.

C. Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its agent, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT  
REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR  
LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your

new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy. You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT [BROKER OR OTHER REPRESENTATIVE]:  
(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before your sign it, reread it carefully to be certain that all information has been properly recorded.

\_\_\_\_\_  
(Signature of Agent, Broker or Other Representative)  
[Typed Name and Address of Agent or Broker]

The above "Notice to Applicant" was delivered to me on:

\_\_\_\_\_  
(Applicant's Signature)                      (Date)

D. Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy. You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

\_\_\_\_\_  
(Company Name)

E. Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured, and policy number or address, including zip code. Such notice shall be made within five working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

F. In recommending the purchase or replacement of any long-term care insurance policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

### Section 13. Reporting Requirements

A. Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percentage of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percentage of the agent's total annual sales.

B. Each insurer shall report annually, by June 30, the 10 percent of its agents with the greatest percentages of lapses and replacements, as measured by Subsection A above.

C. Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

D. Every insurer shall report annually, by June 30, the number of lapsed policies as a percentage of its total annual sales and as a percentage of its total number of policies in force as of the end of the preceding calendar year.

E. Every insurer shall report annually, by June 30, the number of replacement policies sold as a percentage of its total annual sales and as a percentage of its total number of policies in force as of the preceding calendar year.

F. Every insurer shall report annually, by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

G. For purposes of this Section, *policy* shall mean only long-term care insurance and *report* means on a statewide basis.

#### Section 14. Licensing

No agent is authorized to market, sell, solicit, or otherwise contact a person for the purpose of marketing long-term care insurance unless the agent has demonstrated his or her knowledge of long-term care insurance and the appropriateness of such insurance by passing a test required by this state and maintaining appropriate licenses.

#### Section 15. Discretionary Powers of Commissioner

The commissioner may, upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this regulation with respect to a specific long-term care insurance policy or certificate upon a written finding that:

A. the modification or suspension would be in the best interest of the insureds; and

B. the purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

C.(1) the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or

(2) the policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

(3) the modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

#### Section 16. Reserve Standards

A. When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits shall be determined in accordance with R.S. 22:162, R.S. 22:162.1, and R.S. 22:163. Claim reserves shall also be established in the case when the policy or rider is in claim status.

Reserves for policies and riders subject to this Subsection should be based on the multiple decrement model, utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event shall the reserves for the long-term care benefit and the life insurance benefit be less than the greater of the estimated loss portion of the premium for the long-term care component of coverage (as established in Section 17) and the reserves for the life insurance benefit, assuming no long-term care benefit.

In the development and calculation of reserves for policies and riders subject to this Subsection, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures, and all other considerations which have an impact on projected claim costs, including, but not limited to, the following:

- (1) definition of insured events;
- (2) covered long-term care facilities;
- (3) existence of home convalescence care coverage;

- (4) definition of facilities;
- (5) existence or absence of barriers to eligibility;
- (6) premium waiver provision;
- (7) renewability;
- (8) ability to raise premiums;
- (9) marketing method;
- (10) underwriting procedures;
- (11) claims adjustment procedures;
- (12) waiting period;
- (13) maximum benefit;
- (14) availability of eligible facilities;
- (15) margins in claim costs;
- (16) optional nature of benefit;
- (17) delay in eligibility for benefit;
- (18) inflation protection provisions; and
- (19) guaranteed insurability option.

Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries.

B. When long-term care benefits are provided other than as in Subsection A above, reserves shall be determined using a table established for reserve purposes by a qualified actuary and acceptable to the commissioner. However, in no event shall the reserves for the long-term care benefit be less than the estimated loss portion of the premium for such coverage (as established in Section 17).

#### Section 17. Loss Ratio

Benefits under individual long-term care insurance policies shall be deemed reasonable in relation to premiums, provided the expected loss ratio is at least 60 percent, calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

- A. statistical credibility of incurred claims experience and earned premiums;
- B. the period for which rates are computed to provide coverage;
- C. experienced and projected trends;
- D. concentration of experience within early policy duration;
- E. expected claim fluctuation;
- F. experience refunds, adjustments or dividends;
- G. renewability features;
- H. all appropriate expense factors;
- I. interest;
- J. experimental nature of the coverage;
- K. policy reserves;
- L. mix of business by risk classification; and
- M. product features such as long elimination periods, high deductibles and high maximum limits.

#### Section 18. Filing Requirement

Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state, pursuant to R.S. 22:1735, it shall file with the commissioner evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state.

## Section 19. Filing Requirements for Advertising

A. Every insurer, health care service plan, or other entity providing long-term care insurance or benefits in this state shall provide a copy of any long-term care insurance advertisement intended for use in this state, whether through written, radio, or television medium, to the commissioner of Insurance of this state for review or approval by the commissioner to the extent it may be required under state law. In addition, all advertisements shall be retained by the insurer, health care service plan, or other entity for at least three years from the date the advertisement was first used.

B. The commissioner may exempt from these requirements any advertising form or material when, in the commissioner's opinion, this requirement may not be reasonably applied.

## Section 20. Standards for Marketing

A. Every insurer, health care service plan, or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

(1) establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate;

(2) establish marketing procedures to assure excessive insurance is not sold or issued;

(3) display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy the following:

NOTICE TO BUYER: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.

(4) inquire, and otherwise make every reasonable effort to identify, whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness, in the case of a qualified long-term care insurance contract, or long-term care insurance and the types and amounts of any such insurance;

(5) establish auditable procedures for verifying compliance with this Subsection A;

(6) if the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counseling program, approved by the commissioner, the insurer shall, at solicitation, provide written notice to the prospective policyholder and certificate holder that such a program is available and the name, address and telephone number of the program.

(7) for long-term care health insurance policies and certificates, use the terms *noncancelable* or *level premium* only when the policy or certificate conforms to Section 6(A)(3) of this regulation.

B. In addition to the practices prohibited in R.S. 22:1211 et seq., the following acts and practices are prohibited:

(1) *Twisting*—knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) *High Pressure Tactics*—employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) *Cold Lead Advertising*—making use directly, or indirectly, of any method of marketing which fails to disclose, in a conspicuous manner, that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(4) *Material Misrepresentation*—making, directly or indirectly, a representation which is false, upon which the insured substantially relies in deciding to purchase a policy.

C.(1) With respect to the obligations set forth in this Subsection, the primary responsibility of an association, as defined in Section 4(E)(2) and R.S. 22:1734(4)(b), when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues, in general, so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold. Subsection C.(1) does not apply to qualified long-term care insurance contracts.

(2) The insurer shall file with the Insurance Department the following material:

(a) the policy and certificate;

(b) a corresponding outline of coverage; and

(c) all advertisements requested by the Insurance Department.

(3) The association shall disclose in any long-term care insurance solicitation:

(a) the specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and

(b) a brief description of the process under which the policies, and the insurer issuing the policies, were selected.

(4) If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members.

(5) The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer.

(6) The association shall also:

(a) at the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance, not affiliated with the insurer, to conduct an examination of the policies, including its benefits, features, and rates and update the examination thereafter in the event of material change;

(b) actively monitor the marketing efforts of the insurer and its agents; and

(c) review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates.



NOTE: Subsection C(6)(a) through (c) shall not apply to qualified long-term care insurance contracts.

(7) No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state Insurance Department the information required in this Subsection.

(8) The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in this Subsection.

(9) Failure to comply with the filing and certification requirements of this Section constitutes an unfair trade practice in violation of R.S. 22:1211 et seq.

#### **Section 21. Suitability**

A. This Section shall not apply to life insurance policies that accelerate benefits for long-term care.

B. Every insurer, health care service plan, or other entity marketing long-term care insurance (the *issuer*) shall:

(1) develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

(2) train its agents in the use of its suitability standards; and

(3) maintain a copy of its suitability standards and make them available for inspection, upon request, by the commissioner.

C.(1) To determine whether the applicant meets the standards developed by the issuer, the agent and issuer shall develop procedures that take the following into consideration:

(a) the ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

(b) the applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and

(c) the values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(2) The issuer and, where an agent is involved, the agent shall make reasonable efforts to obtain the information set out in Paragraph (1) above. The efforts shall include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in Appendix B, in not less than 12-point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the commissioner.

(3) A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

(4) The sale or dissemination outside the company or agency by the issuer or agent of information obtained through the personal worksheet in Appendix B is prohibited.

D. The issuer shall use the suitability standards it has developed, pursuant to this Section, in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

E. Agents shall use the suitability standards developed by the issuer in marketing long-term care insurance.

F. At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C, in not less than 12-point type.

G. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to Appendix D. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

H. The issuer shall report annually to the commissioner the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter.

#### **Section 22. Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates**

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits, to the extent that similar exclusions have been satisfied under the original policy.

#### **Section 23. Nonforfeiture Benefit Requirement**

A. No policy or certificate may be delivered, or issued for delivery in this state, unless the issuer of such contract of insurance offers to the policyholder or certificate holder a nonforfeiture benefit, as described in this Section.

This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

(1) For purposes of this Section, *attained age rating* is defined as a schedule of premiums, starting from the issue date, which increases with increasing age at least 1 percent per year prior to age 50, and at least 3 percent per year beyond age 50.

(2) For purposes of this Section, the nonforfeiture benefit shall be a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in Paragraph (3).

(3) The standard nonforfeiture credit will be equal to 100 percent of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer

may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of Subsection B.

(4) No policy or certificate shall begin a nonforfeiture benefit later than the end of the third year following the policy or certificate issue date, except that for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:

(a) the end of the tenth year following the policy or certificate issue date; or

(b) the end of the second year following the date the policy or certificate is no longer subject to attained age rating.

(5) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

B. Nonforfeiture benefits in a qualified long-term care insurance contract shall:

(1) be appropriately captioned;

(2) provide that the amount of the benefit available in the event of a default in the payment of any premiums, and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest, as reflected in changes in rates for premium paying contracts approved by the secretary of the Treasury for the contract form; and

(3) shall include at least one of the following:

(a) reduced paid-up insurance;

(b) extended term insurance;

(c) shortened benefit period; or

(d) other similar offerings approved by the secretary of the Treasury.

C. All benefits paid by the insurer while the policy or certificate is in premium paying status and the paid up status will not exceed the maximum benefits which would have been payable if the policy or certificate had remained in premium paying status.

D. There shall be no difference in the minimum nonforfeiture benefits, as required under this Section, for group and individual policies.

E. The requirements set forth in this Section shall become effective 12 months after adoption of this provision and shall apply as follows.

(1) Except as provided in Paragraph (2), the provisions of this Section apply to any long-term care policy issued in this state on or after the effective date of this amended regulation.

(2) For certificates issued on or after the effective date of this Section, under a group long-term care insurance policy, as defined in Section 4E(1) and R.S. 22:1734(4)(a), which policy was in force at the time this amended regulation became effective, the provisions of this Section shall not apply.

(3) For qualified long-term care insurance contracts, the nonforfeiture provisions shall be effective on January 1, 1998.

F. Premiums charged for policy or certificate containing nonforfeiture benefits shall be subject to the loss ratio requirements of Section 17 treating the policy as a whole.

#### **Section 24. Standards for Benefit Triggers**

A. A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.

B.(1) Activities of daily living shall include at least the following as defined in Section 5 and in the policy:

(a) bathing;

(b) continence;

(c) dressing;

(d) eating;

(e) toileting; and

(f) transferring.

(2) Insurers may use activities of daily living to trigger covered benefits in addition to those contained in Paragraph (1), as long as they are defined in the policy.

C. An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements contained in Subsections A and B.

D. For purposes of this Section, the determination of a deficiency shall not be more restrictive than:

(1) requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or

(2) if the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others.

E. Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses, or social workers.

F. Long-term care insurance policies shall include a clear description of the process for appealing and resolving benefit determinations.

G. The requirements set forth in this Section shall be effective January 1, 1999 and shall apply as follows:

(1) Except as provided in Paragraph (2), the provisions of this Section apply to a long-term care policy issued in this state on or after the effective date of the amended regulation.

(2) For certificates issued on or after the effective date of this Section, under a group long-term care insurance policy, as defined in Section 4(E)(d) and R.S. 22:1734(4) that was in force at the time this amended regulation became effective, the provisions of this Section shall not apply.

#### **Section 25. Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts**

A. A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living for an expectation of at least 90 days due to a loss of functional capacity, as described in D(1) below; or severe cognitive impairment, as described in D(2) below. An insured will be considered to have met a condition of payment if, within the



preceding 12-month period, a licensed health care practitioner has certified that the insured has met such requirements, and such practitioner has prescribed the qualified long-term care insurance services pursuant to a plan of care. Eligibility for the payment of benefits shall not be more restrictive than requiring a deficiency in the ability to perform not more than three of the activities of daily living.

B.(1) Activities of daily living shall include the following, as defined in Section 5 and in the qualified long-term care insurance contract:

- (a) bathing;
- (b) continence;
- (c) dressing;
- (d) eating;
- (e) toileting; and
- (f) transferring.

(2) An issuer of qualified long-term care contracts is limited to considering only the activities of daily living listed in Paragraph (1) above.

C. Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses, or social workers.

D. For the purposes of this Section, determinations of functional capacity and severe cognitive impairment shall be based on the following standards:

(1) for loss of functional capacity, requiring the substantial assistance of another person to perform the prescribed activities of daily living; or

(2) for severe cognitive impairment, requiring substantial supervision including, but not limited to, verbal cueing by another person to protect the insured from harming him or herself [or others, or from threats to such individual's health or safety].

E. Qualified long-term care contracts shall include a clear description of the process for appealing and resolving benefit determinations.

#### Section 26. Standard Format Outline of Coverage

This Section of the regulation implements, interprets, and makes specific the provisions of R.S. 22:1736(G) in prescribing a standard format and the content of an outline of coverage.

A. The outline of coverage shall be a free-standing document, using no smaller than 10-point type.

B. The outline of coverage shall contain no material of an advertising nature.

C. Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring.

D. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

E. Format for outline of coverage:

[COMPANY NAME]  
[ADDRESS - CITY AND STATE]  
[TELEPHONE NUMBER]  
LONG-TERM CARE INSURANCE  
OUTLINE OF COVERAGE  
[Policy Number or Group Master  
Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

CAUTION: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance] ([a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).

2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!

3. THIS PLAN IS INTENDED TO BE A QUALIFIED LONG-TERM CARE INSURANCE CONTRACT. (For qualified long-term care insurance contracts, a disclosure statement must be included stating that it is the intention of this contract to be considered as such.)

4. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED.

(a) [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:

(1) Policies and certificates that are guaranteed renewable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, [certificate] to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) [Policies and certificates that are noncancelable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.

(b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]

(c) [Describe waiver of premium provisions or state that there are no such provisions;]

(d) [State whether or not the company has a right to change premium, and if such right exists, describe clearly and concisely each circumstance under which premium may change.]

5. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return-"free look" provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

6. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) [For agents] Neither [insert company name] nor its agents represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

7. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home. This

policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

**8. BENEFITS PROVIDED BY THIS POLICY.**

- (a) [Covered services, related deductible(s), waiting periods, elimination periods and benefit maximums.]
- (b) [Institutional benefits, by skill level.]
- (c) [Noninstitutional benefits, by skill level.]
- (d) Eligibility for Payment of Benefits

[Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and must be defined and described as part of the outline of coverage.]

[Any additional benefit triggers must also be explained. If these triggers differ for different benefits, explanation of the triggers should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

**9. LIMITATIONS AND EXCLUSIONS.**

[Describe:

- (a) Preexisting conditions;
- (b) Noneligible facilities and provider;
- (c) Noneligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);
- (d) Exclusions and exceptions;
- (e) Limitations.]

[This Section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in (6) above.] THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

**10. RELATIONSHIP OF COST OF CARE AND BENEFITS.** Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

- (a) That the benefit level will not increase over time;
- (b) Any automatic benefit adjustment provisions;
- (c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;
- (d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;
- (e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

**11. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS**

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

**12. PREMIUM**

- [(a) State the total annual premium for the policy;
- (b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

**13. ADDITIONAL FEATURES**

- [(a) Indicate if medical underwriting is used;
- (b) Describe other important features.]

**Section 27. Requirement to Deliver Shopper's Guide**

A. A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the commissioner, shall be provided to all prospective applicants of a long-term care insurance policy or certificate.

(1) In the case of agent solicitations, an agent must deliver the shopper's guide prior to the presentation of an application or enrollment form.

(2) In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form.

B. Life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the above-referenced guide, but shall furnish the policy summary required under R.S. 22:1736(J).

**Section 28. Penalties**

In addition to any other penalties provided by the laws of this state, any insurer and any agent found to have violated any requirement of this state relating to the regulation of long-term care insurance or the marketing of such insurance shall be subject to a fine of up to three times the amount of any commissions paid for each policy involved in the violation or up to \$10,000, whichever is greater.

**Section 29. Effective Date**

This regulation shall be effective on January 1, 1998.

**Appendix A**

RESCISSON REPORTING FORM FOR  
LONG-TERM CARE POLICIES  
FOR THE STATE OF LOUISIANA  
FOR THE REPORTING YEAR 19[ ]

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Due: March 1 annually

**Instructions:**

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

Policy Form #	Policy and Certificate #	Name of Insured	Date of Policy Issuance	Date/s Claim/s Submitted	Date of Rescission

Detailed reason for rescission:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (please type)

\_\_\_\_\_  
Date

**Appendix B**

LONG-TERM CARE INSURANCE  
PERSONAL WORKSHEET

People buy long-term care insurance for a variety of reasons. These reasons include to avoid spending assets for long-term care, to make sure there are choices regarding the type of care received, to protect family members from having to pay for care, or to decrease the chances of going on Medicaid. However, long-term care insurance can be expensive, and is not appropriate for everyone. State law requires the insurance company to ask you to complete this worksheet to help you and the insurance company determine whether you should buy this policy.

**Premium**

The premium for the coverage you are considering will be [\$ \_\_\_\_\_ per month, or \$ \_\_\_\_\_ per year.] [a one-time single premium of \$ \_\_\_\_\_.] [The company cannot raise your rates on this policy.] [The company has a right to increase premiums in the future.] The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The last rate increase for this policy in this state was in [year], when premiums went

up by an average of \_\_\_ percent]. [The company has not raised its rates for this policy.]

[ Have you considered whether you could afford to keep this policy if the premiums were raised, for example, by 20 percent?]

**Income**

Where will you get the money to pay each year's premiums?

Income  Savings  Family members

What is your annual income? (check one)

Under \$10,000  \$[10-20,000]  \$[20-30,000]

\$[30-50,000]  Over \$50,000

How do you expect your income to change over the next 10 years? (check one)

No change  Increase  Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7 percent of your income.

**Savings and Investments**

Not counting your home, what is the approximate value of all of your assets (savings and investments)? (check one)

Under \$20,000  \$20,000-\$30,000  \$30,000-\$50,000

Over \$50,000

How do you expect your assets to change over the next ten years? (check one)

Stay about the same  Increase  Decrease

If you are buying this policy to protect your assets and your assets are less than \$30,000, you may wish to consider other options for financing your long-term care.

**Disclosure Statement**

<input type="checkbox"/> The information provided above accurately describes my financial situation.	<input type="checkbox"/> I choose not to complete this information.
--	---

Signed: \_\_\_\_\_  
(Applicant) (Date)

[ I explained to the applicant the importance of completing this information.]

Signed: \_\_\_\_\_  
(Agent) (Date)

Agent's Printed Name: \_\_\_\_\_

[Note: In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My agent has advised me that this policy does not appear to be suitable for me. However, I still want the company to consider my application.]

Signed: \_\_\_\_\_  
(Applicant) (Date)

The company may contact you to verify your answers.

**Appendix C**

**THINGS YOU SHOULD KNOW BEFORE YOU BUY**

**LONG-TERM CARE INSURANCE**

- Long-Term Care Insurance
  - A long-term care insurance policy may pay most of the costs for your care in a nursing home. Many policies also pay for care at home or other community settings. Since policies can vary in coverage, you should read this policy and make sure you understand what it covers before you buy it.
  - [You should not buy this insurance policy unless you can afford to pay the premiums every year.] [Remember that the company can increase premiums in the future.]

- The personal worksheet includes questions designed to help you and the company determine whether this policy is suitable for your needs.

**Medicare**

- Medicare does not pay for most long-term care.

**Medicaid**

- Medicaid will generally pay for long-term care if you have very little income and few assets. You probably should not buy this policy if you are now eligible for Medicaid.

- Many people become eligible for Medicaid after they have used up their own financial resources by paying for long-term services.

- When Medicaid pays your spouse's nursing home bills, you are allowed to keep your house and furniture, a living allowance, and some of your joint assets.

- Your choice of long-term care services may be limited if you are receiving Medicaid. To learn more about Medicaid, contact your local or state Medicaid agency.

**Shopper's Guide**

- Make sure the insurance company or agent gives you a copy of a book called the National Association of Insurance Commissioners' "Shopper's Guide to Long-Term Care Insurance." Read it carefully. If you have decided to apply for long-term care insurance, you have the right to return the policy within 30 days and get back any premium you have paid if you are dissatisfied for any reason or choose not to purchase the policy.

**Counseling**

- Free counseling and additional information about long-term care insurance are available through your state's insurance counseling program. Contact your state insurance department on aging for more information about the senior health insurance counseling program in your state.

**Appendix D**

**LONG-TERM CARE INSURANCE SUITABILITY LETTER**

Dear [Applicant]:

Your recent application for long-term care insurance included a "personal worksheet," which asked questions about your finances and your reasons for buying long-term care insurance. For your protection, state law requires us to consider this information when we review your application, to avoid selling a policy to those who may not need coverage.

[Your answers indicate that long-term care insurance may not meet your financial needs. We suggest that you review the information provided along with your application, including the booklet "Shopper's Guide to Long-Term Care Insurance" and the page titled "Things You Should Know Before Buying Long-Term Care Insurance." Your state insurance department also has information about long-term care insurance and may be able to refer you to a counselor free of charge who can help you decide whether to buy this policy.]

[You chose not to provide any financial information for us to review.]

We have suspended our final review of your application. If, after careful consideration, you still believe this policy is what you want, check the appropriate box below and return this letter to us within the next 60 days. We will then continue reviewing your application and issue a policy if you meet our medical standards.

If we do not hear from you within the next 60 days, we will close your file and not issue you a policy. You should understand that you will not have any coverage until we hear back from you, approve your application and issue you a policy.

Please check one box and return in the enclosed envelope.

- Yes, [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this coverage. Please resume review of my application.
- No. I have decided not buy a policy at this time.

Applicant Signature

Date

Please return to [issuer] at [address] by [date].

James H. "Jim" Brown  
Commissioner

9708#024

## RULE

### Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

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

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 reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, the commission adopts a new rule.

#### Title 55

#### PUBLIC SAFETY

#### Part IX. Liquefied Petroleum Gas

#### Chapter 1. General Requirements

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

No person, firm, or corporation shall use, sell, or distribute a refrigerant containing liquefied petroleum gas for use in mobile air conditioning systems.

*Mobile Air Conditioning System*—mechanical vapor compression equipment which is used to cool the driver's or passenger's compartment of any motor vehicle.

**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 23:990 (August 1997).

Charles M. Fuller  
Director

9708#046

## RULE

### Department of Public Safety and Corrections Office of Motor Vehicles

Privacy of Records (LAC 55:III.551-565)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby adopts rules establishing procedures for persons and business entities to follow in seeking access to personal information contained in the records of the Office of Motor Vehicles. This information is obtained from individuals who apply for or renew driver's licenses, identification cards, motor vehicle titles, and motor vehicle registrations. The rules are intended to implement the requirements of the Federal Driver's Privacy Protection Act of 1994, 18 U.S.C. §2721 et seq. The federal law is intended to limit the access that persons and business entities have to the personal information contained in the records of the Office of Motor Vehicles. These rules provide the procedures that persons and business entities are to follow in seeking access to the personal information.

These rules are being adopted pursuant to the authority contained in R.S. 32:401 et seq., and R.S. 32:853.

#### Title 55

#### PUBLIC SAFETY

#### Part III. Motor Vehicles

#### Chapter 5. Records

#### Subchapter B. Privacy

#### §551. Statement of Intent and Purpose

The purpose of Subchapter B is to implement the federal Driver's Privacy Protection Act of 1994 (DPPA) (Title XXX of P.L. 103-322) and to substantially comply with the DPPA.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:990 (August 1997).

#### §553. Definitions

As used in Subchapter B, the following terms have the meanings described below:

*Assistant Secretary*—the assistant secretary of the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles.

*Authorized Recipient*—a person, corporation, partnership, limited liability company, or other business entity who has received all or part of the personal information contained in the records of an individual from the department pursuant to a written request authorized by Subchapter B, and includes any requester who is subsequently approved to receive records or personal information on individuals pursuant to a contract as provided in Subchapter B.

*Consented Disclosure*—personal information disclosed to a requester who has demonstrated that he has obtained the written consent of the person who is the subject of the personal information.

*Department*—the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles.

*Disclose, Disclosure*—when used in the context of describing the release of personal information, the process to make known or make available personal information. The release of information through this process shall be limited to the three categories as defined in §553 as follows:

- a. a consented disclosure;
- b. a permitted disclosure; or
- c. a required disclosure.

*Motor Vehicle Record*—any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the department which contains personal information.

*Permitted Disclosure*—personal information that may be disclosed as follows:

a. for use by any government agency in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions;

b. for use in connection with:

i. motor vehicle or driver safety and theft;

ii. motor vehicle emissions;

iii. motor vehicle product alterations, recalls, or advisories;

iv. performance monitoring of motor vehicles, motor vehicle parts, and dealers;

v. motor vehicle market research activities, including survey research; and

vi. removal of nonowner records from the original owner records of motor vehicle manufacturers;

c. for use in the normal course of business by a legitimate business or its agents, employees, or contractors but only to verify the accuracy of personal information submitted by the individual to the business, its agents, employees, or contractors, and if such information as so submitted is not correct or is no longer correct, to obtain correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual;

d. for use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state or local court or agency or before any self regulatory body, including the service of process, investigations in anticipation of litigation, and the execution or enforcement of judgments or orders, or pursuant to an order of a federal, state, or local court;

e. for use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to recontact individuals;

f. for use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting;

g. for use in providing notice to the owners of towed or impounded vehicles;

h. for use by licensed private investigation agency, or licensed security service for any purpose permitted under this Section;

i. for use by an employer or its agents or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986;

j. for use in connection with the operation of private toll transportation facilities;

k. for bulk distribution for surveys, marketing or solicitation if the individual has not prohibited the disclosure of the individual's personal information;

l. for use by a requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains;

m. for any other use specifically authorized by state law related to the operation of a motor vehicle or public safety.

*Person*—an individual or natural person, and does not include a corporation, partnership, limited liability company or other business entity.

*Personal Information*—all information contained in the records of the Office of Motor Vehicles that identifies a person including an individual's photograph or computerized image, Social Security Number, driver's license number, name, address (but not the five digit zip code), telephone number, and medical or disability information. Personal information does not include information on vehicular accidents, driving or equipment related violations, and driver's license or registration status.

*Record*—all books, papers, photographs, photostats, cards, films, tapes, recordings, electronic data, computer tapes, computer disks, printouts, other documentary materials regardless of physical form or characteristics.

*Redisclose, Redisclosure*—when used in the context of describing the release of personal information, the disclosure by an authorized recipient of records or personal information, but only for purposes authorized by Subchapter B.

*Requester*—the person, corporation, partnership, limited liability company or other business entity, or any federal or state agency submitting a written or other authorized request to the department for an individual's personal information.

*Required Disclosure*—personal information that shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:990 (August 1997).

**§555. Prohibition on Disclosure and Use of Personal Information from Department Records**

A. Pursuant to the DPPA, no records of the department containing personal information, nor the personal information contained in those records shall be disclosed by the department or any officer, employee, agent or contractor to any person except as provided in Subchapter B.

B. An authorized recipient shall resell or redisclose records or personal information contained in an individual's motor vehicle record only for purposes defined as permitted disclosures in Subchapter B. Any authorized recipient reselling or redisclosing records or personal information shall maintain records of such resale or redisclosure for a period of five years from the date of such resale or redisclosure. Such records shall be made available to an authorized representative of the department promptly upon request if the records are not currently in use, but no later than one business day after the receipt of a request from the department's representative. The records required to be maintained by the authorized recipient pursuant to this Section shall be stored in Louisiana and shall contain the following information on the person to whom the personal information was resold or redisclosed and on the personal information that was so sold or disclosed:

1. the full name of the person including any trade names or aliases;
2. the complete physical and mailing addresses of the person;
3. the name of an individual as a contact person if the person to whom the resale or redisclosure was made is a business entity;
4. the telephone number including area code of the person;
5. a description of the records or personal information resold or redisclosed of sufficient detail as to allow the identification of those individuals whose records or personal information was resold or redisclosed; and
6. the permitted purpose for which the information will be used.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:992 (August 1997).

**§557. Procedure for Requesting Personal Information**

A. All requests seeking disclosure of personal information shall be in writing, except electronic requests submitted to the department pursuant to a contract authorized by Subchapter B.

1. All written requests shall be mailed to the assistant secretary or his designee at Box 64886, Baton Rouge, Louisiana 70896-4886.

2. At his option, the requester may hand deliver the written request to the Office of Motor Vehicles Headquarters in Baton Rouge, Louisiana.

3. The requester shall provide such information as may be required by the department to establish the requester's identity and the requester's status as a person who may receive the requested personal information including:

- a. the requester's full name;
- b. any aliases or trade names;
- c. the requester's complete mailing and physical addresses and telephone number, including area code; and
- d. the name of a contact person if the requester is a business entity.

4. In order to facilitate a request, the requester should provide sufficient information in his request to establish his status as a person who may receive personal information under DPPA.

B. All requests seeking disclosure of personal information shall be processed on a first come, first serve basis, unless the assistant secretary or his designee determines that there is good cause for a request to be handled in a different order.

C.1. The assistant secretary or his designee shall determine the requester is a person, corporation, partnership, limited liability company, or other business entity who may receive personal information pursuant to DPPA.

2. A requester seeking personal information through a permitted disclosure or a required disclosure shall, upon establishing to the satisfaction of the assistant secretary or his designee, that the requester may receive the requested personal information, and upon the payment of all fees and costs, be provided the requested personal information.

**D. Consented Disclosure**

1. In the case of a consented disclosure, the requester shall notify the person about whom personal information is sought:

- a. of the request; and
- b. that the information will not be released unless the individual waives his right to privacy under DPPA.

2. The notice of the request to the person about whom personal information is requested shall specifically state all personal information that is being sought.

3. The notice of the request shall also give full information about the requester including but not limited to:

- a. the requester's full name as well as any aliases or trade names;
- b. the requester's complete mailing and physical addresses, and the requester's telephone number including area code;
- c. the name of a contact person if the requester is a business entity; and
- d. purpose for requesting the personal information.

4.a. No request will be processed by the department until the requester has obtained the waiver from the person about whom the personal information is sought.

b. The original waiver together with a copy of the notice sent to the person about whom the personal information was sought shall accompany the original request for disclosure.

E. The failure of a requester to comply with the requirements contained in §557 shall be grounds to deny the request to disclose personal information.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:992 (August 1997).

#### **§559. Administrative Actions**

A. Any authorized recipient who has access to motor vehicle records through a contract, permit, license, or other authorization issued by the department or any other agency that is a part of the Department of Public Safety and Corrections, shall be governed by the rules contained in Subchapter B.

B.1. The violation of any rule contained in Subchapter B, or the violation of any provision of the DPPA by an authorized recipient of motor vehicle records through a contract, permit, license or other authorization issued by the department may serve as grounds for the initiation of an administrative action to revoke, suspend or cancel any contract, permit, license or other authorization issued by the department.

2. Such violation may also serve as grounds for the initiation of an administrative action to impose a fine or other penalty against such person.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:993 (August 1997).

#### **§561. Contracts**

A. The department may enter into contracts for the sale of personal information if the requested disclosure is a permitted disclosure or a required disclosure.

1. All contracts for individuals' records or the personal information contained in the individuals' records shall contain all of the requirements contained in §561.

2. Any contract not meeting the requirements of §561 shall be of no effect and shall establish no obligation on the department to comply with the terms of such contract.

B.1. Such contracts may include the sale and disclosure of such information through electronic or online means.

2. Such contracts shall allow the requester continual access to the department's records during the period of the contract condition upon the requester making timely payment of all fees and costs due under the contract as well as all fees and costs required by state law or Subchapter B.

C. All contracts shall contain the following requirements:

1. all contracts shall be for a specified term not exceeding one year, except that a contract may provide for a renewal term on the anniversary date of the contract:

a. the anniversary date shall be one year from the commencement date of the contract as required in §561, and thereafter annually on that date for the life of the contract;

b. there shall be no more than five renewal terms;

c. the contract shall provide that in the case of automatic renewal terms, the department shall be given the option of canceling the contract upon 30 days written notice to all parties to the contract;

d. the contract shall specify the commencing date for the initial term and the ending date for the initial term;

2. the failure to make a payment when due may be grounds to terminate the contract upon 30 days written notice to all parties to the contract;

3. the contract shall be subject to termination if any part of the contract is contingent on the appropriation of funds to fulfill any part of the contract, and if the legislature fails to appropriate sufficient funds for the continuation of the contract or if the appropriation is reduced by the veto of the governor, or if the appropriation is reduced by any other means authorized by law;

4. the records or personal information obtained pursuant to a contract shall not be resold or redisclosed by the requester except as expressly authorized in the contract. A violation of this §561.C.4 may serve as grounds for the immediate termination of the contract. Any person whose contract is terminated pursuant to this §561.C.4 shall not be eligible to enter into any subsequent contract pursuant to §561 for a period of five years except upon a waiver by the assistant secretary after a showing of good cause by the person so disqualified;

5. any resale or redisclosure authorized pursuant to a contract shall be only for the purposes defined as permitted disclosures in Subchapter B;

a. any authorized recipient who resells or rediscloses records or personal information shall keep records of such resale or redisclosure for a five-year period from the date of the resale or redisclosure;

b. such records shall include the following information on persons to whom a resale or redisclosure is made and the records or information that was resold or redisclosed:

i. the full name of the person including any trade names or aliases;

ii. the complete physical and mailing addresses of the person;

iii. the name of an individual as a contact person if the person to whom the resale or redisclosure was made is a business entity;

iv. the telephone number including area code of the person;

v. a description of the records or personal information resold or redisclosed of sufficient detail as to allow the identification of those individuals whose records or personal information was resold or redisclosed; and

vi. the permitted purpose for which the information will be used;

6.a. in the case of records or personal information disclosed electronically or through an online service, the authorized recipient shall use only equipment approved by the department and in locations approved by the department;



b. the authorized recipient shall submit a written plan to the department which shall provide for the security and the integrity of the records and personal information received pursuant to the contract;

c. the authorized recipient shall implement the plan as approved by the department with any amendments prior to receiving any records or personal information from the department;

7. the authorized recipient shall develop and implement a plan to insure that the employees, agents, and representatives of the authorized recipient are familiar with the requirements of the DPPA and the rules in Subchapter B;

8. the authorized recipient shall not acquire title, ownership, or any other interest in the records and personal information received pursuant to the contract except that the authorized agent may use, resell, or redisclose the information as authorized in the contract, the DPPA, and Subchapter B;

9.a. the authorized recipient shall promptly notify the assistant secretary or his designee of any possible violation of the DPPA, Subchapter B, or the contract entered into pursuant to §561;

b. the authorized recipient shall cooperate with the department in any legal action to stop or prevent any violation of the DPPA or Subchapter B;

10. no authorized recipient shall be granted:

a. a right of exclusive use of any record or personal information; or

b. an exclusive right to resell or redisclose records for any permitted purpose;

11. the applicable law for the contract shall be the law of Louisiana;

12.a. the authorized recipient shall keep its records regarding the contract in Louisiana in a location approved by the assistant secretary and, upon the request of any authorized representative of the department, shall promptly make the records available if the records are not currently in use;

b. in no event shall the records be produced later than one business day after receipt of the request;

c. an authorized representative of the department may conduct an audit of the authorized recipient records at least once a year;

d. an authorized representative of the department shall be authorized to conduct an inspection of any premises of the authorized recipient used in connection with the contract or where the authorized recipient's records are stored. Such an inspection shall be during the normal business hours of the department unless the parties agree otherwise;

13. the contract shall include any other provisions required by the assistant secretary, and such provision shall be enforceable in the same manner as if such provision were included in §561.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:993 (August 1997).

## **§563. Representations Regarding Records and Personal Information**

No authorized recipient shall represent the records or personal information which the authorized recipient may use, resell, or redisclose as official records of the department. The authorized recipient may represent that the records or personal information have been obtained from the department and that the records or personal information accurately reflects what was contained in the department's records on the date the records or information were obtained. Any permitted resale or redisclosure shall contain or be accompanied with a statement that the records or personal information contained therein are not the official records of the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:994 (August 1997).

## **§565. Official Use of Personal Information**

A. Nothing in Subchapter B shall be construed as limiting or prohibiting the use of personal information by an employee of the Department of Public Safety and Corrections for official purposes as authorized by the DPPA and state law.

B. The department may enter into cooperative endeavors with other state and federal agencies providing for the access, use and release of personal information as authorized by the DPPA and state law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:401 et seq., and R.S. 32:853.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:994 (August 1997).

Thomas H. Normile  
Undersecretary

9708#041

## **RULE**

### **Department of Social Services Office of Rehabilitation Services**

#### **Vocational Rehabilitation Policy Manual (LAC 67:VII.101)**

The Department of Social Services, Rehabilitation Services, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended the Vocational Rehabilitation Services Policy Manual, Sections: Eligibility and Conditions for Case Closure.

The rule governing Louisiana Rehabilitation Services' policy relative to the timeframe for determining eligibility ensures that individuals will receive a timely decision regarding their eligibility for Vocational Rehabilitation Services.

The rule governing Louisiana Rehabilitation Services' policy relative to closure of an individual's case record after

a successful employment outcome is achieved ensures that the individual's employment is stable, compatible with the individual's abilities and capabilities, and the individual is satisfied with the job placement.

The LRS policy manuals are referenced in LAC 67:VII. Specific amendments to the Vocational Rehabilitation Policy Manual are as follows:

#### V. ELIGIBILITY AND INELIGIBILITY DECISIONS

\* \* \*

##### D. Compliance Provisions Relating to Eligibility, Extended Evaluations, and/or Ineligibility Decisions

\* \* \*

5. Timeframe for Determining Eligibility. Eligibility must be determined within a reasonable period of time, not to exceed 60 days after the individual has signed an application for vocational rehabilitation services. Exceptions to this 60-day timeframe can occur if:

(1) the determination is made that an extended evaluation is necessary to determine the individual's eligibility for vocational rehabilitation services and the nature and scope of services needed; or

(2) the client agrees to an extension of time because exceptional and unforeseen circumstances beyond the agency's control have made it impossible for the rehabilitation counselor to make an eligibility determination within this time frame.

#### XI. CONDITIONS FOR CASE CLOSURE

##### A. Options for Closure

\* \* \*

B. Closure as Successfully Rehabilitated. An individual is determined to have achieved an employment outcome if the following requirements are met:

1. the provision of services under the individual's IWRP has contributed to the achievement of the employment outcome.

2. the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

3. the employment outcome is in the most integrated setting possible, consistent with the individual's informed choice.

4. the individual has maintained the employment outcome for a period of at least 90 days.

5. the individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

#### Title 67

### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

##### Chapter 1. General Provisions

##### §101. Vocational Rehabilitation Policy Manual

A. LRS Vocational Rehabilitation Policy Manual provides opportunities for employment outcomes through vocational and other rehabilitation services. Its policy manual guides its

functions and governs its actions within the parameters of federal law.

B. Copies of the policy manual can be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA and at each of its nine Louisiana Rehabilitation Services Regional Offices (statewide), or at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), LR 21:191 (February 1995), LR 21:473 (May 1995), LR 21:837 (August 1995), LR 22:993 (October 1996), LR 23:292 (March 1997), LR 23:995 (August 1997).

Madlyn B. Bagneris

Secretary

9708#022

#### RULE

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

#### Plan Document—Infertility Exclusion

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby amends the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document to clarify provisions related to the exclusion of benefits for treatment of infertility. Accordingly, the board amends the Plan Document of Benefits for the State Employees Group Benefits Program in the following particulars:

Amend Subsection S of Article 3, Section VIII, of the Plan Document to read as follows:

#### VIII. Exceptions and Exclusions for All Medical Benefits

No benefits are provided under this contract for:

\* \* \*

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

parenting, donor semen, donor eggs, and reversal of sterilization procedures;

\* \* \*

James R. Plaisance  
Executive Director

9708#065

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

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

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) hereby amends LAC 58:I.Chapters 3 and 5. The rules set forth the procedures for the election of trustees to the LASERS Board of Trustees.

**Title 58**

**RETIREMENT**

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

**Chapter 3. Election of Active Member Trustees**

**§301. General Schedule of Elections**

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

B. The schedule for elections shall be as follows:

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997).

**§303. Election Rules**

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

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

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

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

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

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

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997).

### **§305. Vacancies; Special Elections**

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997).

## **Chapter 5. Election of Retired Member Trustees**

### **§501. General Schedule of Elections**

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

B. The schedule for elections shall be as follows:

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

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

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

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

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997).

### **§503. Election Rules**

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

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

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

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

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

F. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) or postmarked after that date shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

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

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997).

#### **§507. Vacancies; Special Elections**

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:998 (August 1997).

James O. Wood  
Executive Director

9708#064

## **RULE**

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

#### **Black Bass—Atchafalaya Basin Complex (LAC 76:VII.165)**

The Wildlife and Fisheries Commission hereby amends a rule for Black Bass.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

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

#### **Chapter 1. Freshwater Sports and Commercial Fishing**

#### **§165. Black Bass Regulations—Atchafalaya River Basin, Lake Verret, Lake Palourde Complex**

The daily creel limit (daily take) for Black Bass (*Micropterus spp.*) is 10 fish and the minimum total length limit is 14 inches in the area south of U.S. 190 from the West Atchafalaya Basin Protection Levee to the intersection of LA 1 and U.S. 190 due north of Port Allen, east of the West Atchafalaya Basin Protection Levee from U.S. 190 to U.S. 90, north of U.S. 90 from the West Atchafalaya Basin Protection Levee to LA 20, north and west of LA 20 from U.S. 90 to LA 1 in Thibodaux, south and west of LA 1 from LA 20 to U.S. 190.

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

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:361 (March 1993), amended LR 21:960 (September 1995), LR 23:998 (August 1997).

Daniel J. Babin  
Chairman

9708#070

## **RULE**

### **Departments of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Toledo Bend Reservoir Reciprocal Agreement (LAC 76:VII.110)**

The Wildlife and Fisheries Commission hereby amends a rule modifying regulations for the Toledo Bend Reservoir.

**Title 76**

**WILDLIFE AND FISHERIES**

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

**Chapter 1. Freshwater Sports and Commercial Fishing**

**§110. Toledo Bend Reservoir Reciprocal Agreement**

A. The daily creel limit (daily take) for black bass (*Micropterus spp.*) is set at eight fish, in aggregate. The minimum total length limit for largemouth bass (*M. salmoides*) is 14 inches and the minimum total length limit for spotted bass (*M. punctulatus*) is 12 inches. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch.

B. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum total length limit.

C. For all species of fish, the possession limit for recreational anglers, while on the water, shall be a one day's creel limit.

D. This rule will become effective September 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 325(C) 326.3, 673.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:548 (August 1988), amended LR 17:278 (March 1991), LR 17:1123 (November 1991), LR 19:790 (June 1993), LR 23:999 (August 1997).

Daniel J. Babin  
Chairman

9708#069

# Notices of Intent

## NOTICE OF INTENT

### Department of Economic Development Licensing Board for Contractors

License, Examination and Hearings  
(LAC 46:XXIX.303, 503 and 703)

The Licensing Board for Contractors, under authority of the Contractors Licensing Law, R.S. 37:2150 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to amend LAC 46:XXIX, which provides a technical amendment to delete unnecessary language from the current rules, clarifies the intent of a current rule, and promulgates a new Section to implement recently enacted legislation. The intended action complies with the statutory law administered by the board, in accordance with the provisions of the Contractors Licensing Law, R.S. 37:2150 et seq.

The board has not prepared a preamble regarding these amendments and proposed rules.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXIX. Contractors

#### Chapter 3. License §303. Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153(A).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, November 1974, amended LR 1:401 (September 1975), LR 3:11 (January 1977), LR 8:136 (March 1982), LR 12:761 (February 1986), repealed by the Department of Economic Development, Licensing Board for Contractors, LR 23:

#### Chapter 5. Examination

#### §503. Authorized to Take Examination

The qualifying party or parties authorized to take the examination are:

1. any individual contractor, contractor, co-partner or any corporate officer who was an organizer in the articles of incorporation, provided no person shall be allowed to be the qualifying party for more than one company and two subsidiaries. If more than two subsidiaries are formed or acquired by a parent company, a separate qualifying party shall be registered with the board for each two additional subsidiary companies. Under no circumstances may an individual be the qualifying party for more than three such related entities, or for more than one unrelated entity;

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153(A).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, November 1974, amended LR 8:136 (March 1982), amended by the Department of

Economic Development, Licensing Board for Contractors, LR 19:1127 (September 1993), LR 23:

#### Chapter 7. Hearings; Meetings

#### §703. Disqualification or Debarment by any Public Entity

Pursuant to the requirements of R.S. 37:2158(B), a public entity who disqualifies any person or licensee pursuant to R.S. 38:2212(J) must provide the board with written notification thereof within 30 days of the date of such disqualification. The notice required by this Section shall include the basis for the disqualification, the terms and provisions thereof, and copies of the evidence or basis upon which the disqualification was imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 23:

Interested persons may submit inquiries and written comments on the proposed rules until 4:30 p.m., September 22, 1997, to Charles Marceaux, Executive Director, Licensing Board for Contractors, 7434 Perkins Road, Baton Rouge, LA 70808.

Charles Marceaux  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: License, Examination and Hearings

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no implementation costs to state or local governmental units resulting from these proposed rule revisions. Section 703 imposes no new requirements on state or local governmental units, but merely implements the requirements of Act 773 of 1997.
- 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 governmental units resulting from these proposed rule revisions.
- 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 resulting from these proposed rule revisions.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect on competition and employment resulting from these proposed rule revisions.

Joy Evans  
Administrator  
9708#042

Richard W. England  
Assistant to the  
Legislative Fiscal Officer



**NOTICE OF INTENT**

**Department of Economic Development  
Office of the Secretary**

Economic Development Award  
Program (LAC 13:I.Chapter 60 and  
Repeal of LAC 19:VII.Chapter 91)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of the Secretary proposes to promulgate rules and regulations in LAC 13:I. Chapter 60 for the Economic Development Award Program. The intent is to transfer the program from the Economic Development Corporation to the Department of Economic Development.

The proposed rules are scheduled to become effective immediately or as soon thereafter, as is practical upon final rule publication in the *Louisiana Register*. The text of this notice of intent can be viewed in its entirety in the emergency rule section of this issue.

Interested persons may comment on the proposed rules in writing until September 10, 1997 to Randy Rogers, National Marketing Director, Department of Economic Development, Box 94185, Baton Rouge, LA 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Kevin P. Reilly, Sr.  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Economic Development Award Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Pursuant to Act 726 of the 1997 Regular Session, this is an existing program that is being transferred from the Louisiana Economic Development Corporation (LEDC) to the Department of Economic Development (DED), Office of Secretary. No changes in cost are anticipated. Existing staff will be used to administer the program and to provide the economic impact analysis.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effects on revenue collections are anticipated.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The program expects to serve approximately the same number of Louisiana businesses (8-12) as the program under LEDC.

Section 6005 was not amended to qualify or encourage more applicants. It makes the process easier for the applicant and program staff because a member of our marketing staff will be involved in all aspects of these projects, not just the EDAP request part. This involvement will provide most of the input struck from the rules.

Except for one loan application, all others received to date have been for grants. Thus we dropped the other subprograms.

A Section was added to allow the secretary of Economic Development to approve an application under emergency conditions.

The rules were amended to allow the secretary to cancel funding at his discretion for projects not underway within a year of funding.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This program's goal will be to reduce unemployment and the risk of future unemployment by assisting businesses through the incentive.

Harold Price  
Assistant Secretary  
9708#082

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Economic Development  
Office of the Secretary**

Workforce Development and Training Program  
(LAC 13:I.Chapter 50 and  
Repeal of LAC 19:VII.Chapter 81)

In accordance with R.S. 51:2331, notice is hereby given that the Department of Economic Development, Office of the Secretary proposes to amend and repromulgate rules and regulations in LAC 13:I.Chapter 50 for the Workforce Development and Training Program. The intent is to transfer the program from the Economic Development Corporation to the Department of Economic Development.

The proposed rules are scheduled to become effective upon final rule publication in the *Louisiana Register*. 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 comment on the proposed rules in writing until September 10, 1997 to Randy Rogers, National Marketing Director, Department of Economic Development, Box 94185, Baton Rouge, LA 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Kevin P. Reilly, Sr.  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Workforce Development and Training Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Pursuant to Act 313 of the 1997 Regular Session, this is an existing program that is being transferred from the Louisiana Economic Development Corporation (LEDC) to the Department of Economic Development (DED), Office of the Secretary. No changes in cost are anticipated.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effects on revenue collections are anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The program expects to serve approximately the same number of Louisiana businesses (8-12) as the program under LEDC.

Section 5005 was not amended to qualify or encourage more applicants. It makes the process easier for the applicant and program staff because a member of our marketing staff will be involved in all aspects of these projects, not just the EDAP request part. This involvement will provide most of the input struck from the rules.

The rules were amended to allow the secretary to cancel funding at his discretion for projects not underway within a year of funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program's goal will be to reduce unemployment and the risk of future unemployment by assisting businesses through the incentive.

Harold Price  
Assistant Secretary  
9708#063

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 741—Vocational Agriscience/Agribusiness**

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, a revision to Standard 2.105.25 of Bulletin 741, Louisiana Handbook for School Administrators, as printed below:

**Vocational Agriscience/Agribusiness**

2.105.25. Vocational Agriscience course offerings shall be as follows:

Course Title	Recommended Grade Level	Units
Exploratory Agriscience	7-8	1
Agriscience/Agribusiness I	9-12	1
Agriscience/Agribusiness II	10-12	1
Agriscience/Agribusiness III	11-12	1
Agriscience/Agribusiness IV	12	1
Agricultural Entrepreneurship	11-12	½
Agricultural Construction	11-12	½
Agriculture and Environmental Applications	11-12	½
Animal Production	11-12	½
Crop Production	11-12	½
Equine Science	11-12	½
Food and Fiber Systems	11-12	½
Forestry	11-12	½
Horticulture	11-12	½

Introduction to Aquaculture	11-12	½
Introduction to Agribusiness	11-12	½
Personal Development	11-12	½
Small Engines	11-12	½
Welding	11-12	½
Ag Lab III	11-12	1
Ag Lab IV	12	1
Cooperative Agriscience Education (CAE)	11-12	2

Ag Lab III and Ag Lab IV are offered only to students who are also enrolled in Agriscience/Agribusiness III or IV or two consecutive semester courses during the year.

Semester courses are designed to be offered in the place of or in addition to Agriscience/Agribusiness III and/or IV. Required prerequisites are to be determined by local board policy for course sequencing.

Three units of credit in Cooperative Agriscience/Agribusiness Education (CAE) are granted to students who successfully complete both the classroom phase of instruction and the on-the-job training phase. These courses are available only to students who have completed Agriscience/Agribusiness I and Agriscience/Agribusiness II.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:

Interested persons may submit written comments until 4:30 p.m., October 10, 1997, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 741—Vocational  
Agriscience/Agribusiness**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

**COST TO LOCAL SYSTEMS:** Implementation costs will vary depending upon the number and types of classes selected by each parish/city school system for implementation. Average costs for offering each of the semester courses for an average class size of 25 students would be approximately \$500 for instructional materials and an additional \$1,300 if a textbook is selected for the class. The proposed courses will be taught by the same teachers currently hired by local school systems to teach Agriscience III and Agriscience IV and the same facilities will be used. It is unknown at this time how many districts will choose to initiate the semester courses and how many courses will be initiated.

**COST TO CDE:** The proposed rule change will result in an expenditure of \$1,000 to print and disseminate the change in Bulletin 741.

BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$80. Funds are available.

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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change affects courses that may be offered to students in grades 11-12 through the agriscience programs in the state. The proposed rule change increases the flexibility of the types and content of courses that may be offered in these programs. The proposed rule change will affect teachers who choose to offer the semester courses in place of current Agriscience III and/or IV in organizing, designing and implementing new courses. Any costs incurred will vary from system to system depending upon the number of classes implemented.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9708#080

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1213—Minimum Standards for School Buses**

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, a proposed revision to Bulletin 1213, Minimum Standards for School Buses. The revision, located on page 34 of Bulletin 1213, section on Weight Distribution, is amended as stated below.

**Undercoating**

\* \* \*

**Weight Distribution**

Weight distribution of a fully-loaded bus on a level surface shall be such as not to exceed the manufacturer's front gross axle rating and rear axle weight rating.

**Chassis Manufacturer**

1., 2. A.B., 3., 4., 5. A.B. . . .

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.  
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:

Interested persons may submit written comments until 4:30 p.m., October 10, 1997, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1213—Minimum Standards for School Buses**

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 \$200 (printing and postage) to disseminate this policy.

BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$40. 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)

There will be no cost to directly affected persons or nongovernmental groups. The proposed rule will eliminate any misunderstanding that could occur during the bid and award process of school bus purchases in the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will provide a weight distribution standard for school buses that reads the same as the national standard. As a result, this change is expected to have an effect toward increasing the competition among vendors of school buses. The revised standard is easier to understand and apply in the manufacture and sale of school buses.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9708#081

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Tuition Trust Authority  
Office of Student Financial Assistance**

**Bylaws (LAC 28:VII.Chapter 2)**

The Tuition Trust Authority, the statutory body created by R.S. 17:3093 et seq., in compliance with the Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to adopt rules relative to bylaws to govern the authority, its meetings, officers and executive staff, order of business, committees, communications to the authority, rights, duties and responsibilities of the executive staff, responsibilities of authority members and amendment or repeal of bylaws.

**Title 28**

**EDUCATION**

**Part VII. Student Tuition Trust Authority**

**Chapter 2. Bylaws**

**§201. Definitions and Authority**

*Chairman of the Authority*—the executive secretary to the governor or his/her designee to the Louisiana Student Financial Assistance Commission (LASFAC), who shall also serve as ex officio Chairman of the Authority.

*Director*—that person appointed in the classified service as the administrative head of a division of the Office of Student Financial Assistance.

*Division*—a subordinate organizational element of the Office of Student Financial Assistance.

*Executive Director*—that person duly appointed by the Louisiana Student Financial Assistance Commission pursuant to R.S. 17:3022(B) to serve in the unclassified service as executive director of the Office of Student Financial Assistance, who shall be its chief executive officer and the appointing authority for all classified employees of the office.

*Fiscal Officer*—that employee of the office assigned responsibility for preparation and monitoring of the approved budget of the authority, who may jointly serve as a director.

*Louisiana Tuition Trust Authority or Authority*—the statutory body created by R.S. 17:3093 et seq., and composed of the members who are duly appointed and qualified as provided by law. The authority shall administer the Louisiana Student Tuition Assistance and Revenue Trust Program, commonly referred to as the "START Saving Program," through the Office of Student Financial Assistance.

*Office of Student Financial Assistance, Louisiana Department of Education or Office*—the organization created by R.S. 36:650 to perform the functions of the state relating to the programs of financial assistance and certain scholarship programs for higher education in accordance with the directives of its governing bodies and applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

### **§203. Meetings**

#### **A. Regular Meetings**

1. The authority shall hold at least one but not more than 12 meetings per calendar year.

2. All regular meetings shall be held at meeting places designated by the authority.

3. Proxy voting shall be allowed at all meetings for the chairman of the State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents; University of Louisiana System and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board.

4. The state superintendent of Education and the state treasurer may vote by proxy through members of their executive staffs.

5. The member from the Louisiana Bankers Association may vote by proxy. No other members shall have the right of proxy voting.

#### **B. Special Meetings**

1. Special meetings of the authority may be called by the chairman at any time, or by the secretary upon written request therefor, signed by a majority of the members and specifying the purposes of the desired meeting.

2. Written notification shall be sent to each member at least three calendar days before the time of the meeting.

#### **C. Compensation**

1. Members of the authority shall receive per diem compensation for their service at the rate authorized by statute or as authorized by executive order, and shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the authority.

2. The authority is limited to 12 meetings per year for which per diem may be drawn by authority members.

D. Quorum. A simple majority of the authority shall constitute a quorum for the transaction of any business, and a simple majority of the quorum present at any meeting voting in favor or against a particular item shall be the act of the authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

### **§205. Officers of the Authority and Executive Staff**

#### **A. Chairman and Vice-Chairman**

1. The chairman of the Louisiana Student Financial Assistance Commission shall serve as chairman of the authority.

2. The authority shall select a vice-chairman annually.

3. The authority may elect such other officers as it deems necessary.

4. The chairman of the authority shall preside over all meetings of the authority; serve as ex officio member of all committees; name the appointive members of all standing and special committees of the authority; and fill all vacancies in the membership of such committees, in accordance with the provisions of these bylaws.

5. The vice-chairman of the authority shall perform the duties of the chairman in the absence of the chairman.

6. In the event both the chairman and the vice-chairman are absent from a meeting of the authority, the authority shall elect a temporary chairman from those present.

B. Secretary. The authority shall select a secretary annually, who may certify the minutes, papers and documents of the authority or of its committees to be true and correct copies.

#### **C. Executive Staff**

1. The executive staff of the authority shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director; the legal counsel; the fiscal officer and the directors of the designated divisions within the office; and such other personnel as may be required for the efficient performance of the functions of the authority.

2. The executive staff shall be tasked, directed and supervised by the executive director.

D. Authentication. Copies of all minutes, papers and documents of the commission, or its committees, may be certified to be true and correct copies by either the chairman, secretary or executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

## §207. Order of Business

A. Rules of Order. When not in conflict with any of the provisions of this article, *Roberts Rules of Order* (latest revision) shall constitute the rules of parliamentary procedure applicable to all meetings of the authority or its committees.

B. Order of Business. The order of business of regular meetings of the authority shall be as follows:

1. roll call;
2. corrections and approval of minutes of preceding regular meetings and of all special meetings held subsequently thereto;
3. reports and recommendations of standing and special committees;
4. unfinished business;
5. informational updates;
6. new business;
7. next meeting.

### C. Reference to Committees

1. In cases where feasible and desirable before taking action, the authority should refer any subject or measure to the standing or special committee in whose purview the matter falls.

2. The committee to which the matter is referred should submit to the authority its recommendations in writing, together with any resolutions necessary to facilitate such recommendations.

### D. Meetings

1. Meetings shall be conducted in accordance with state law governing public bodies.

2. It shall be the policy of the authority that all meetings be open to all who wish to attend.

3. In complying with the provisions of the Open Meetings Law, the authority may enter into a closed or executive session by two-thirds majority vote of the quorum present.

4. Prior to each regular meeting of the authority, the executive director, with approval of the chairman, shall prepare and forward to each member of the authority a tentative agenda for the meeting at least five working days prior to such regular meeting.

5. Upon request of three members of the authority made prior to the fifth day before the authority's next meeting that a particular item be included, the chairman shall place the subject or subjects upon the agenda.

6. Notwithstanding the foregoing, all matters requiring authority action may be acted upon even though not carried on the agenda.

7. Each proposal and/or resolution shall be reduced to writing and presented to the authority before it is acted upon.

8. All official actions of the authority shall require a simple majority vote of the quorum present at the meeting.

### E. Minutes

1. The minutes of the authority shall record official action taken upon motions or resolutions which are voted upon by the authority, and may contain a summary of reports and pertinent discussion.

2. The foregoing provisions relative to contents of the minutes shall, in general, also apply to minutes of committees of the authority.

3. The minutes of meetings of the authority become official only when completed and approved by the authority.

### F. Meeting Attendance

1. Authority members are required to attend all authority meetings.

2. Failure to annually attend a minimum of one-fourth of the authority's meetings will result in a notice being sent from the authority to the absent member stating that failure to attend one more meeting will result in a request being made to the appointing authority that the absent member be replaced.

3. The absent member shall be relieved of duties on any committee to which he/she has been appointed to serve.

4. This Subsection is not applicable to meetings that are missed with just cause, as determined by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

## §209. Committees

A. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership of the authority, the standing committees of the authority shall consist of the following:

1. executive committee;
2. budget and finance committee;
3. investment committee.

### B. Appointment and Terms

1. Members of all standing committees, one of whom shall be designated as chairman and one of whom shall be designated as vice-chairman, shall be appointed by the chairman of the authority, ordinarily soon after the chairman assumes office.

2. The state treasurer shall serve as the chairman of the investment committee.

3. The term of committee appointments shall be one year.

4. Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the chairman of the authority for the remainder of the unexpired term.

### C. Officers of Standing Committees

1. The chairman and the vice-chairman of the authority shall be chairman and vice-chairman, respectively, of the executive committee.

2. In the absence of the chairman, the vice-chairman shall preside.

3. In the event both the chairman and vice-chairman are absent from a meeting, the committee shall elect a temporary chairman from those present.

4. It shall be the duty of the chairman of each committee to call and preside over the necessary meetings.

5. The minutes of the meeting of the committee, showing its actions and recommendations, shall be deemed in compliance with the provisions of §207.C, concerning the written recommendations of the committee.

### D. Quorum of Committee Meetings

1. A simple majority of the membership present at a meeting of a committee of the authority shall constitute a quorum for the transaction of business.

2. When a quorum is not present, the chairman of the committee, or vice-chairman in the chairman's absence, may designate a member of the authority to serve as a substitute member of the committee concerned.

E. Authority of Committees. The authority of committees of the authority shall be subject to these bylaws and to the policies and direction of the authority.

F. Executive Committee

1. The executive committee shall consist of five members.

2. The chairman and vice-chairman of the authority shall serve in those capacities on the executive committee.

3. The chairman of each of the other standing committees or the chair's designee from his respective committee shall be a member of the executive committee.

4. The remaining member, for a total of five members, shall be appointed by the chairman of the authority from the other members of the authority.

5. The executive committee shall consider such matters as shall be referred to it by the authority and shall execute such orders and resolutions as shall be assigned to it at any meeting of the authority.

6. However, the authority may not delegate to the executive committee the final determination of the rate of interest to be paid on education savings accounts of record at the close of the calendar year.

7. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

8. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority.

9. In the event that an emergency requiring immediate authority action shall arise between authority meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate.

10. The executive committee shall report the actions it takes in emergency session to the authority for ratification at the authority's next meeting.

G. Budget and Finance Committee

1. The budget and finance committee shall consist of not less than six members of the authority.

2. Normally, to this committee shall be referred all matters related to budget and to policies concerning the financial management of the authority and the office.

H. Investment Committee

1. The investment committee shall consist of not less than five members of the authority.

2. The state treasurer shall chair this committee.

3. Normally, to this committee shall be referred all matters related to investments of the authority, including:

a. reviewing the treasurer's investment policy and investment performance;

b. reporting to the authority on the performance of investments;

c. advising the treasurer regarding the authority's perspectives on the treasurer's Investments; and

d. receiving the treasurer's annual report of earnings and recommending to the authority an annual earnings rate for adoption by the authority.

I. Special Committees

1. As the necessity therefor arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

**§211. Communications to the Authority**

A. All communications to the authority, or to any committee thereof, from persons having official relations with the authority shall be filed in writing with the executive director and duly transmitted by him to the authority.

B. "Official relations" with the authority shall include those with other agencies of government, contractors, and employees.

C. The executive director shall have the authority to read and comment upon all communications from employees of the office but shall not delay or withhold such communications, except as hereinafter provided.

1. Such communications shall be filed with the executive director at least five days before the meeting of the authority or committee and with the chairman at least three days before such meeting.

2. Otherwise, the executive director may either submit such communication at that time or withhold such communication until the next meeting.

3. In the event the executive director elects to withhold any such communication until the next meeting, such communication shall be promptly forwarded to the chairman with the notation of the executive director concerning such withholding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

**§213. Rights, Duties and Responsibilities of Executive Staff of the Authority**

A. Executive Staff of the Authority

1. The executive staff of the authority shall include the incumbents of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director; the legal counsel; the fiscal officer and the directors of designated divisions within the office; and such other personnel as may be required for the efficient performance of the functions of the authority.

2. The executive staff shall be tasked, directed and supervised by the executive director.

3. Unless otherwise directed by the executive director, the executive staff shall attend the meetings of the authority and its various committees.

## B. Executive Director

### 1. The executive director shall:

- a. be the executive head and chief administrative officer of the Office of Student Financial Assistance;
- b. be responsible to the authority for the conduct of the Office of Student Financial Assistance in all affairs; and
- c. execute and enforce all of the decisions, orders, rules and regulations of the authority with respect to the conduct of the Office of Student Financial Assistance.

2. The executive director's discretionary authority shall be broad enough to enable him/her to meet his/her responsibilities, in the day to day operations of the Office of Student Financial Assistance.

3. The executive director shall be the "appointing authority" for the purposes defined by State Civil Service law, rules and regulations and shall exercise the authority granted to an "appointing authority" thereunder.

4. Subject to these bylaws and the regulations and directions of the authority, the executive director shall:

- a. establish administrative policies and procedures for the operation of the Office of Student Financial Assistance, as they may relate to the authority's program;
- b. plan, organize, supervise, direct, administer, and execute the functions and activities of the Office of Student Financial Assistance, as they may relate to the authority's program;
- c. prepare and present a business plan and consolidated budget for the Office of Student Financial Assistance and the authority;
- d. serve as governmental liaison and spokesperson for the authority; and
- e. promote the development of the authority's program.

5. The executive director shall task, direct, and supervise the executive staff.

6. The executive director shall be responsible for ensuring compliance with the legislatively enacted budgets as approved by the authority.

## C. Delegation of Authority

1. In the absence of the executive director, the director of the loan division, as delegated by the executive director during his/her absences, will assume the duties of the executive director.

2. In the event both the executive director and the director of the loan division are absent, the executive director will appoint another division director to assume the duties of the executive director.

## D. Directors of Divisions

1. There shall be a director for each division of the Office of Student Financial Assistance, appointed by the executive director in accordance with State Civil Service laws, rules and regulations.

2. Under the direction and authority of the executive director, each director shall administer the division for which he/she is appointed.

3. As the administrative head of a division, the director shall be responsible to the executive director for planning, supervising, directing, administering and executing the functions and programs assigned to the division in accordance

with all applicable laws, rules, regulations, policies, directives, and budgets.

4. The directors may invite members of his/her administrative staff to aid in his/her presentations to the authority.

E. Agency Fiscal Officer (Manager). The fiscal officer is responsible for assisting in the development of annual operating budgets, based upon the authority's approved business plan, including:

1. the functions of review and recommendations concerning the budget of the scholarship, grant, and savings division;

2. the preparation of a consolidated budget; and

3. monitoring and reporting the budget as approved by the authority and enacted by the state legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

## **§215. Responsibilities of Authority Members**

A. Authority members are charged with the responsibility of ensuring that the functions and duties of the Office of Student Financial Assistance as they relate to the authority's program are performed effectively in fulfilling the purposes of R.S. 17:3091 through 3099.2.

B. Prior to assuming the responsibilities to which appointed and to avoid any potential conflict of interest, an authority member shall, to the best of his or her knowledge, disclose to the State Board of Ethics any pre-existing relationship between the authority and the member, the member's immediate family, or any entity in which the member has a substantial economic interest. This obligation to disclose is a continuing obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

## **§217. Amendment or Repeal of Bylaws**

New bylaws may be adopted, and bylaws may be amended or repealed, at any meeting of the authority, but no such action shall be taken unless notice of such proposed adoption, amendment, or repeal shall have been given at a previous meeting or notice in writing of the proposed change shall have been served upon each member of the authority at least 30 days in advance of the final vote upon such change, provided, however, when deemed necessary, that by a simple majority of the entire membership of the authority, the requirements for such notice may be waived at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

## **§219. Rules and Regulations of Louisiana Tuition Trust Authority**

A. Any action by the authority establishing policy or methods of procedure, administrative, business, or otherwise shall be known as "Rules and Regulations of the Louisiana Tuition Trust Authority."

B. "Rules and Regulations of the Louisiana Tuition Trust Authority" may be adopted by the authority, or may be



amended or repealed, in whole or in part, at any meeting of the authority by a vote of simple majority.

C. All policies and procedures of the authority falling within the definition of rules and regulations, as herein defined, and in existence upon the date of the adoption of these bylaws, shall be a part of the "Rules and Regulations of the Louisiana Tuition Trust Authority."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

#### §221. Effective Dates

These bylaws shall be adopted and shall become effective on the date they are published as final rules in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

#### §223. Repealing Clause

All rules, orders, regulations, and resolutions heretofore enacted or adopted by the authority, which are in conflict with these bylaws, are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

#### §225. Conforming Clause

No rule, order, regulation or resolution shall be adopted by the authority which is in conflict or is inconsistent with the law, rules, guidelines, officer selection and employment policies applicable to the Louisiana Student Financial Assistance Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:

Interested persons may submit written comments on the bylaws until 4:30 p.m., October 20, 1997, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Tuition Trust Authority Bylaws

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation costs associated with publishing the bylaws in the *Louisiana Register* are \$320 for publication of the notice and \$320 for publication of the rule, for a total of \$640.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact on revenue collections will result from this action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Publication of the Tuition Trust Authority bylaws will provide official notification to all persons or entities of the

policies and procedures by which the authority will conduct its business.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this action.

Jack L. Guinn  
Executive Director  
9708#033

Richard W. England  
Assistant to the Legislative  
Fiscal Officer

### NOTICE OF INTENT

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

#### Chemical Accident Prevention Program (LAC 33:III.Chapter 59)(AQ157)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.Chapter 59 (AQ157).

This proposed rule adds up-front registration requirements for all stationary sources that are subject to the chemical accident prevention rule, LAC 33:III.Chapter 59. It also repeals the existing "state-only" registration requiring more detailed information from only the major stationary sources. There is no up-front registration required by the federal rule, 40 CFR Part 68. The up-front registration is necessary for determining which facilities are subject to the rule so that sufficient funds can be obtained through the fee system to improve implementation of the program.

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

#### Title 33

#### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 59. Chemical Accident Prevention and Minimization of Consequences

#### Subchapter A. General Provisions

#### §5903. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1125 (November 1996), repealed LR 23:

#### §5910. Registration Schedule

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Air Quality Division, LR 22:1125 (November 1996), repealed LR 23:

**Subchapter B. Risk Management Program Requirements**

**§5911. Registration for Stationary Sources**

A. The owner or operator of each stationary source that has a covered process as defined by 40 CFR 68.3 shall register with the Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division by the latest of the following dates:

1. January 31, 1998; or
2. within 60 days after the date on which a stationary source becomes subject to this Chapter.

\*\*\*

[See Prior Text in B]

1. the name of the stationary source, the owner/operator, the street address, the mailing address, the telephone number, and the program level (as defined by 40 CFR part 68) of the facility (highest program of a process at the facility, Program 3 being the highest);
2. the name, mailing address, and telephone number of the invoicing contact person;
3. the location of the source by parish, and latitude and longitude; and
4. the following certification dated and signed by the owner or operator:

"The undersigned certifies that, to the best of my knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete."

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended registration within 60 days to the Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:1125 (November 1996), LR 23:

A public hearing will be held on September 25, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ157. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501

Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Chemical Accident Prevention Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no expected effect on revenue collections for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The cost to affected facilities is estimated at \$16/facility or a total cost of \$12,800. The anticipated cost is calculated at \$16/facility or approximately one-half hour time of an engineer, environmental manager, or other technical employee's time to complete and submit the registration. This estimate is based on the assumption of 800 facilities having to register in the upcoming year. Previously registered major sources will no longer be required to maintain most of their present registration information.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no expected effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9708#074

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Chemical Accident Prevention Program  
Fee Adjustment (LAC 33:III.223)(AQ154)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.223 (AQ154).

This proposed rule establishes fees for stationary sources that are subject to LAC 33:III.Chapter 59, Chemical Accident Prevention Program, authorized by Act 885 of the 1997 Regular Legislative Session. This proposed rule will allow the collection of fees from subject facilities which will enable the department to properly implement this program as required by law.

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

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs**

**§223. Fee Schedule Listing**

\*\*\*

[See Prior Text in Fee Number 0010-1720]

Additional Fees		
Fee Number	Fee Description	Amount
*** [See Prior Text in Fee Number 2000-2520]		
2600 *NOTE 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	200.00
2620 *NOTE 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	400.00
2630 *NOTE 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	2500.00
*** [See Prior Text in Fee Number 2700-2810]		

**Explanatory Notes for Fee Schedule**

\*\*\*

[See Prior Text in Notes 1-15]

Note 16 Program is based on the highest level assigned to any process at the facility (Program 3 being the highest).

\*\*\*

[See Prior Text in Notes 17-18]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:

A public hearing will be held on September 25, 1997, at 1:30 p.m., in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ154. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Chemical Accident Prevention Program  
Fee Adjustment**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections of the state are expected to increase by \$422,577 for FY 97-98, \$462,699 for FY 98-99, and \$473,320 for FY 99-00.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are expected costs of \$422,577 for FY 97-98, \$462,699 for FY 98-99, and \$473,320 for FY 99-00 to directly affected persons or nongovernmental units.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no expected effect on competition and employment since the fees are applied equitably across the same facility type.

Gus Von Bodungen  
Assistant Secretary  
9708#078

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

Fee Adjustment for Title V Permit  
Program (LAC 33:III.223)(AQ153)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the

Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.223 (AQ153).

The proposed rule increases fees collected by the Air Quality Regulatory Division by 8 percent. By act of the 1997 Regular Legislative Session the department is authorized to increase existing air quality program fees for fiscal year 1997-98. The department has previously adopted changes to the regulations in LAC 33:III.Chapter 5 to implement the federal Title V Permit Program for Air Quality. This program has been approved by EPA. Additional personnel were needed to review the permits to meet the federal deadline for review and issuance of the Title V permits. This regulation

change to the fee schedule in LAC 33:III.Chapter 2 will enable the department to collect the fees necessary to fund permit writer positions.

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

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**  
**Chapter 2. Rules and Regulations for the Fee System**  
**of the Air Quality Control Programs**  
**§223. Fee Schedule Listing**

FEE SCHEDULE LISTING						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0020	Bituminous Coal and Lignite Mining	1211	573.00	2865.00	1719.00	573.00
0030	Coal Preparation	1211	1433.00	7165.00	4299.00	1433.00
0040	Crude Oil and Natural Gas Production (100 - 249 T/Yr Source)	1311	114.00	570.00	342.00	114.00
0041	Crude Oil and Natural Gas Production (250 - 499 T/Yr Source)	1311	354.00	1770.00	1062.00	354.00
0042	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	590.00	2950.00	1770.00	590.00
0050	Natural Gas Liquids Per Unit	1321	287.00	1435.00	861.00	287.00
0060	Construction Sand and Gravel	1442	114.00	570.00	342.00	114.00
0070	Industrial Sand	1446	114.00	570.00	342.00	114.00
0080	Salt Mining	1476	1433.00	7165.00	4299.00	1433.00
0090	Sulfur Mining	1477	1433.00	7165.00	4299.00	1433.00
0100	Commercial Rice Milling	2044	573.00	2865.00	1719.00	573.00
0110	Animal Feed Preparation	2048	573.00	2865.00	1719.00	573.00
0120	Cane Sugar, Except Refining Only	2061	1433.00	7165.00	4299.00	1433.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	11.46 1415.00	57.30 7075.00	34.38 4245.00	11.46 1415.00
0140	Cottonseed Oil Mill	2074	287.00	1435.00	861.00	287.00
0150	Soybean Oil Mill	2075	202.00	1010.00	606.00	202.00
0160	Animal & Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	687.00	3435.00	2061.00	687.00
0170	Animal & Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	345.00	1725.00	1035.00	345.00
0180	Shortening, Table Oils, Margarine and Other Edible Fats and Oils	2079	143.00	715.00	429.00	143.00
0190	Malt Beverages	2082	143.00	715.00	429.00	143.00
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095 MIN. MAX.	115.00 272.00 7194.00	575.00 1360.00 35970.00	345.00 816.00 21582.00	115.00 272.00 7194.00

**FEE SCHEDULE LISTING**

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0210 *NOTE 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	287.00	1435.00	861.00	287.00
0220 *NOTE 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	860.00	4300.00	2580.00	860.00
0230 *NOTE 9*	Hardwood Mill	2426	515.00	2575.00	1545.00	515.00
0240 *NOTE 9*	Special Product Sawmill N.E.C.	2429	515.00	2575.00	1545.00	515.00
0250	Millwork with 10 Employees or More	2431	515.00	2575.00	1545.00	515.00
0260	Hardwood Veneer and Plywood	2435	1147.00	5735.00	3441.00	1147.00
0270	Softwood Veneer and Plywood	2436	1147.00	5735.00	3441.00	1147.00
0280	Wood Preserving	2491	287.00	1435.00	861.00	287.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1147.00	5735.00	3441.00	1147.00
0300	Hardboard Manufacture	2499	860.00	4300.00	2580.00	860.00
0310	Furniture and Fixtures—A) 100 or More Employees	2511	363.00	1815.00	1089.00	363.00
0320	Furniture and Fixtures—B) More than 10 and Less than 100 Employees	2511	173.00	865.00	519.00	173.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611 MIN.	4.29 2948.00	21.45 14740.00	12.87 8844.00	4.29 2948.00
0340 *NOTE 1*	Paper Mill Per Ton Daily Rated Capacity	2621 MIN.	4.29 2948.00	21.45 14740.00	12.87 8844.00	4.29 2948.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631 MIN.	4.29 2948.00	21.45 14740.00	12.87 8844.00	4.29 2948.00
0360	Paper Coating	2641	173.00	865.00	519.00	173.00
0365	Paper Bag Manufacture	2643	218.00	1090.00	654.00	218.00
0370	Insulation Manufacture	2649	287.00	1435.00	861.00	287.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651 MIN.	287.00 1415.00	1435.00 7075.00	861.00 4245.00	287.00 1415.00
0380	Corrugated Boxes— Converters (with Boilers)	2653	430.00	2150.00	1290.00	430.00
0381	Corrugated Boxes—Sheet Plant	2653	181.00	905.00	543.00	181.00
0390	Building Board and Tile	2661	1433.00	7165.00	4299.00	1433.00
0400	Commercial Printing— Black and White Per Press	2752 MIN.	172.00 825.00	860.00 4125.00	516.00 2475.00	172.00 825.00
0410	Commercial Printing— Color Per Press	2752 MIN.	287.00 1415.00	1435.00 7075.00	861.00 4245.00	287.00 1415.00
0420 *NOTE 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812 MIN.	2.87 1415.00	14.35 7075.00	8.61 4245.00	2.87 1415.00
0440	Industrial Gases	2813	573.00	2865.00	1719.00	573.00
0450	Inorganic Pigments	2816	573.00	2865.00	1719.00	573.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819 MIN.	1.43 1179.00	7.15 5895.00	4.29 3537.00	1.43 1179.00

**FEE SCHEDULE LISTING**

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	5.71 1179.00	28.55 5895.00	17.13 3537.00	5.71 1179.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1433.00	7165.00	4299.00	1433.00
0490	Fluosilicates	2819	860.00	4300.00	2580.00	860.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819 MIN.	1.43 825.00	7.15 4125.00	4.29 2475.00	1.43 825.00
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	14.33 1415.00	71.65 7075.00	42.99 4245.00	1433 1415.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	5.71 1415.00	28.55 7075.00	17.13 4245.00	5.71 1415.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Cap	2819 MIN.	1.43 1179.00	7.15 5895.00	4.29 3537.00	1.43 1179.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.43 1179.00	7.15 5895.00	4.29 3537.00	1.43 1179.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	11.46 1415.00	57.30 7075.00	34.38 4245.00	11.46 1415.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	1433 1415.00	71.65 7075.00	42.99 4245.00	1433 1415.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	1433 1415.00	71.65 7075.00	42.99 4245.00	1433 1415.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	14.33 1415.00	71.65 7075.00	42.99 4245.00	1433 1415.00
0585	Paint Manufacturing and Blending	2851	534.00	2670.00	1602.00	534.00
0590	Charcoal Per Oven	2861	287.00	1435.00	861.00	287.00
0600	Gum and Wood Chemicals Per Unit	2861	860.00	4300.00	2580.00	860.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	5.71 1415.00	28.55 7075.00	17.13 4245.00	5.71 1415.00
0620	Halogenated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	8.60 1415.00	43.00 7075.00	25.80 4245.00	8.60 1415.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	5.71 1415.00	28.55 7075.00	17.13 4245.00	5.71 1415.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	5.71 1415.00	28.55 7075.00	17.13 4245.00	5.71 1415.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	2.86 1415.00	14.30 7075.00	8.58 4245.00	2.86 1415.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.43 825.00	7.15 4125.00	4.29 2475.00	1.43 825.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	2.86 825.00	14.30 4125.00	8.58 2475.00	2.86 825.00
0670	Pesticides Mfg. Per Train	2879	1147.00	5735.00	3441.00	1147.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	17.18 1415.00	85.90 7075.00	51.54 4245.00	17.18 1415.00
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	14.33 1179.00	71.65 5895.00	42.99 3537.00	14.33 1179.00

**FEE SCHEDULE LISTING**

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	816.00	4080.00	2448.00	816.00
0700	Drilling Mud—Storage and Distribution	2899	287.00	1435.00	861.00	287.00
0710	Drilling Mud—Grinding	2899	1147.00	5735.00	3441.00	1147.00
0715	Salt Processing & Packaging Per 1,000,000 Lb/Yr	2899 MIN.	00.24 354.00	1.20 1770.00	0.72 1062.00	0.24 354.00
0720 *NOTE 3*	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruput	2911 MIN.	71.64 1415.00	358.00 7075.00	215.00 4245.00	71.64 1415.00
0730 *NOTE 4*	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.16 590.00	10.80 2950.00	6.48 1770.00	2.16 590.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	860.00	4300.00	2580.00	860.00
0760 *NOTE 5*	Blending, Compounding, or Refining of Lubricants Per Unit	2992	860.00	4300.00	2580.00	860.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	11.46 1415.00	57.30 7075.00	34.38 4245.00	11.46 1415.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	287.00	1435.00	861.00	287.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	430.00	2150.00	1290.00	430.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	8.60 1179.00	43.00 5895.00	25.80 3537.00	8.60 1179.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	860.00	4300.00	2580.00	860.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	4.29 590.00	21.45 2950.00	12.87 1770.00	4.29 590.00
0815	Concrete Products	3272	291.00	1455.00	873.00	291.00
0820 *NOTE 12*	Ready-Mix Concrete	3273	717.00	2151.00	1434.00	717.00
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	8.60 825.00	43.00 4128.00	25.80 2475.00	8.60 825.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	8.60 825.00	43.00 4125.00	25.80 2475.00	8.60 825.00
0850	Asbestos Products Per Site or Per Production Unit	3292	1720.00	8600.00	5160.00	1720.00
0860	Clay Kiln	3295	345.00	1725.00	1035.00	345.00
0870	Rock Crusher	3295	315.00	1575.00	945.00	315.00
0880	Gray Iron and Steel Foundries A) 3,500 or More Ton/Yr Production	3321	459.00	2295.00	1377.00	459.00
0890	Gray Iron and Steel Foundries B) Less than 3,500 Ton/Yr Production	3321	229.00	1145.00	687.00	229.00
0900	Malleable Iron Foundries A) 3,500 or More Ton/Yr Production	3322	459.00	2295.00	1377.00	459.00
0910	Malleable Iron Foundries B) Less than 3,500 Ton/Yr Production	3322	229.00	1145.00	687.00	229.00



**FEE SCHEDULE LISTING**

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0920	Steel Investment Foundries A) 3,500 or More Ton/Yr Production	3324	459.00	2295.00	1377.00	459.00
0930	Steel Investment Foundries B) Less than 3,500 Ton/Yr Production	3324	229.00	1145.00	687.00	229.00
0940	Steel Foundries Not Elsewhere Classified A) 3,500 or More Ton/Yr Production	3325	459.00	2295.00	1377.00	459.00
0950	Steel Foundries Not Elsewhere Classified B) Less than 3,500 Ton/Yr Production	3325	229.00	1145.00	687.00	229.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	5.71 1415.00	28.55 7075.00	17.13 4245.00	5.71 1415.00
0970	Aluminum Production Per Pot	3334 MIN.	28.64 1415.00	143.00 7075.00	85.92 4245.00	28.64 1415.00
0980	Refining of Nonferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.03 1415.00	0.27 7075.00	0.16 4245.00	0.03 1415.00
0990	Secondary Smelting of Nonferrous Metals Per Furnace	3341 MIN.	860.00 1769.00	4300.00 8845.00	2580.00 5307.00	860.00 1769.00
1000	Wire Manufacture	3357	573.00	2865.00	1719.00	573.00
1010	Aluminum Foundries (Castings) Per Unit	3361	229.00	1145.00	687.00	229.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	287.00	1435.00	861.00	287.00
1030	Metal Heat Treating Including Shotpeening	3398	173.00	865.00	519.00	173.00
1040	Metal Can Manufacture	3411	573.00	2865.00	1719.00	573.00
1050	Drum Manufacturing and/or Reconditioning	3412	860.00	4300.00	2580.00	860.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	573.00	2865.00	1719.00	573.00
1060	Fabricated Plate Work with 5 or More Welders	3443	726.00	3630.00	2178.00	726.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	173.00	865.00	519.00	173.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	860.00	4300.00	2580.00	860.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	430.00	2150.00	1290.00	430.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	315.00	1575.00	945.00	315.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	173.00	865.00	519.00	173.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	345.00	1725.00	1035.00	345.00
1130	Painting Topcoat Per Line	3479	287.00	1435.00	861.00	287.00
1140	Potting Per Line	3479	173.00	865.00	519.00	173.00

**FEE SCHEDULE LISTING**

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1150	Soldering Per Line	3479	173.00	865.00	519.00	173.00
1160	Wire Coating Per Line	3479	573.00	2865.00	1719.00	573.00
1170	Oil Field Machinery and Equipment	3533	287.00	1435.00	861.00	287.00
1180	Power Chain Saw Manufacture Per Line	3546	430.00	2150.00	1290.00	430.00
1190	Commercial Grain Dryer	3559	345.00	1725.00	1035.00	345.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	133.00 363.00	665.00 1815.00	399.00 1089.00	133.00 363.00
1200	Electrode Manufacture Per Line	3624	402.00	2010.00	1206.00	402.00
1210	Telephone Manufacture Per Line	3661	1003.00	5015.00	3009.00	1003.00
1220	Electrical Connector Manufacture Per Line	3678	515.00	2575.00	1545.00	515.00
1230	Battery Manufacture Per Line	3691	573.00	2865.00	1719.00	573.00
1240	Electrical Equipment Per Line	3694	345.00	1725.00	1035.00	345.00
1245	Automobile, Truck, and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX	143.00 907.00 28659.00	715.00 4535.00 143295.00	429.00 2721.00 85977.00	143.00 907.00 28659.00
1250	Ship and Boat Building: A) 5,001 or More Employees	3732	4298.00	21490.00	12894.00	4298.00
1260	Ship and Boat Building: B) 2,501 to 5,000 Employees	3732	2864.00	14320.00	8592.00	2864.00
1270	Ship and Boat Building: C) 1,001 to 2,500 Employees	3732	1433.00	7165.00	4299.00	1433.00
1280	Ship and Boat Building: D) 201 to 1,000 Employees	3732	860.00	4300.00	2580.00	860.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	287.00	1435.00	861.00	287.00
1300	Playground Equipment Manufacture Per Line	3949	430.00	2150.00	1290.00	430.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	916.00	4580.00	2748.00	916.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	459.00	2295.00	1377.00	459.00
1330 *NOTE 6*	A) Petroleum, Chemical Bulk Storage & Terminal (over 3,000,000 BBL Capacity)	4226	8597.00	42985.00	25791.00	8597.00
1340 *NOTE 6*	B) Petroleum, Chemical Bulk Storage & Terminal (1,000,000- 3,000,000 BBL Capacity)	4226	5730.00	28650.00	17190.00	5730.00
1350 *NOTE 6*	C) Petroleum, Chemical Bulk Storage & Terminal (500,001- 1,000,000 BBL Capacity)	4226	2864.00	14320.00	8592.00	2864.00
1360 *NOTE 6*	D) Petroleum, Chemical Bulk Storage & Terminal (500,000 BBL Capacity or Less)	4226	1433.00	7165.00	4299.00	1433.00
1361 *NOTE 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.58 1415.00	2.90 7075.00	1.74 4245.00	0.58 1415.00

**FEE SCHEDULE LISTING**

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1362	Crude Oil Pipeline—Facility with Less than 100,000 BBLs Storage Capacity	4612	635.00	3175.00	1905.00	635.00
1363	Crude Oil Pipeline—Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	907.00	4535.00	2721.00	907.00
1364	Crude Oil Pipeline—Facility with Over 500,000 BBLs Storage Capacity	4612	1270.00	6350.00	3810.00	1270.00
1366	Refined Oil Pipeline—Facility with Less than 100,000 BBLs Storage Capacity	4613	544.00	2720.00	1632.00	544.00
1367	Refined Oil Pipeline—Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	726.00	3630.00	2178.00	726.00
1368	Refined Oil Pipeline—Facility with Over 500,000 BBLs Storage Capacity	4613	1089.00	5445.00	3267.00	1089.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	287.00	1435.00	861.00	287.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1433.00	7165.00	4299.00	1433.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	860.00	4300.00	2580.00	860.00
1400	A) Electric Power Gen. Per MW (Over 0.7% S in Fuel)	4911 MIN.	13.32 2713.00	66.60 13565.00	39.96 8139.00	13.32 2713.00
1410 *NOTE 7*	B) Electric Power Gen. Per MW (0.7% S or Less in Fuel)	4911 MIN.	7.98 1297.00	39.90 6485.00	23.94 3891.00	7.98 1297.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	4.02 944.00	20.10 4720.00	12.06 2832.00	4.02 944.00
1430 *NOTE 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	5.71	28.55	17.13	5.71
1440 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	25.80	129.00	77.40	25.80
1450 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	28.64	143.00	85.92	28.64
1460 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	34.39	172.00	103.00	34.39
1470 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	40.12	201.00	120.00	40.12
1480 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	42.98	215.00	129.00	42.98
1490 *NOTE 11*	Recip. Nat Gas Comp: F) less than 1,000 H.P.	4922	573.00	1433.00	573.00	573.00
1500 *NOTE 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN MAX	5.71 907.00 45877.00	28.55 4535.00 229385.00	17.13 2721.00 137631.00	5.71 907.00 45877.00
1510 *NOTE 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN MAX	5.71 907.00 28659.00	28.55 4535.00 143295.00	17.13 2721.00 85977.00	5.71 907.00 28659.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	363.00	1815.00	1089.00	363.00

**FEE SCHEDULE LISTING**

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	118.00	590.00	354.00	118.00
1530	Municipal Incinerators	4953	2864.00	14320.00	8592.00	2864.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	165.00 3629.00	825.00 18145.00	495.00 10887.00	165.00 3629.00
1533	Non Commercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	82.56 2359.00	413.00 11795.00	248.00 7077.00	82.56 2359.00
1534	Commercial Hazardous Waste Disp. Facility, N.E.C.	4953	23587.00	117935.00	70761.00	23587.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	4717.00	23585.00	14151.00	4717.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	82.56 2359.00 11794.00	413.00 11795.00 58970.00	248.00 7077.00 35382.00	82.56 2359.00 11794.00
1540	Steam Gen. Units Per 1,000 Lbs/Hr Steam Cap-Natural Gas or Comb Nonfossil Fuels	4961 MIN.	1.43 235.00	7.15 1175.00	4.29 705.00	1.43 253.00
1550	Steam Gen. Units Per 1,000 Lbs/Hr Steam Cap-Fuels with 0.7% S or Less	4961 MIN.	2.87 590.00	14.35 2950.00	8.61 1770.00	2.87 590.00
1560	Steam Gen. Units Per 1,000 Lbs/Hr Steam Cap-Fuels with More than 0.7% S	4961 MIN.	4.29 825.00	21.45 4125.00	12.87 2475.00	4.29 825.00
1570	Cement (Bulk Distribution)	5052	1147.00	5735.00	3441.00	1147.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.27 825.00	1.35 4125.00	.81 2475.00	0.27 825.00
1590	Automobile Recycling Scrap Per 1,000 Ton/Yr	5093 MIN. MAX.	11.79 590.00 28659.00	58.95 2950.00 143295.00	35.37 1770.00 85977.00	11.79 590.00 28659.00
1600	Floating Bulk Loader: A) Over 100,000 Ton/Yr Throughput	5153	2864.00	14320.00	8592.00	2864.00
1610	Floating Bulk Loader: B) 100,000 or Less Ton/Yr Throughput	5153	1433.00	7165.00	4299.00	1433.00
1611	Dry Bulk Transfer Derrick Crane Barge Up to 25% Annual Grain Transfer	5153	816.00	4080.00	2448.00	816.00
1612	Dry Bulk Transfer Derrick Crane Barge—No Grain Transfer	5153	544.00	2720.00	1632.00	544.00
1620	Grain Elevators—Terminal Per 10,000 Bu/Yr Throughput	5153 MIN.	0.27 1297.00	1.35 6485.00	.81 3891.00	0.27 1297.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	717.00	3585.00	2151.00	717.00
1640	Petroleum Bulk Plants	5171	58.00	290.00	174.00	58.00
1650	Petroleum Bulk Terminal	5171	573.00	2865.00	1719.00	573.00
1660	Petroleum Bulk Station	5171	58.00	290.00	174.00	58.00
1670	Storage Tank	5171	0.00	574.00	287.00	287.00
1680	Crude Oil Distribution	5172	860.00	4300.00	2580.00	860.00

FEE SCHEDULE LISTING						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1690	Tire Recapping Plant	7534	118.00	590.00	354.00	118.00
1700	Chemical Waste Disposal Facility for Non Hazardous Waste	9998	2665.00	13325.00	7995.00	2665.00
1710	Negotiated Fee	9999	0.00	0.00	0.00	0.00
1711	Research Fee for Alternate Disposal of Hazardous Waste	9999	0.00	0.00	0.00	0.00
1720 *Note 15*	Small Business Sources	N/A	108.00	540.00	324.00	108.00

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Name Change and/or Transfer of an Existing Permit	113.00
2010	The Issuance or Denial of Variances and Exemptions	227.00
*** [See Prior Text in Nos. 2020-2100]		
2200 *NOTE 13*	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis	
	Class I Pollutants	108.00
	Class II Pollutants	54.00
	Class III Pollutants	27.00
2300 *NOTE 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis:	
	Nitrogen oxides (NO <sub>x</sub> )	
	Sulfur dioxide (SO <sub>2</sub> )	
	Nontoxic organic (VOC)	
	Particulate (PM <sub>10</sub> )	10.00/ton
*** [See Prior Text in Nos. 2400-2810]		

**Explanatory Notes for Fee Schedule**

\*\*\*

[See Prior Text in Notes 1-10]

Note 11. The maximum annual maintenance fee for categories 1430-1490 is not to exceed \$28,659 total for any one gas transmission company.

Note 12. The maximum annual maintenance fee for one location with two or more plants shall be \$1,297.

\*\*\*

[See Prior Text in Notes 13-18]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated

LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:

A public hearing will be held on September 25, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ153. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA

71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Fee Adjustment for Title V Permit Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be an 8 percent increase in fees currently paid by state or local governmental units. There are only a small number of sources owned or operated by state or local governmental units that will be affected by this fee increase.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
LDEQ estimates collecting \$960,000 additional self-generated monies to support the Title V Permit Program for Fiscal Years 1997-98 and 1998-99.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The increase in cost will be 8 percent for each affected person. No new fee categories are being created. The additional cost will be created by increasing the existing fees by 8 percent for a total increase of \$960,000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Fees are applied, equitably, across the same facility types. There is no estimated effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9708#076

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Lead-Based Paint Activities  
(LAC 33:III.Chapters 2 and 28)(AQ114)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.Chapters 2 and 28 (AQ114).

This proposed rule sets requirements for certification and training of persons who conduct lead-based paint activities. It also requires licensure of lead abatement contractors and sets work practice standards for those individuals who perform inspections, risk assessment, and abatement in target housing (pre-1978 residences) and child-occupied facilities, such as day care centers. Additionally, the proposed rule provides for accreditation of training providers and

instructors. It includes a mechanism for notification to the department prior to initiation of abatement. The proposed rule also incorporates into LAC 33:III.Chapter 2 the lead program fees which were statutorily set by the 1997 Regular Legislative Session. This regulation is required by R.S. 30:2351-2351.59, Act Number 224 of the 1993 Regular Legislative Session, amended and reenacted as Act Number 1085 of the 1995 Regular Legislative Session.

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

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 2. Rules and Regulations for the Fee System  
of the Air Quality Control Programs  
§223. Fee Schedule Listing**

\*\*\*

[See Prior Text in Fee Number 0010-1720]

Additional Fees		
Fee Number	Fee Description	Amount
*** [See Prior Text in Fee Number 2000-2810]		
2900 *NOTE 19*	Lead Contractor License Evaluation Fee	500.00
2901 *NOTE 19*	Lead Project Supervisor Certification Fee	250.00
2902 *NOTE 19*	Lead Project Designer Certification Fee	500.00
2903 *NOTE 19*	Risk Assessor Certification Fee	250.00
2904 *NOTE 19*	Lead Inspector Certification Fee	150.00
2905 *NOTE 19*	Lead Worker Certification Fee	50.00
2906 *NOTE 19*	Accreditation Fee for Louisiana Lead Training Organizations, Application Processing Fee	500.00
2907 *NOTE 19*	Accreditation Fee for Louisiana Lead Training Organizations, Processing Fee Per Instructor	50.00
2908 *NOTE 19*	Accreditation Fee for Out of State Training Organizations, Application Processing Fee	750.00
2909 *NOTE 19*	Accreditation Fee for Out of State Training Organizations, Processing Fee Per Instructor	100.00
2910 *NOTE 19*	Lead Abatement Project Notification Fee, 2000 Square Feet and Under	200.00
2911 *NOTE 19*	Lead Abatement Project Notification Fee For Each Additional Increment of 2000 Square Feet or Portion Thereof	100.00

2912 *NOTE 19*	Revisions to Lead Abatement Program Notification Fee	50.00
2913 *NOTE 19*	Soil Lead Abatement Project Notification Fee, Half Acre or Less	200.00
2914 *NOTE 19*	Soil Lead Abatement Project Notification Fee, Each Additional Half-Acre or Portion Thereof	100.00
2915 *NOTE 19*	Soil Lead Abatement Project Notification Fee, Revisions to Notification Fee	50.00

### Explanatory Notes for Fee Schedule

\* \* \*

[See Prior Text in Notes 1-18]

Note 19. The fee for emergency processing will be 1.5 times the regular fees.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054, 30:2341 and 30:2351 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:

#### Chapter 28. Lead-Based Paint

##### Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-based Paint Activities

#### §2801. Scope and Applicability

A. This Chapter contains procedures and requirements for the recognition of lead-based paint activities training providers, procedures and requirements for the accreditation of individuals, and licensure of contractors engaged in lead-based paint activities, project notifications, and work practice standards for performing such activities. Except as discussed below, all lead-based paint activities, as defined in this Chapter, must be performed by accredited individuals and licensed contractors.

B. This Chapter applies to all individuals and contractors who are engaged in lead-based paint activities, as defined in LAC 33:III.2803, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

C. Public entities are exempt from the requirements for licensure; however, employees of public entities must be accredited in the appropriate disciplines. Public entities shall not be required to pay accreditation fees or notification fees.

D. The provisions of this Chapter shall not apply to lead-based paint activities or to persons performing such activities when such activities are performed wholly within an

industrial facility and are performed by persons who are subject to the training requirements of the Occupational Safety and Health Administration's hazard communication standard.

E. All modifications to facilities or structures and to their component systems that may occur in conjunction with a lead abatement activity shall be designed in accordance with applicable state and municipal building codes.

F. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the federal government having jurisdiction over any property or facility or engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof shall be subject to, and comply with, all federal, state, interstate, and local requirements, both substantive and procedural, including the requirements of this Chapter regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.

G. While this Chapter establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in this Chapter requires that the owner or occupant undertake any particular lead-based paint activity.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

#### §2803. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows:

**Abatement**—any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

a. the removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

b. all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

**Accreditation Certificate**—a document issued by the department affirming that the person has successfully completed the training and other requirements for lead-based paint activities.

**Accredited Lead Inspector**—an individual who has been trained by a recognized training provider and certified by the department to conduct inspections. An accredited inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

**Accredited Lead Project Designer**—an individual who has been trained by a recognized training provider and certified by the department to prepare abatement project designs, occupant and worker protection plans, and abatement reports. For the purposes of this Chapter, "lead project designer" is equivalent to "lead hazard reduction planner" in R.S. 30:2351.1.

**Accredited Lead Project Supervisor**—an individual who has been trained by a recognized training provider and certified by the department to supervise and conduct



abatement and to prepare occupant and worker protection plans and abatement reports.

*Accredited Lead Risk Assessor*—an individual who has been trained by a recognized training provider and certified by the department to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

*Accredited Lead Worker*—an individual who has been trained by a recognized training provider and certified by the department to perform abatements.

*Adequate Quality Control*—a plan or design to ensure the authenticity, integrity, and accuracy of lead-based paint samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

*Bare Soil*—any exposed earth not covered with grass, sod, or other vegetation.

*Child-Occupied Facility*—a building or portion of a building or common area, other than the child's principal residence, constructed prior to 1978, that:

a. is visited regularly by the same child, 6 years of age and under, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours, the combined weekly visit lasts at least six hours, and the combined annual visits last at least 60 hours. Examples of child-occupied facilities/common areas include, but are not limited to, schools attended by children, 6 years of age and under, day care centers, parks, playgrounds, and community centers;

b. has been determined by the department, in conjunction with the state health officer, to be a significant risk because of its contribution to lead poisoning or lead exposure to children, 6 years of age and under; or

c. is a child-occupied unit and common area in a multi-use building.

*Clearance Levels*—values that indicate the maximum amount of lead permitted in soil or dust on a surface following completion of an abatement activity. Clearance levels that are appropriate for the purposes of this Chapter are listed in LAC 33:III.2811.A.4.

*Common Area*—a portion of a building generally accessible to all occupants/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

*Component or Building Component*—specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools, and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as: painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, corner boards,

bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

*Containment*—a barrier to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

*Course Agenda*—an outline of the key topics to be covered during a training course, including the time allotted to teaching each topic.

*Course Test*—an evaluation of the overall effectiveness of the training that shall test the trainees' knowledge and retention of the topics covered during the course.

*Course Test Blue Print*—written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

*Deteriorated Paint*—paint that is cracking, flaking, chipping, or peeling from a building component.

*Discipline*—one of the specific types or categories of lead-based paint activities identified in this Chapter for which individuals may receive training from recognized providers and become certified by the department. For example, "lead worker" is a discipline.

*Distinct Painting History*—the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

*Documented Methodologies*—methods or protocols used to sample for the presence of lead in paint, dust, and soil. Documented methodologies that are appropriate to use for target housing and child-occupied facilities may be found in the U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing*; the EPA *Guidance on Residential Lead-based Paint, Lead-contaminated Dust, and Lead-contaminated Soil* (FR 47248, Volume 60, Number 175); the EPA *Residential Sampling for Lead: Protocols for Dust and Soil Sampling* (EPA report number 7474-R-95-001); and other EPA or HUD guidance.

*Elevated Blood Lead Level (EBL)*—an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 $\mu$ g/dl (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19  $\mu$ g/dl in two consecutive tests taken three to four months apart.

*Encapsulant*—a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material. For the purposes of this Chapter, only coatings or materials determined to be encapsulants by ASTM procedures are acceptable.

*Enclosure*—the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

*Guest Instructor*—an individual with expertise in a specific field who is designated by the training provider manager or principal instructor to provide instruction specific to certain course topics.

**Hands-On Skills Assessment**—an evaluation that tests the trainees' ability to perform specified work practices and procedures satisfactorily.

**Inspection**—a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

**Interim Controls**—a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and occupant education programs.

**Lead Contractor**—any person, including self-employed individuals, who bid and/or perform lead-based paint abatements.

**Lead-Based Paint**—paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

**Lead-Based Paint Activities**—in the case of target housing and child-occupied facilities, inspection, lead hazard screen, risk assessment, and abatement as defined by this Chapter. For the purposes of this Chapter, "lead-based paint activities" is equivalent to "lead hazard reduction activities" as defined in R.S. 30. 2351.1.

**Lead-Based Paint Hazard**—any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by this Chapter. For the purposes of this Chapter, "lead-based paint hazard" is equivalent to "lead hazard" as defined in R.S. 30:2351.1.

**Lead-Contaminated Dust**—surface dust in residential dwellings or child-occupied facilities that contains an area or mass concentration of lead at or in excess of clearance levels established by this Chapter.

**Lead-Contaminated Soil**—bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of clearance levels as established by this Chapter.

**Lead-Contaminated Waste**—any discarded material resulting from an abatement activity that fails the toxicity characteristic (LAC 33:V.4903.E) due to the presence of lead or any material that is a mixture of discarded material resulting from an abatement activity and some other material.

**Lead Hazard Screen**—a limited risk assessment activity conducted by an accredited risk assessor in target housing and child-occupied facilities that involves limited paint and dust sampling to determine the absence of a lead-based paint hazard as described in LAC 33:III.2811.D.

**Lead Project Notification (LPN)**—the notification document required by the department to report lead abatement projects. For the purposes of this Chapter, a completed notification, approved by the department and returned to the lead contractor, serves as a permit to proceed with the abatement project.

**Living Area**—any area of a residential dwelling used by one or more children 6 years of age and under including, but

not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

**Multi-Family Dwelling**—a building that has more than one residential dwelling unit.

**Owner/Operator**—any person who owns, leases, operates, controls, or supervises the building where an abatement occurs, or any person who owns, leases, operates, controls, or supervises an abatement.

**Paint In Poor Condition**—more than 10 square feet of deteriorated paint on exterior components with large surface areas, more than two square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors), or more than 10 percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

**Permanently Covered Soil**—soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as asphalt, pavement, or concrete. Grass, mulch, and other landscaping materials that are permeable are not considered permanent covering.

**Person**—any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, governmental body, including the state and the federal government and its agencies, or any other legal entity or their legal representatives, agents, or assignees.

**Personal Protection Equipment (PPE)**—specialized clothing and equipment including, but not limited to, respirators, masks, and gloves designed to protect workers against chemical and physical hazards.

**Principal Instructor**—the individual who has the primary responsibility for organizing and teaching a particular course.

**Public Entity**—the state, any of its political subdivisions, or any agency or instrumentality of either.

**Recognized Laboratory**—an environmental laboratory recognized by EPA, in accordance with Toxic Substances Control Act (TSCA) Section 405(b), as being capable of performing an analysis for lead compounds in paint, soil, and dust.

**Recognized Training Provider**—a person approved by the department, in accordance with this Chapter, to provide training in lead-based paint activities.

**Reduction**—measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

**Residential Dwelling**—a detached single family dwelling unit, including attached structures such as porches and stoops, or a single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

**Risk Assessment**—an on-site investigation conducted by an accredited risk assessor to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report explaining the results of the investigation and providing options for reducing lead-based paint hazards.

**Target Housing**—any housing constructed prior to 1978, except housing for the elderly or persons with disabilities,

unless any child who is 6 years of age or under resides or is expected to reside in such housing for the elderly or persons with disabilities, or any zero-bedroom dwelling.

*Training Curriculum*—an established set of course topics for instruction in a recognized training program for a particular discipline designed to provide specialized knowledge and skills.

*Training Hour*—at least 50 minutes of actual teaching including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

*Training Manager*—the individual responsible for administering a training program and monitoring the performance of the principal instructors and guest instructors.

*Visual Inspection for Clearance Testing*—the visual examination of the abatement site following an abatement action by an accredited inspector or accredited risk assessor for evidence that the abatement has been successfully completed, as indicated by the absence of visible residue, dust, and debris.

*Visual Inspection for Risk Assessment*—the visual examination by an accredited risk assessor to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

*Window Sill*—the portion of the horizontal window ledge that protrudes into the interior of the room, adjacent to the window sash when the window is closed.

*Window Trough*—the portion of the horizontal window sill that receives the window sash when the window is closed, often located between the storm window and the interior window sash (sometimes called the window well). If there is no storm window, the window trough is the portion of horizontal window trim that receives both the upper and lower window sash when the sashes are closed.

*XRF Analyzer*—an instrument that determines the amount of lead in a given area using the principle of x-ray fluorescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

### **§2805. Recognition and Standards for Training Providers**

A. Application Process. After March 20, 1998, a training provider shall not provide, offer, or claim to provide lead training courses for accreditation purposes without applying for and receiving recognition from the department. For a training provider to receive recognition for itself and its courses from the department, the following procedures shall be followed:

1. a training provider may seek recognition to offer initial and refresher training courses in the following disciplines: lead inspector, risk assessor, lead project supervisor, lead project designer, and lead worker;

2. a training provider seeking recognition shall submit to the department the appropriate fees, as required in LAC 33:III.223, and a written application containing the following information:

a. the training provider's name, address, and telephone number;

b. a list of initial and refresher training courses for which recognition is sought;

c. a statement signed by the training manager that certifies that the training provider meets the minimum requirements established in Subsection B of this Section;

d. a signed statement by the training manager certifying that each instructor meets the qualifications described in Subsection B.2 of this Section;

e. a statement signed by the training manager that certifies that the provider will use, if available, EPA-developed and EPA-authorized model training materials. Alternatively, if a training provider does not use EPA-developed and EPA-authorized training materials, its application for accreditation shall include a copy of the student and instructor manuals to be used for each course and a copy of the course agenda, which includes the time allocation for each course topic;

f. a copy of the test blueprint, which describes the proportion of course test questions devoted to each major course topic;

g. a description of the facilities and equipment available for lecture and hands-on training;

h. a description of the procedures for conducting the assessment of hands-on skills;

i. a copy of the quality control plan as described in Subsection B.10 of this Section; and

j. an example of numbered certificates, as described in Subsection B.8 of this Section, to be issued to students who successfully complete the training course;

3. the department shall approve or disapprove a request for recognition within 30 days of receiving the application from a training provider. Approved applicants will be notified in writing. Recognition will expire one year from the date on the approval letter. If the application is not approved, a letter describing the reasons for disapproval shall be sent to the applicant. The department may require submission of additional information, as needed. If a training provider's application is disapproved, the provider may reapply for recognition at any time.

4. a training provider may seek recognition for additional initial or refresher training courses at any time as long as the provider can demonstrate that it meets the minimum requirements of Subsection B of this Section.

B. Requirements for the Recognition of Training Providers. For a training provider to obtain recognition from the department to offer lead-based paint activities courses, the provider shall demonstrate, through its application materials, that it meets the following requirements for each course for which the provider is seeking recognition:

1. the training provider shall employ a training manager who has the primary responsibility for ensuring that the provider complies with the requirements of this Chapter. The training manager shall have:

a. at least two years of experience, education, or training in teaching adults; or

b. a bachelor's or graduate degree in building construction technology, science, engineering, industrial

hygiene, safety, public health, education, business administration, or program management; or

c. two years of experience in managing a program specializing in environmental hazards; and

d. at least one year of experience, education, or training in the construction industry, including lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene;

2. all lead courses shall be organized and taught by qualified principal instructors. The training provider shall employ qualified principal instructors for each course who have:

a. at least one year of experience, education, or training in teaching adults;

b. training in the lead courses they are teaching; and

c. at least one year of experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene;

3. the training manager may employ qualified guest instructors to provide instruction in specific areas of expertise, such as legal issues, health effects, insurance and technology, or equipment demonstrations;

4. the following documents shall be recognized by the department as evidence that training managers and principal instructors have the relevant education, work experience, training requirements, and demonstrated experience:

a. official academic transcripts or diploma, as evidence of meeting the educational requirements;

b. resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements; and

c. certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements;

5. the training provider shall provide adequate facilities for lecture, course tests, hands-on training, and assessment. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed;

6. the training provider shall provide training courses that meet the following training hour requirements:

a. the lead inspector course shall consist of a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training. The minimum curriculum required for this course is established in Subsection C.1 of this Section;

b. the risk assessor course shall consist of a minimum of 16 training hours with a minimum of four hours devoted to hands-on training, which includes site visits. The minimum curriculum required for this course is established in Subsection C.2 of this Section;

c. the lead project supervisor course shall consist of a minimum of 32 training hours, with a minimum of eight hours devoted to hands-on training. The minimum curriculum required for this course is established in Subsection C.3 of this Section;

d. the lead project designer course shall consist of a minimum of eight training hours. The minimum curriculum required for this course is established in Subsection C.4 of this Section; and

e. the lead worker course shall consist of a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training. The minimum curriculum required for this course is established in Subsection C.5 of this Section;

7. for each course offered, the training provider shall conduct a course test at the completion of the course. In addition, at the completion of the hands-on skills training the principal instructor(s) shall conduct assessment of each student's hands-on skills. The student must demonstrate proficiency at hands-on skills to the satisfaction of the instructor and score 70 percent or greater on the course test to pass any course:

a. the training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the students' performance of the work practices and procedures associated with the course topics;

b. the training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the students' knowledge and retention of the course topics; and

c. the course tests shall be developed in accordance with the test blueprint submitted with the application;

8. training providers shall issue unique initial and refresher training course completion certificates to each individual who successfully completes the course requirements. The course completion certificate shall include:

a. a unique certificate number;

b. the name, social security number or unique equivalent identification number, and address of the individual;

c. the name of the particular course that the individual completed;

d. the dates of course completion/test passage;

e. the name/address/telephone number of the training provider; and

f. a certified statement signed by the training manager that certifies that the training received complies with the requirements of this Chapter. The statement must read as follows:

"Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (18 U.S.C. 1001, 15 U.S.C. 2615, and R.S. 30:2025), I certify that this training complies with all applicable requirements of Title IV of TSCA, 40 CFR part 745, and LAC 33:III.2805";

9. the training provider shall submit rosters, including photographs of participants, to the department within 10 working days of course completion. For each course, the training provider shall provide three photographs of each student:

a. one 1" x 1¼" photograph for the trainee to submit to the department with the application for certification;

b. one 1" x 1¼" photograph for the class roster submitted to the department by the training provider; and

c. one 1" x 1¼" photograph for the training provider to keep on file;

10. the training manager shall develop and implement a quality control plan. The plan shall be used to maintain or improve the quality of the training program over time. This plan shall contain at least the following elements:

a. procedures for periodic revision of training materials and course tests to reflect innovations in the field; and

b. procedures for the training manager's annual review of instructor competency;

11. training providers shall offer courses that teach the appropriate standards for conducting lead-based paint activities contained in LAC 33:III.2811, and other such standards adopted by the department;

12. the training manager shall be responsible for ensuring that the training provider complies at all times with all of the requirements of this Section;

13. the training manager shall allow the department to audit the training provider at any time during normal working hours;

14. training providers must be recognized to offer the initial training courses in order to offer the corresponding refresher training course(s):

a. a recognized refresher training course shall address the following topics:

i. an overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline;

ii. current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline; and

iii. current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline;

b. the annual refresher courses shall last a minimum of eight training hours;

c. for each course offered the training provider shall conduct a hands-on assessment, as applicable, and at the completion of the course, a course test that the student must pass with a score of 70 percent or better; and

15. unannounced audits may be performed by the department to verify the certified statements, other contents of the application, and compliance with this Chapter.

C. Minimum Training Curricula Requirements. To maintain recognition training providers must ensure that their courses of study for the various lead-based paint activities disciplines cover the following subject areas. Passing students shall be provided with a course completion certificate.

Note: Listed requirements ending in an asterisk (\*), for this Subsection only, indicate areas that require hands-on experience as an integral component of the course.

1. lead inspector:

a. role and responsibilities of lead inspector;

b. background information on lead and its adverse health effects;

c. background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities;

d. lead-based paint inspection methods, including selection of rooms and components for sampling or testing;\*

e. paint, dust, and soil sampling methodologies;\*

f. clearance standards and testing, including random sampling;\*

g. formulation and implementation of the final inspection report;\* and

h. recordkeeping;

2. risk assessor (inspector course completion certificate required as prerequisite):

a. role and responsibilities of risk assessor;

b. collection of background information to perform a risk assessment;

c. sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;

d. visual inspection for the purposes of identifying lead-based paint, lead-contaminated dust, and lead-contaminated soil;\*

e. lead hazard screen protocol;

f. sampling for other sources of lead exposure;\*

g. interpretation of lead-based paint and other lead sampling results;\*

h. development of hazard control options, the role of interim controls, and operations and maintenance to reduce lead hazards; and

i. preparation of a final risk assessment report;

3. lead project supervisor:

a. role and responsibilities of lead project supervisor;

b. background information on lead and its adverse health effects;

c. background information on federal, state, and local regulations and guidance that pertain to lead-based paint abatement;

d. liability and insurance issues relating to lead-based paint abatement;

e. contract specifications, including conformance with building codes and cost estimation;

f. community relations;

g. project management and supervisory techniques;

h. risk assessment and inspection report interpretation;\*

i. development and implementation of an occupant and worker protection plan and abatement report;

j. hazard recognition and control;\*

k. lead-based paint abatement and lead hazard reduction methods, including restricted practices;\*

l. interior dust abatement/cleanup or lead hazard control and reduction methods;\*

m. soil and exterior dust abatement or lead hazard control and reduction methods;\*

n. clearance standards and testing;

o. cleanup and waste disposal; and

p. recordkeeping;

4. project designer (lead project supervisor course completion certificate required as a prerequisite):

a. role and responsibilities of project designer;

b. development and implementation of an occupant and worker protection plan for large-scale abatement projects;

c. lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects;

d. interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects;

e. clearance standards and testing for large-scale abatement projects; and

f. integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects; and

5. lead worker:

a. role and responsibilities of lead worker;

b. background information on lead and its adverse health effects;

c. background information on federal regulations that must include 29 CFR 1926.62(l), state, and local regulations and federal and state guidance that pertain to lead-based paint abatement;

d. lead-based paint hazard recognition and control;\*

e. personal protection equipment and personal hygiene;\*

f. lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices;\*

g. interior dust abatement methods/cleanup/waste disposal or lead-based paint hazard reduction;\*

h. soil and exterior dust abatement methods/cleanup/waste disposal or lead-based paint hazard reduction.\*

D. Renewal of Training Provider's Recognition

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223 and an application to the department, 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.

2. The training provider's application for renewal of recognition shall contain:

a. the training provider's name, address, and telephone number;

b. a list of courses for which it is applying for renewal of recognition;

c. a description of any changes or updates to the training facility, equipment, or course materials; and

d. a statement signed by the training manager that certifies that:

i. the course materials for each course meet the requirements in Subsection C.1-5 of this Section, as appropriate;

ii. the principal instructors and guest instructors meet the qualifications in Subsection B.2-3 of this Section;

iii. the training manager complies at all times with all requirements in Subsection B of this Section;

iv. the quality control program meets the requirements in Subsection B.10 of this Section; and

v. the recordkeeping and reporting requirements of Subsection H of this Section shall be followed.

3. A signed statement disclosing any violations of regulations governing training providers for which the applicant has been cited by any state or federal regulatory agency in the past year shall be submitted to the department. If no citation has been received during the previous year, that fact shall be stated. This disclosure shall include evidence that all penalties and fees assessed to the applicant are paid in full.

E. Notification Requirements. A training provider scheduling lead-based paint activities courses shall notify the department in writing as follows:

1. the written notification shall be received by the department at least 10 days before the start of initial training courses;

2. the written notification shall be received by the department at least five days before the start of refresher training courses;

3. the written notification shall be received by the department at least three days before the start of two-hour Louisiana regulations courses;

4. the department shall be notified in writing of course location and time changes or cancellations within 24 hours of the initial class day;

5. in the notification, the training provider shall submit to the department the following information:

a. the name of the training course to be taught;

b. the dates and length of the training course;

c. the principal/guest instructors that will be teaching the course;

d. the name and telephone number of the training manager; and

e. the location where the course will be taught; and

6. the training course shall not start before the start date noted on the notification.

F. Suspension and Revocation of Recognized Training Providers

1. The department may suspend or revoke training provider recognition if a training provider has:

a. misrepresented the contents of a training course to the department and/or the student population;

b. failed to submit required information or notifications in a timely manner;

c. failed to maintain required records;

d. falsified records required by this Chapter, instructor qualifications, or other recognition information;

e. failed to comply with the training standards and other requirements of this Chapter;

f. failed to comply with federal, state, or local lead-based paint statutes or regulations; or

g. made false or misleading statements to the department, EPA, or another state in its application for recognition.

2. Suspension of training provider recognition shall be for no less than one year. Revocation of recognition shall be for no less than three years.

G. Training Provider Recordkeeping Requirements

1. Recognized training providers shall maintain, and make available to the department if requested, the following records:

- a. all documents specified in Subsection B.4 of this Section that demonstrate the qualifications listed in Subsection B.1-3 of this Section of the training manager, principal instructors, and guest instructors;
- b. current curriculum/course materials and documents reflecting any changes made to these materials;
- c. the course test blueprint;
- d. information on how the hands-on assessment is conducted including, but not limited to, who conducts the assessment, how the skills are graded, what facilities are used, and the pass/fail rate;
- e. the quality control plan as described in Subsection B.10 of this Section; and
- f. results of the student's hands-on skills assessments and course tests, and a copy of each student's course completion certificate and photograph.

2. Training providers may maintain records electronically.

3. The training provider shall retain these records at the location e.g., address) specified on the training provider recognition application for five years.

4. The training provider shall notify the department 30 days prior to relocating its business or transferring its records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

#### **§2807. Accreditation of Individuals**

##### **A. Accreditation Requirements**

1. Following the submission of an application and appropriate fees that meet the requirements of this Section and a determination by the department that an individual has met the applicable requirements to perform lead-based paint activities, the department shall certify the applicant in one or more of the following disciplines:

- a. lead inspector;
- b. risk assessor;
- c. lead project supervisor;
- d. lead project designer; or
- e. lead worker.

2. After March 20, 1998, individuals must be accredited by the department to engage in lead-based paint activities.

3. An individual seeking accreditation must have successfully completed the appropriate lead training course offered by a recognized training provider.

4. After September 30, 1998, individuals seeking accreditation in the lead inspector, risk assessor, lead project supervisor, or lead project designer disciplines must pass the applicable state lead certification examination given by the department or its proxy. Individuals must pass the state lead certification examination, with a score of 70 or above, within 30 days of receiving a course completion certificate. Individuals who fail the state exam will be allowed to take the exam a second time within the 30-day period. If they do not pass the applicable state lead certification examination, they must take the appropriate course again from a recognized training provider and resubmit an application, along with the application fee, for testing in the applicable discipline. Anyone who fails the test four times within a six-month period may not apply for testing in that category for 90 days.

5. In order to take the state lead certification examination for a particular discipline, an individual shall present the following:

- a. a valid course completion certificate for that discipline from a recognized training provider;
- b. photographic proof of identity; and
- c. documentation that the applicant meets the education and experience qualifications described in Subsection B of this Section.

6. An application for initial accreditation with the department shall include the following:

- a. a completed and signed application form;
- b. a copy of the initial course completion certificate and any subsequent refresher course completion certificates from recognized training providers in the discipline for which accreditation is sought, or a valid course completion certificate from another EPA-authorized state-recognized training provider. Workers who have received less than 24 hours of initial training must also submit proof of eight hours of training in 29 CFR 1926.62 (I);
- c. a 1" x 1¼" photograph of the applicant issued by the recognized training provider;
- d. proof of meeting the education and experience requirements listed in Subsection B of this Section;
- e. a copy of the graded state lead certification examination (if applicable); and
- f. the appropriate fees as required in LAC 33:III.223.

7. The following documents shall be recognized by the department as proof of meeting the requirements listed in this Section:

- a. official academic transcripts or diplomas;
- b. resumés, letters of reference, or documentation of work experience; and
- c. valid course completion certificates from recognized training providers.

8. Applications for accreditation or reaccreditation may be denied for:

- a. failure to submit the required documentation and fees;
- b. submission of inaccurate or falsified information; and
- c. failure to comply with this Chapter.

9. Upon meeting the provisions of this Section, the applicant will be issued an accreditation certificate by the department. The anniversary of the original issue date of the certificate shall become the annual expiration/renewal date of accreditation. The accreditation certificate shall be valid for one year. The accreditation and training expiration dates shall be concurrent.

##### **B. Education and Experience Requirements for the Lead Disciplines**

1. To qualify for accreditation as a lead inspector, risk assessor, lead project supervisor, or lead project designer, an individual must:

- a. successfully complete an initial course in the appropriate discipline and receive a course completion certificate from a recognized training provider;
- b. pass the state lead certification examination in the appropriate discipline offered by the department or its proxy; and



c. meet or exceed the following experience and/or education requirements:

i. lead inspectors: a high school diploma (or equivalent);

ii. risk assessors:

(a). successful completion of a recognized training course for inspectors and bachelor's degree and one year of experience in lead, asbestos, or environmental remediation work, or an associates degree and two years experience in lead, asbestos, or environmental remediation work;

(b). certification as an industrial hygienist, professional engineer, or registered architect;

(c). certification in an engineering, health, or environmental field (specifically, safety professional or environmental scientist); or

(d). a high school diploma (or equivalent), and at least four years of experience in lead, asbestos, or environmental remediation work;

iii. lead project supervisor: a high school diploma (or equivalent) and at least two years of experience in lead, asbestos, or environmental remediation work or in the building trades;

iv. project designers:

(a). bachelor's degree in engineering or architecture and one year of experience in building construction and design or a related field; or

(b). five years of experience in building construction and design.

2. To qualify for accreditation as a lead worker an individual must successfully complete an initial lead worker training course and receive a course completion certificate from a recognized training provider. There are no additional experience and/or education requirements.

#### C. Accreditation Based on Prior Training

1. Individuals in all disciplines who received lead-based paint activities training between January 1, 1995, and March 20, 1998, shall be eligible for accreditation by completing the following procedures:

a. submit a completed and signed application form;

b. submit the appropriate certificate from an EPA-model-curriculum course;

c. submit a 1" x 1¼" photograph of the applicant;

d. meet the requirements listed in Subsection B of this Section; and

e. submit the appropriate fees as required under LAC 33:III.223.

2. Individuals have until September 30, 1998, to apply for accreditation under the procedures in Subsection C.1 of this Section. After that date all individuals wishing to obtain accreditation must do so through the procedures described in Subsection A of this Section.

#### D. Recreditation

1. To maintain accreditation individuals must be annually recertified by the department.

2. To maintain continuous accreditation an individual shall:

a. successfully complete the appropriate refresher course given by a recognized training provider within 60 days of the accreditation expiration date;

b. submit a copy of the refresher course completion certificate to the department;

c. submit a 1" x 1¼" photograph of the applicant issued by the recognized training provider;

d. submit a signed and completed application form; and

e. submit the appropriate fees as required in LAC 33:III.223.

3. If the individual seeking reaccreditation receives refresher training earlier than 60 days prior to expiration or any time after the expiration date on the accreditation certificate, then the individual will receive a new expiration date.

4. If the individual fails to receive refresher training within one year after the accreditation expiration date, the individual must retake the initial training course for the appropriate discipline to become recertified.

5. Any applicant who was certified initially in accordance with Subsection C of this Section must pass the appropriate state lead certification examination prior to being recertified by the department.

6. The department may require applicants to pass the state lead certification examination in the appropriate discipline every three years.

#### E. Suspension and Revocation of Accreditations of Individuals Engaged in Lead-based Paint Activities

1. The department may suspend or revoke an individual's accreditation if an individual has:

a. obtained training documentation through fraudulent means;

b. gained admission to and completed a recognized training course through misrepresentation of admission requirements;

c. obtained accreditation through misrepresentation of accreditation requirements or related documents dealing with education, training, professional registration, or experience;

d. performed work requiring accreditation at a job site without having proof of accreditation;

e. permitted the duplication or use of the individual's own certificate or photo identification by another;

f. performed work for which accreditation is required, but for which appropriate accreditation has not been received;

g. failed to comply with state lead-based paint statutes or regulations; or

h. failed to comply with the appropriate work practice standards for lead-based paint activities.

2. When suspension of accreditation credentials occurs, it shall be for no less than one year. When revocation occurs, it shall be for no less than three years. Penalties may also be assessed according to R.S. 30:2351.25.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

#### §2809. Licensure of Lead Contractors

##### A. Licensure Requirements

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. As of November 1, 1998, prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the department and certify to the department that the following criteria have been met:

- a. each person who conducts lead-based paint activities for the lead contractor is annually accredited in accordance with the provisions of LAC 33:III.2807;
- b. the lead contractor has access to at least one disposal site to receive lead-contaminated waste that may be generated by the lead contractor during the term of the license;
- c. the lead contractor will incorporate the work practice standards in LAC 33:III.2811 so as to prevent the contamination or recontamination of the environment and protect the public health from the hazards of exposure to lead;
- d. the lead contractor possesses a worker protection and medical surveillance program consistent with the requirements of the Occupational Safety and Health Administration (OSHA) and/or the state health officer;
- e. an accredited lead project supervisor shall be present at all times during all of the lead contractor's abatements; and
- f. the lead contractor shall maintain all records as required by this Chapter.

2. Once the person receives a letter of approval, he can apply to the State of Louisiana Licensing Board for Contractors to request a license, subject to its approval. The qualifying party must be accredited as a lead project supervisor.

3. Applications for approval may be denied for:

- a. failure to submit the required documentation and fees;
  - b. submission of inaccurate or falsified information;
- or
- c. failure to comply with any of the provisions of this Chapter.

4. Letters of approval shall be valid for one year from date of issuance. In order for lead contractors to be granted renewal, they must follow the procedures of this Subsection.

5. Lead contractors shall also submit to the department a signed statement disclosing any violations of state lead-based paint statutes or regulations for which the lead contractor may have been cited by the department or other state or federal agencies. If no citations were received since issuance of the previous letter of approval, that fact shall be stated. The disclosure shall include evidence that all penalties and fees assessed to the lead contractor have been paid in full. The department must receive the statement within 30 days of the renewal date, and the statement must be signed by the owner or an officer of the lead contractor's business. The department will approve or disapprove the application within 30 days of receipt of the application.

**B. Suspension and Revocation of Letters of Approval for Lead Contractors**

1. The department may suspend and/or revoke a lead

contractor's letter of approval if the lead contractor performed work requiring licensure at a job site under one or more of the following situations:

- a. with individuals who are not accredited and/or who have not successfully completed discipline-specific training in accordance with LAC 33:III.2807;
- b. failed to use disposal sites approved by the department to receive lead-contaminated waste that may be generated by the lead contractor during the term of the license;
- c. failed to follow work practice standards that adequately protect the environment and public health from the hazards of exposure to lead;
- d. failed to utilize a worker protection and medical surveillance program consistent with the requirements of the OSHA and/or the state health officer;
- e. failed to have an accredited lead project supervisor present during the abatement project; or
- f. failed to maintain required records.

2. In addition to the situations listed in Subsection B.1 of this Section, the department may suspend or revoke the letter of approval of lead contractors that have failed to comply with any of the provisions of this Chapter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

**§2811. Work Practice Standards for Conducting Lead-based Paint Activities for Target Housing and Child-occupied Buildings**

**A. Applicability and Terms**

1. All lead-based paint activities shall be performed in accordance with the work practice standards contained in this Section.

2. When performing an inspection, lead-hazard screen, risk assessment, or abatement, an accredited individual must perform that activity in compliance with the appropriate requirements contained in this Section.

3. Documented methodologies that are appropriate for this Section are found in the following: The U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing*; the EPA *Guidance on Residential Lead-based Paint, Lead-contaminated Dust, and Lead-contaminated Soil*; the EPA *Residential Sampling for Lead: Protocols for Dust and Soil Sampling* (EPA report number 7474-R-95-001); and other equivalent methods and guidelines approved by EPA and/or HUD.

4. Clearance levels that are appropriate for the purposes of this Section are listed as follows:

- a. dust wipes from floors/carpets: 100 µg/ft<sup>2</sup>;
- b. dust wipes on window sills: 500 µg/ft<sup>2</sup>;
- c. dust wipes on window troughs: 800 µg/ft<sup>2</sup>;
- d. dust wipes from exterior surfaces: 800 µg/ft<sup>2</sup>;
- e. lead-contaminated bare soil and lead-contaminated covered soil in areas expected to be used by children: 400 µg/g; and
- f. lead-contaminated covered soil in areas where contact by children is less likely or infrequent: 2000 µg/g.

5. If using X-ray Fluorescence Spectroscopy (XRF) to test for the presence of lead-based paint, XRF shall be used according to the manufacturer's procedures. The XRF must be licensed in accordance with regulations of the Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division.

#### B. Inspection

1. An inspection shall be conducted only by an accredited inspector or an accredited risk assessor according to the procedures in this Subsection.

2. When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:

a. in a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history, except those components that the inspector or risk assessor determines to have been replaced after 1978 or to not contain lead-based paint; and

b. in a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978 or to not contain lead-based paint.

3. Paint shall be sampled in the following manner:

a. paint shall be analyzed to determine the presence of lead using documented methodologies that incorporate adequate quality control procedures; and/or

b. all collected paint chip samples shall be analyzed by a recognized laboratory to determine the concentration of lead.

4. The accredited inspector or the accredited risk assessor shall prepare an inspection report that shall include the following information:

a. date of each inspection;

b. address of building;

c. date of construction;

d. apartment numbers (if applicable);

e. name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

f. name, signature, and accreditation number of each inspector and/or risk assessor conducting testing;

g. name, address, and telephone number of the licensed firm employing each inspector and/or risk assessor, if applicable;

h. name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples;

i. each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any XRF device;

j. specific locations of each painted component tested for the presence of lead-based paint;

k. all data collected using on-site testing devices; and

l. results of the inspection expressed in terms appropriate to the sampling method used.

#### C. Lead Hazard Screen

1. A lead hazard screen shall be conducted only by an accredited risk assessor to determine the absence of a lead-based paint hazard in target housing and child-occupied facilities constructed after 1960. Lead hazard screens or similar lead hazard surveys shall not be used to determine the extent of lead-based paint hazards in target housing and child-occupied facilities.

2. The following criteria determine the presence or absence of lead-based paint hazards:

a. any dust sample collected during the screen that contains a lead level greater than half of the applicable clearance level for the tested component; or

b. any sampled paint that is found to be lead-based paint.

3. A lead hazard screen shall be conducted as follows:

a. background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children, age 6 years and under, shall be collected;

b. a visual inspection of the residential dwelling or child-occupied facility shall be conducted to:

i. determine if any deteriorated paint is present; and

ii. locate at least two dust sampling locations;

c. if deteriorated paint is present, each surface with deteriorated paint that is determined, using documented methodologies, to be in poor condition and to have a distinct painting history shall be tested for the presence of lead;

d. in residential dwellings two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways, or stairwells where one or more children, age 6 years and under, are most likely to come in contact with dust; and

e. in multi-family dwellings or child-occupied facilities, in addition to the floor and window samples, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 6 years and under, are most likely to come into contact with dust.

4. Dust samples shall be collected and analyzed in the following manner:

a. all dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures; and

b. all collected dust samples shall be analyzed by a recognized laboratory to determine the concentration of lead.

5. Paint shall be sampled in the following manner:

a. paint shall be analyzed to determine the presence of lead using documented methodologies that incorporate adequate quality control procedures; and/or

b. all collected paint chip samples shall be analyzed by a recognized laboratory to determine the concentration of lead.

6. The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

a. the information required in a risk assessment report as specified in Subsection D.11 of this Section. Additionally, any background information collected in accordance with

Subsection D.3 of this Section shall be included in the risk assessment report; and

b. recommendations, if warranted, for a follow-up risk assessment and, as appropriate, any further actions.

#### D. Risk Assessment

1. A risk assessment shall be conducted only by an accredited risk assessor and, if conducted, must be conducted according to the procedures in this Subsection.

2. A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and determine other potential lead-based paint hazards.

3. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children, age 6 years and under, shall be collected.

4. Each surface with deteriorated paint that is determined, using documented methodologies, to be in poor condition and to have a distinct painting history shall be tested for the presence of lead. Each other surface determined, using documented methodologies, to be a potential lead-based paint hazard and having a distinct painting history shall also be tested for the presence of lead.

5. In residential dwellings dust samples (either composite or single-surface samples) from the window and floor shall be collected in all living areas where one or more children, age 6 years and under, are most likely to come into contact with lead-contaminated dust.

6. For multi-family dwellings and child-occupied facilities, the samples required in Subsection D.4 of this Section shall be taken. In addition, window and floor dust samples (either composite or single-surface samples) shall be collected in the following locations:

a. common areas adjacent to the sampled residential dwelling or child-occupied facility; and

b. other common areas in the building where the risk assessor determines that one or more children, age 6 years and under, are likely to come into contact with lead-contaminated dust.

7. For child-occupied facilities window and floor dust samples (either composite or single-surface samples) shall be collected in each room, hallway, or stairwell utilized by one or more children, age 6 years and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age 6 years and under, are likely to come into contact with lead-contaminated dust.

8. Soil samples shall be collected and analyzed for lead concentrations in the following locations:

a. exterior play areas where bare soil is present; and

b. dripline/foundation areas where bare soil is present.

9. Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.

10. Any collected paint chip, dust, or soil samples shall be analyzed by a recognized laboratory to determine the concentration of lead.

11. The accredited risk assessor shall prepare a risk assessment report that shall include the following information:

a. date of assessment;

b. address of each building;

c. date of construction of buildings;

d. apartment number (if applicable);

e. name, address, and telephone number of each owner of each building;

f. name, signature, and accreditation of the accredited risk assessor conducting the assessment;

g. name, address, and telephone number of the licensed firm employing each accredited risk assessor, if applicable;

h. name, address, and telephone number of each recognized laboratory conducting analysis of collected samples;

i. results of the visual inspection;

j. testing method and sampling procedure employed for paint analysis;

k. specific locations of each painted component tested for the presence of lead;

l. all data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device;

m. all results of laboratory analysis on collected paint, soil, and dust samples;

n. any other sampling results;

o. any background information collected in accordance with Subsection D.3. of this Section;

p. to the extent that they are used as part of the lead-based paint hazard determination, results of any previous inspections or analyses for presence of lead-based paint or other assessments of lead-based paint-related hazards;

q. description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards; and

r. description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

#### E. Abatement

1. An abatement shall be conducted only by persons accredited by the department according to the procedures in this Section.

2. An accredited lead project supervisor must be present at all times for each abatement project, as described in the lead project notification.

3. The accredited lead project supervisor and the lead contractor employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this Section.

4. The lead contractor shall notify the department in writing of abatement activities.

a. The written notification shall be submitted, along with the appropriate fees, and received by the department on a department-approved form, the Lead Project Notification (LPN) form, at least 10 working days before beginning any

on-site work at the lead abatement project. The department shall be notified of changes 24 hours before start-up.

b. The project shall not start before the start date noted on the LPN. The department shall be notified if the operation will stop for a day or more during the project time noted on the LPN or if the project has been canceled or postponed. The firm shall also give notice 24 hours before the completion of a project. Notice should be submitted to the department with written follow-up and fax notification to the appropriate regional office.

c. Notifications of less than 10 working days constitutes an emergency notification and must be accompanied by the appropriate processing fees (LAC 33:III.223).

5. A written occupant and worker protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

a. the occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards;

b. the worker protection plan shall describe the measures taken to ensure worker protection that are consistent with OSHA (29 CFR 1926.62) and/or the state health officer requirements; and

c. an accredited lead project supervisor or project designer shall prepare the occupant and worker protection plans.

6. The work practices shall be restricted during an abatement as follows:

a. open-flame burning or torching of lead-based paint is prohibited;

b. machine sanding or grinding or dry abrasive blasting or sandblasting of lead-based paint is prohibited unless used with attached High Efficiency Particulate Air (HEPA) vacuum-shrouded exhaust control, which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

c. operating a heat gun on lead-based paint is permitted only at temperatures below 1100°F; and

d. dry scraping of lead-based paint is permitted only in conjunction with heat guns or adjacent to electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway, or stairwell or totaling no more than 20 square feet on exterior surfaces.

7. For any exterior abatement of lead-based paint, pre-abatement composite soil samples following documented methodologies that incorporate adequate quality control procedures shall be taken by an accredited inspector or an accredited risk assessor next to the foundation or from the dripline below any exterior surface to be abated, unless this information is available from a current risk assessment. The samples shall be sent for analysis to a recognized laboratory capable of performing these analyses. When analysis results exceed 400 ug/g and bare soil is present, the contractor will furnish a written copy of the analysis results to the

owner/operator of the residential dwelling or child-occupied facility prior to abatement.

8. If conducted, soil abatement shall be conducted in one of the following ways:

a. if soil is removed the lead-contaminated soil shall be replaced with soil that is not lead-contaminated; or

b. if soil is not removed the lead-contaminated soil shall be permanently covered, as defined in LAC 33:III.2803.

9. The following post-abatement clearance procedures shall be performed only by an accredited inspector or an accredited risk assessor:

a. following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris, or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris, or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures;

b. following the visual inspection and any required post-abatement cleanup, clearance sampling for lead-contaminated dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques;

c. dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures;

d. dust samples for clearance purposes shall be taken a minimum of one hour after completion of final post-abatement cleanup activities;

e. the following post-abatement clearance activities shall be conducted based upon the extent of abatement activities conducted in or to the residential dwelling or child-occupied facility:

i. after conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of at least four rooms, hallways, or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled;

ii. after conducting an abatement with no containment, two dust samples shall be taken from at least four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways, or stairwells shall be sampled;

iii. following an exterior paint abatement, a visible inspection and sampling shall be conducted as follows. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris:

(a) a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next

to the foundation below any exterior surface abated. If paint chips are present they must be removed from the site and properly disposed of, according to all applicable federal and state requirements; and

(b). in addition, sampling shall consist of at least one sample taken from an adjacent exterior horizontal surface including, but not limited to, a patio, deck, porch, stoop, or common area and composite soil samples taken next to the foundation or from the dripline and any bare soil areas adjacent to the exterior abatement that children, age 6 years and under, frequent. When analysis results indicate that the post-abatement soil lead content exceeds the pre-abatement level, then the abatement contractor shall abate the soil to a concentration that is less than or equal to its pre-abatement lead concentration;

iv. following soil abatement, at least two composite soil samples shall be taken from the abated area according to documented methodologies. When analysis results indicate that the post-abatement soil lead content exceeds the pre-abatement level, then the abatement contractor shall abate the soil to a concentration that is less than or equal to clearance levels for abated soil;

f. the rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies; and

g. the accredited inspector or the accredited risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each dust sample with applicable clearance levels for lead in dust on floors, carpets, and windows. If the residual lead levels in a dust sample exceed the clearance levels, all the components represented by the failed sample shall be recleaned and retested until clearance levels are met. Until all applicable clearance levels for lead in dust are met, the area shall not be cleared for reoccupancy.

10. In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

a. the accredited individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample;

b. a sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels; and

c. the randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in Subsection E.9 of this Section.

11. An abatement report shall be prepared by an accredited lead project supervisor or an accredited project designer. The abatement report shall include the following information:

- a. start and completion dates of the abatement;
- b. the name and address of each licensed firm conducting the abatement and the name of each supervisor assigned to the abatement project;
- c. the occupant and worker protection plan;
- d. the name, address, and signature of each accredited

risk assessor or accredited inspector conducting clearance sampling and the date of clearance testing;

e. the results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses;

f. a detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures; and

g. information on the storage, transport, and disposal of any waste generated during the abatement.

12. All lead-contaminated waste and construction debris from abatement projects shall be disposed of in accordance with federal, state, and local requirements.

13. All modifications to residences or child-occupied facilities and to their component systems that may occur during the abatement shall be designed and performed in accordance with applicable state and municipal building codes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

#### **§2813. Recordkeeping Requirements for Lead-based Paint Activities**

All records and reports required by this Chapter for inspections, hazard screens, risk assessments, and abatements shall be maintained by the owner of the residence (target housing), owner or operator of a residential dwelling or child-occupied building, and the contractor or accredited individual who conducted the activities for not less than five years. The contractor or accredited individual shall provide copies of these reports to the owner/operator who contracted for its services. Any person who is required by this Chapter to maintain records may utilize the services of competent organizations such as industry trade associations and employee associations to maintain such records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

#### **§2815. Enforcement**

For failure to comply with the regulations of this Chapter, knowingly submitting false or inaccurate information, or directing others in such actions, civil and criminal penalties may be assessed under R.S. 30:2025 and R.S. 30:2351.25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025, 2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

#### **§2817. Reciprocity**

The department will develop reciprocity agreements with other states when those states have established recognition and accreditation requirements that are at least as stringent as those set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

**§2819. Fees**

Fees are defined in R.S. 30:2351.59 and listed in LAC 33:III.223.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

A public hearing will be held on September 25, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ114. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or FAX to (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Lead-Based Paint Activities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation costs to state government for the Lead Program are estimated at \$270,872 in FY 97-98, \$233,600 in FY 98-99, and \$261,324 in FY 99-00.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Annual revenue estimates for funds collected by the state: \$388,196 in FY 97-98; \$268,585 in FY 98-99; and \$261,324 in FY 99-00; these totals include federal grant funds.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Estimated costs for training, training provider accreditation, certification, license approval, and project notification are: \$184,500 in FY 97-98; \$231,000 in FY 98-99; and \$326,400 in FY 99-00.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The estimated effect on competition is expected to be positive, due to an increasing pool of trained and certified lead-based paint activities professionals, and overall employment is expected to benefit from the proposed rule.

L. Hall Bohlinger  
Deputy Secretary  
9708#090

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Limiting Volatile Organic Compound Emissions  
from Batch Processing (LAC 33:III.2149)(AQ159)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2149 (AQ159).

The exemption for individual vents is changed to 500 lbs/yr, regardless of what type of equipment the vent is associated with. This is consistent with EPA's Batch Control Technology Guide. Additional language clarifies the scope of the exemption. EPA has reviewed LAC 33:III.2149 for approvability for inclusion in the State Implementation Plan and has requested that the exemption levels for individual vents be modified. The current rule addresses exemption levels for only three specific types of equipment and does not specify exemption levels for other types of equipment.

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

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

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

**Compounds**

**Subchapter K. Limiting Volatile Organic Compound**

**Emissions from Batch Processing**

**§2149. Limiting Volatile Organic Compound Emissions  
from Batch Processing**

**\*\*\***

[See Prior Text in A-A.2a]

b. single unit operations that have mass AE of 500 lb/yr or less.

**\*\*\***

[See Prior Text in A.2.c-C.2]

a. If, for the process vent streams in aggregate, the value of FR calculated using the applicable RACT equation is negative (i.e., less than zero), then the process is exempt from



the control requirements and there is no need to proceed with the successive ranking scheme described in Subsection C.2.f of this Section. This would occur if the mass annual emission rates are below the lower limits specified in Subsection A.2.a of this Section.

b. If, for the process vent streams in aggregate, the actual average flow rate value (in the units of scfm) is below the value of FR calculated using the applicable RACT equation, then the overall emissions from the batch process must be reduced by 90 percent and there is no need to proceed with the successive ranking scheme described in Subsection C.2.f of this Section. The owner or operator has the option of selecting which unit operations are to be controlled and to what levels so long as the overall control meets the specified level of 90 percent. Single units that are below the exemption level specified in Subsection A.2.b of this Section would not have to be controlled even if all units should qualify for the exemption.

c. If, for the process vent streams in aggregate, the actual average flow rate value (in the units of scfm) is greater than the value of FR calculated using the applicable RACT equation (and the calculated value of FR is a positive number), then the control requirements must be evaluated with the successive ranking scheme described in Subsection C.2.f of this Section until control of a segment of unit operations is required or until all unit operations have been eliminated from the process pool. Single units that are below the exemption level specified in Subsection A.2.b of this Section would not have to be included in the rankings and would not have to be controlled even if all units should qualify for the exemption.

d. Sources that will be required to be controlled to the level specified by the RACT (90 percent) will have an average flow rate that is below the flow rate specified by the RACT equation (when the source's annual emission total is input). The applicability criterion is implemented on a two-tier basis. First, single pieces of batch equipment corresponding to distinct unit operations shall be evaluated over the course of an entire year, regardless of what materials are handled or what products are manufactured in them. Second, equipment shall be evaluated as an aggregate if it can be linked together based on the definition of a process.

e. To determine applicability of a RACT option in the aggregation scenario, all the VOC emissions from a single process shall be summed to obtain the annual mass emission total, and the weighted average flow rates from each process vent in the aggregation shall be used as the average flow rate.

f. All unit operations in the batch process, as defined for the purpose of determining RACT applicability, shall be ranked in ascending order according to their ratio of annual emission (lb/yr) divided by average flow rate (in scfm). Sources with the smallest ratios shall be listed first. This list of sources constitutes the "pool" of sources within a batch process. The annual emission total and average flow rate of the pool of sources shall then be compared against the RACT equations to determine whether control of the pool is required. If control is not required after the initial ranking, unit operations having the lowest annual emissions/average flow rates ratios shall then be eliminated

one by one, and the characteristics of annual emission and average flow rate for the remaining pool of equipment will have to be evaluated with each successive elimination of a source from the pool. Control of the unit operations remaining in the pool to the specified level shall be required once the aggregated characteristics of annual emissions and average flow rates have met the specified RACT. The owner or operator has the option of selecting which unit operations are to be controlled and to what levels so long as the overall control meets the specified level of 90 percent.

\* \* \*

[See Prior Text in D-G.2.c.v]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:387 (April 1995), amended LR 22:1212 (December 1996), LR 23:

A public hearing will be held on September 25, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ159. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or by FAX to (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Limiting Volatile Organic Compound  
Emissions from Batch Processing**

- 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 for this proposal.
- 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 as a result of this proposed rule.



III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal will not have any estimated effect on competition or employment.

Gus Von Bodungen  
Assistant Secretary  
9708#079

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

SOCMI Chemicals Revision  
(LAC 33:III.2147 and Chapter 21,  
Appendix A)(AQ156)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and 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.2147 and Chapter 21, Appendix A, SOCMI Chemicals (AQ156).

Table 8, the SOCMI chemical list, is moved to Appendix A and given a name and an introductory paragraph. References to Table 8 are updated to reflect its new location. Urea is being removed from the SOCMI chemical list. It had previously been removed in 1984. Then in 1987, when all of DEQ's regulations were recodified, the original Table 8 was mistakenly substituted and published. This rulemaking corrects the error and adds other clarifications to Table 8.

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

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

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

Note: Table 8, currently located after §2145, is being moved to the end of Chapter 21, becoming Appendix A.

**Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)**

**§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations**

\*\*\*

[See Prior Text in A-A.2.g]

B. Definitions. Unless specifically defined in LAC 33:III.111, the terms in this Subchapter shall have the

meanings commonly used in the field of air pollution control. Additionally, the following meanings apply, unless the context clearly indicates otherwise.

\*\*\*

[See Prior Text]

*Process Unit*—equipment assembled and connected by pipes or ducts to produce, as intermediates or final products, one or more synthetic organic chemical manufacturing industry (SOCMI) chemicals (see LAC 33:III.Chapter 21.Appendix A). A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities.

\*\*\*

[See Prior Text in Product-F.4.Figure 1]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:

**Appendix A**

An industry is considered a Synthetic Organic Chemical Manufacturing Industry (SOCMI), as defined in LAC 33:III.111, if it produces, as intermediates or final products, one or more of the chemicals listed in the following table:

SOCMI Chemicals	
CAS No*	Chemical
*** [See Prior Text]	
75-50-3	Trimethylamine
108-05-4	Vinyl acetate
*** [See Prior Text]	

\*\*\*

[See Prior Text]

A public hearing will be held on September 25, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ156. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: SOCMI Chemicals Revision**

- 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 for this proposal.
- 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 as a result of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no cost or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposal will not have any known effect on competition or employment.

Gus Von Bodungen  
Assistant Secretary  
9708#073

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Stage II Vapor Recovery  
Systems (LAC 33:III.2132)(AQ158)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2132 (AQ158).

The proposed rule clarifies test procedures for vacuum assist type vapor recovery systems. The test procedures were not yet finalized by the California Air Resources Board (CARB) at the time of original rule promulgation. LAC 33:III.2132.D is rewritten and restructured for clarity.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no

report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

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

**Subchapter F. Gasoline Handling**

**§2132. Stage II Vapor Recovery Systems for Control of  
Vehicle Refueling Emissions at Gasoline  
Dispensing Facilities**

A. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined as follows:

*CARB*—California Air Resources Board.

\* \* \*

[See Prior Text]

*Stage II Vapor Recovery System*—a gasoline vapor recovery system that is CARB approved and recovers vapors during the refueling of motor vehicles.

B. Regulated Sector

1. The provisions of this regulation shall apply in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

\* \* \*

[See Prior Text in B.2-4]

a. facilities for which new construction commenced after November 15, 1990, must comply with these requirements not later than May 20, 1993;

b. facilities constructed before November 15, 1990, which have an average monthly throughput rate of 100,000 gallons or more of gasoline per month must comply prior to November 20, 1993;

c. facilities constructed before November 15, 1990, which have an average monthly throughput rate between 10,000 and 100,000 gallons of gasoline per month must comply not later than November 20, 1994; and

d. existing facilities previously exempted from, but which become subject to, the requirements of this regulation shall comply with the requirements of this regulation within one year from the date on which the facility becomes subject.

5. No owner or operator as described in Subsection B.1, 2, and 3 of this Section shall cause or allow the dispensing of motor vehicle fuel at any time unless all fuel dispensing operations are equipped with and utilize a CARB certified vapor recovery system that is properly installed and operated in accordance with the corresponding CARB executive order. The vapor recovery equipment must also be installed and operated within the guidelines of the National Fire Protection Association (NFPA) 30. The vapor recovery equipment utilized shall be certified by CARB or equivalent certification authority approved by the administrative authority\* to attain a minimum of 95 percent gasoline vapor control efficiency. This certified equipment shall have coaxial hoses and shall not contain remote check valves. In addition, only CARB or equivalent approved aftermarket parts and CARB or equivalent approved rebuilt parts shall be used for installation or replacement use.

\* \* \*

[See Prior Text in B.6-6.a]

b. plans to test for proper operation of the Stage II equipment in accordance with Subsection D.1.a of this Section or upon major system modification;

\* \* \*

[See Prior Text in B.6.c-c.ii]

iii. the CARB or equivalent executive order number of the vapor recovery system to be utilized; and

\* \* \*

[See Prior Text in B.6.c.iv-C.2]

#### D. Testing

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the department at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

a. vapor balance system:

i. a static pressure test (CARB test procedure TP 201.3) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every year thereafter;

ii. a dynamic pressure drop test (San Francisco Bay Area Dynamic Back Pressure Test Procedure ST-27) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every year thereafter; and

iii. a liquid blockage test (San Diego Test Procedure TP-91-2) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every five years thereafter;

b. vacuum assist system:

i. a static pressure test (CARB test procedure TP 201.3) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every year thereafter;

ii. an air to liquid volume ratio test (CARB test procedure TP 201.5) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every year thereafter; and

iii. a liquid blockage test (San Diego Test Procedure TP-91-2) shall be initially conducted and successfully passed after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system and once every five years thereafter.

2. The test methods used are contained in the Environmental Protection Agency document entitled, "Technical Guidance Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, EPA-450-3-91-022b" and the CARB Stationary Source Test Methods, Volume 2, April 12, 1996, or latest revision.

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the department the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. Labeling. The facility owner/operator shall post operating instructions conspicuously on the front of each gasoline dispensing pump using a Stage II vapor recovery system. The instructions shall include:

1. a clear description of how to correctly dispense gasoline with the vapor recovery nozzles utilized at the site;

2. a warning that continued attempts at dispensing gasoline after the system indicates that the vehicle tank is full ("topping off") may result in spillage or recirculation of gasoline; and

3. a telephone number established by the department for use by the public to report comments, questions, or problems experienced with the system.

#### F. Inspection

1. The facility owner or operator shall maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and free of defects that could impair the effectiveness of the system, including but not limited to:

a. absence or disconnection of any component required to be used on a certified or equivalent system;

b. crimped or flattened vapor hose such that the vapor passage is blocked or restricted;

c. a nozzle boot that is torn in one or both of the following ways:

i. a triangular-shaped or similar tear more than ½ inch on a side or a hole more than ½ inch in diameter;

ii. a slit more than 1 inch in length;

d. for balance nozzles a faceplate that is damaged such that the capability to achieve a seal with a fill pipe interface is affected for a total of at least one fourth of the circumference of the faceplate;

e. for nozzles in vacuum assist type systems, a flexible cone for which a total of at least one fourth of the cone is damaged or missing;

f. a nozzle shutoff mechanism that malfunctions in any manner;

g. vapor return lines, including such components as swivels, anti-recirculation valves, and underground piping, that malfunction, are blocked, or are restricted such that the pressure drop through the line exceeds by a factor of two or more the value as certified in the approved system;

h. a vapor processing unit that is inoperative;

i. a vacuum producing device that is inoperative;

j. pressure/vacuum valves, vapor check valves, or dry breaks that are inoperative;

k. a vapor guard that is missing or damaged such that a slit from the outer edge of the open end flange to the spout anchor clamp exists or that has an equivalent cumulative damage;

l. any equipment defect that is identified by the department as substantially impairing the effectiveness of the system in reducing refueling vapor emissions; or

m. any gasoline leaks as detected by sight, sound, or smell.

2. The owner or operator shall perform daily inspections and accurately record the results of the inspections.

3. Any equipment having a defect, as determined through daily visual inspections or other means, shall be tagged "out of order" by the facility owner or operator and shall not be used until it has been repaired or replaced.

4. Any equipment that has been tagged "out of order" by the department shall not be used until it has been repaired or replaced.

G. Recordkeeping. The facility owner/operator shall maintain the following records on the facility premises for at least two years and present them to an authorized representative of the department upon request:

1. application approval records;
2. certificate to operate;
3. system installation and testing results;
4. Stage II maintenance records, which shall include, but not be limited to, daily visual inspections for malfunctions;
5. inspection records;
6. compliance records; and
7. training certification.

H. Enforcement

1. Enforcement of these regulations, authorized under R.S. 30:2054, shall include, but not be limited to, the following penalties:

- a. notices of violation;
- b. warnings;
- c. cease and desist orders;
- d. suspension of license or permit to operate;
- e. revocation of license or permit to operate;
- f. monetary fines; and
- g. "red tagging" equipment to prevent its operation.

2. The administrative authority may consider requests from a small business stationary source for modification of:

- a. any work practice or technological method of compliance; or
- b. the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. No such modification may be granted unless it is in compliance with the applicable requirements of the Louisiana Environmental Quality Act and the Federal Clean Air Act, including the requirements of the applicable implementation plan. Where such applicable requirements are set forth in federal regulations, only modifications authorized in such regulations may be allowed.

I. Fees. The fees are defined in LAC 33:III.223.

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 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:

A public hearing will be held on September 25, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ158. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX number (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Stage II Vapor Recovery Systems**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revision to this existing rule will result in 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 revision will have no 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)  
The proposed rule will have no costs or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
It is estimated that there will be no effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9708#075

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Synthetic Organic Chemical Manufacturing Industry  
Vent Stream Exemption (LAC 33:III.2147)(AQ150)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2147 (AQ150).

This revision to LAC 33:III.2147 provides an exemption from temperature monitoring, record keeping, and reporting requirements of this Section for vent streams on affected reactor processes and distillation operations having a Total Resource Effectiveness (TRE) index value greater than 4.0. The revision also provides for process change requirements and conditions for loss of exempt status. After consultation with EPA and industry, analysis of data and related regulations, and EPA policy decisions, the department finds it reasonable and permissible to provide for the exemption as requested by industry.

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

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

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

**Subchapter J. Limiting Volatile Organic Compound  
(VOC) Emissions from Reactor  
Processes and Distillation Operations in  
the Synthetic Organic Chemical  
Manufacturing Industry (SOCMI)**

**§2147. Limiting VOC Emissions from SOCMI Reactor  
Processes and Distillation Operations**

\* \* \*

[See Prior Text in A-D.1]

a. If the TRE value calculated using such engineering assessment and the TRE equation in Subsection D.6 of this Section is greater than 4.0, then it is not required that the owner or operator perform the measures specified in Subsection D.5, the monitoring requirements in Subsection E, or the reporting/record keeping requirements of Subsection F.1 of this Section. If a subsequent process change effects a reduction in the TRE index value to 4.0 or less, the owner or operator is immediately subject to all requirements of this Section that are applicable to a recalculated TRE value of 4.0 or less.

\* \* \*

[See Prior Text in D.1.b-D.6.b]

7. Each owner or operator of a vent stream subject to Subsection C.2 of this Section shall recalculate the flow rate, TOC concentration, and TRE index value for that vent stream within two weeks of any process change that could effect a change in one or more of these vent stream parameters. The recalculations must be made using the methods and procedures contained in this Subsection. Examples of process changes include, but are not limited to, changes in production capacity, feedstock type, or catalyst type or replacement, removal, or addition of recovery equipment.

8. Where a TRE index value, recalculated as required in Subsection D.7 of this Section, yields a value less than or equal to 1.0, the owner or operator shall, within one week of the recalculation, notify the administrative authority\* of the process change and the results of the recalculation and shall conduct a performance test, as provided in Subsection D.1.b and 5 of this Section, as soon as possible, but no later than 90 days after the recalculation. If the recalculated TRE index value is verified by the performance test to be less than or equal to 1.0, the owner or operator is immediately subject to all requirements of this Section that are applicable to a recalculated TRE value of 1.0 or less.

9. Procedures contained in Subsection D.9.a-e of this Section shall be used to demonstrate that a process vent stream has a VOC concentration below 500 ppm by volume.

\* \* \*

[See Prior Text in D.9.a-Figure 1]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:

A public hearing will be held on September 25, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ150. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaereg.htm>.

**Gus Von Bodungen  
Assistant Secretary**

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Synthetic Organic Chemical Manufacturing  
Industry Vent Stream Exemption**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed revisions will have 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)  
The regulated community could save the up-front purchase cost of temperature monitoring equipment estimated statewide to be \$4.05 million. Annual savings due to reduced record keeping and reporting requirements are estimated statewide to be \$1,296,000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed revision will have no known effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9708#072

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Water Resources**

**Louisiana Pollutant Discharge Elimination System  
(LPDES) Program (LAC 33:IX.Chapter 23)(WP025)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Pollution Control Division regulations, LAC 33:IX.Chapter 23 (WP025).

The proposed rule makes corrections to erroneous citations. Additionally, reference to EPA regional administrator has been changed to reflect state authority in the definition of "new discharger." Language has also been deleted at LAC 33:IX.2407.C that applies to EPA only.

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

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part IX. Water Quality Regulations**

**Chapter 23. The Louisiana Pollutant Discharge  
Elimination System (LPDES) Program**

**Subchapter A. Definitions and General Program  
Requirements**

**§2311. Purpose and Scope**

**Scope of the LPDES Permit Requirement**

\*\*\*

[See Prior Text in A.1 - 3]

4. The state administrative authority may designate any person subject to the standards for sewage sludge use and disposal as a treatment works treating domestic sewage as defined in LAC 33:IX.2313, where he or she finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA section 405(d). Any person designated as a treatment works treating domestic sewage shall submit an application for a permit under LAC 33:IX.2331 within 180 days of being notified by the state administrative authority that a permit is required. The state administrative authority's decision to designate a person as a treatment works treating domestic sewage under this Paragraph shall be stated in the fact sheet or statement of basis for the permit.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular §2074(B)(3) and (B)(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

**§2313. Definitions**

The following definitions apply to LAC 33:IX.Chapter 23.Subchapters A - G. Terms not defined in this Section have the meaning given by the CWA. When a defined term appears in a definition, the defined term is sometimes placed in quotation marks as an aid to readers.

\*\*\*

[See Prior Text]

*New Discharger*—any building, structure, facility, or installation:

\*\*\*

[See Prior Text in (a) - (c)]

(d) which has never received a finally effective permit for discharges at that site. This definition includes an indirect discharger which commences discharging into waters of the state after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a site under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the EPA regional administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the state administrative authority shall consider the factors specified in LAC 33:IX.2749.A.1-10. An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a new discharger only for the duration of its discharge in an area of biological concern.

\*\*\*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular §2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:722 (June 1997), LR 23:

**§2321. Continuation of Expiring Permits**

A. When DEQ is the permit-issuing authority, the conditions of an expired permit continue in force under R.S. 30:2023(C), R.S. 49:961(B), and LAC 33:IX.2301.D.4 until the effective date of a new permit (see LAC 33:IX.2425) if:

\* \* \*

[See Prior Text in A.1 - C.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular §2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

**Subchapter C. Permit Conditions**

**§2361. Establishing Limitations, Standards, and Other Permit Conditions**

In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.

\* \* \*

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

c. Other measurements as appropriate including pollutants in internal waste streams under LAC 33:IX.2363.H; pollutants in intake water for net limitations under LAC 33:IX.2363.G; frequency, rate of discharge, etc., for noncontinuous discharges under LAC 33:IX.2363.E; pollutants subject to notification requirements under LAC 33:IX.2357.A; and pollutants in sewage sludge or other monitoring as specified in 40 CFR part 503; or as determined to be necessary on a case-by-case basis pursuant to section 405(d) of the CWA.

\* \* \*

[See Prior Text in I.1.d - Q]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular §2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:

**Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits**

**§2383. Modification or Revocation and Reissuance of Permits**

When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407.B and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit

is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407.B.2). If cause does not exist under this Section or LAC 33:IX.2385, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in LAC 33:IX.Chapter 23.Subchapters E and F followed.

\* \* \*

[See Prior Text in A - B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular §2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:

**Subchapter E. General Program Requirements**

**§2407. Modification, Revocation and Reissuance, or Termination of Permits**

\* \* \*

[See Prior Text in A - B.3]

C. If the state administrative authority tentatively decides to terminate a permit under LAC 33:IX.2387 or 2769, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under LAC 33:IX.2409.

\* \* \*

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular §2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:725 (June 1997), LR 23:

**Subchapter K. Criteria and Standards for Determining Fundamentally Different Factors Under Sections 301(b)(1)(A), 301(b)(2)(A) and (E) of the Act**

**§2503. Criteria**

\* \* \*

[See Prior Text in A - C.2.b]

D. Factors which may be considered fundamentally different are:

1. the nature or quality of pollutants contained in the raw waste load of the applicant's process wastewater;

[Comment: (1). In determining whether factors concerning the discharger are fundamentally different, EPA will consider, where relevant, the applicable development document for the national limits, associated technical and economic data collected for use in developing each respective national limit, records of legal proceedings, and written and printed documentation including records of communication, etc., relevant to the development of respective national limits which are kept on public file by EPA. (2). Waste stream(s) associated with a discharger's process wastewater which were not considered in the development of the national limits will not ordinarily be treated as fundamentally different under LAC 33:IX.2503.A. Instead, national limits should be applied to the other streams, and the unique stream(s) should be subject to limitations based on §402(a)(1) of the Act. See LAC 33:IX.2469.C.2.]

\* \* \*

[See Prior Text in D.2 - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular §2074(B)(3) and (B)(4).



HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:

A public hearing will be held on September 25, 1997, at 1:30 p.m., in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP025. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or by FAX to (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Louisiana Pollutant Discharge  
Elimination System (LPDES) Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no anticipated implementation costs or savings to state or local governmental units as a result of this proposed rule. The proposed rule will simply correct erroneous citations in existing regulations. Language has also been deleted at LAC 33:IX.2407 which applies to EPA only. Additionally, reference to EPA regional administrator has been changed to reflect state authority in the definition of "new discharger."
- 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 as a result of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs or economic benefits to directly affected persons or nongovernmental groups as a result of this proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition and employment are expected as a result of this proposed rule.

Linda Korn Levy  
Assistant Secretary  
9708#077

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Advertising and Soliciting by  
Dentists (LAC 46:XXXIII.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301, "Advertising and Soliciting by Dentists." No preamble has been prepared.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 1. Dentists**

**§301. Advertising and Soliciting by Dentists**

A. - F. ...

G. Advertising through or with Referral Services. Any dentist who advertises by, through or with a referral service shall be held responsible for the contents of such advertising, and all advertisements shall comply with this rule.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Advertising and Soliciting by Dentists**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
A cost of \$40 is estimated to implement this proposed rule. Notification of this proposed rule change will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.



II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups. However, dentists who advertise with dental referral services will not have such onerous disclosure requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#009

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Dental Practice Address  
(LAC 46:XXXIII.304)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.304, "Address of Dental Practice." No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§304. Address of Dental Practice**

A. Each dentist shall inform the Louisiana State Board of Dentistry of all office addresses at which the dentist practices dentistry within 30 days of his commencing practice at each location.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 15:965 (November 1989), amended LR 18:739 (July 1992), LR 23:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Dental Practice Address**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A cost of \$40 is estimated to implement this rule. Notification of this rule change will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups. However, now the rule clearly spells out that dentists must advise the board of their practicing dentistry at any location within 30 days of their commencement of practice at said location.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#010

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Dental Services at Locations Other Than  
Dental Office (LAC 46:XXXIII.314)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to adopt LAC 46:XXXIII.314, "Dental Services at Locations Other Than Dental Office" in order to ensure that dental services are performed in a clean and sanitary facility and that appropriate follow-up emergency care is being provided.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§314. Dental Services at Locations Other Than Dental Office**

A. When dental services are provided by dental health care providers to patients in locations other than the dental health care provider's dental office, the dental health care provider shall:

1. provide the exact street address or location of each and every place within the state where the dental health care provider provides dental services and notify the board in writing within 10 days of each addition or deletion of any

such place; and maintain a schedule of all dates and times such services were provided at each location other than the dentist's primary office;

2. insure that all dental services are provided in a clean, sanitary place, and in compliance with federal Centers for Disease Control guidelines;

3. certify that there is a written agreement for emergency follow-up care for patients treated at said locations and that said agreement includes identification of and arrangements for treatment in a dental facility which is permanently established in the immediate area.

B. If the dental services provided by the dental health care provider are in a nursing facility or other long-term health care facility, the dental health care provider must obtain from the director a certification, in writing, on a form to be provided by the board, that the facility has entered into the written agreement for emergency follow-up care referenced in §314.A.3 and that all dental services are being provided in a safe and sanitary facility, and in compliance with federal Centers for Disease Control guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Dental Services at  
Locations Other Than Dental Office**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

A cost of \$60 is estimated to implement this proposed rule. Notification of this proposed rule change will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups. Persons who receive dental services in facilities other than a dental office will have a higher degree of safety as this proposed rule requires the area to be in compliance with federal Centers for Disease Control guidelines and that a plan for emergencies will be in place.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#012

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Dentists and Hygienists—Continuing  
Education (LAC 46:XXXIII.1611 and 1613)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8) and (13), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1611, "Continuing Education Requirements for Relicensure of Dentists," and LAC 46:XXXIII.1613, "Continuing Education Requirements for Relicensure of Dental Hygienists." No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 16. Continuing Education Requirements**

**§1611. Continuing Education Requirements for  
Relicensure of Dentists**

A. - I. ...

J. Dentists who are on staffs of hospitals accredited by the Joint Commission on Accreditation of Health Care Organizations may receive continuing education credit for those continuing education courses provided by said hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661(June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:

**§1613. Continuing Education Requirements for  
Relicensure of Dental Hygienists**

A. - I. ...

J. Dental hygienists who are on staffs of hospitals accredited by the Joint Commission on Accreditation of Health Care Organizations may receive continuing education credit for those continuing education courses provided by said hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans,

LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Dentists and Hygienists—  
Continuing Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

A cost of \$40 is estimated to implement these rules. Notification of these rule changes will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups. However, this will allow for more access to continuing education by dentists and dental hygienists.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#018

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Dentists and Hygienists—Fees for Licenses, Permits,  
and Examinations (LAC 46:XXXIII.415 and 419)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq.; the Dental Practice Act, R.S. 37:751 et seq.; and particularly R.S. 37:760(8) and R.S. 37:795, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.415 and 419, "Licenses, Permits, and Examinations." No preamble has been prepared.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Profession**

**Chapter 4. Fees and Costs**

**Subchapter C. Fees for Dentists**

**§415. Licenses, Permits, and Examinations**

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental applicant	\$300
2. Temporary dental license	\$100
3. Issuance of a restricted dental license (excluding advanced education students and dental residents)	\$100
4. Annual renewal fee for dental license	\$150
5. Bi-annual renewal fee for dental license	\$300
6. Annual renewal fee for restricted dental license (excluding advanced education students and dental residents)	\$150
7. Replacement or duplicate dental license, certificate, temporary permit	\$50
8. Delinquency fee in addition to renewal fee for any dental license	\$250
9. Reinstatement of a license which has been suspended, revoked or which has lapsed by nonrenewal	\$500
10. Restricted dental license, advanced education students and dental residents:	
a. for period July 1-December 31	\$100
b. for each full year (January 1-December 31) thereafter	\$200
c. for period January 1-June 30	\$100
11. Dental application and licensure by credentials (nonrefundable)	\$2,000

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8), R.S. 37:768, R.S. 37:679, and R.S. 37:795.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:

**Subchapter D. Fees for Dental Hygienists**

**§419. Licenses, Permits, and Examinations**

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental hygienist applicant	\$175
2. Temporary dental hygienist permit	\$100
3. Annual renewal fee for dental hygienist license	\$50
4. Bi-annual renewal fee for dental hygienist license	\$100
5. Replacement or duplicate dental hygienist license, certificate, temporary permit	\$50

6.	Delinquency fee in addition to renewal fee for any dental hygienist license	\$100
7.	Reinstatement of a dental hygienist license which has been suspended, revoked, or which has lapsed by nonrenewal	\$250
8.	Dental hygiene application and licensure by credentials (nonrefundable)	\$800

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Health Care Provider Financial Interest Disclosure  
(LAC 46:XXXIII.316)**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8), R.S. 37:678, R.S. 37:679, and R.S. 37:795.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Dentists and Hygienists—Fees  
for Licenses, Permits, and Examinations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
A cost of \$60 is estimated to implement these proposed rules. Notification of these rule changes will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenues to the Board of Dentistry should increase by approximately \$12,000 per year due to increases in fees for taking the clinical licensing examination and in obtaining a license by credentials. This increase in fees will offset costs presently incurred by the board for providing these services.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be small increases in costs but no new economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#015

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., particularly R.S. 37:760(8), and under the mandate of R.S. 37:1744, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to adopt LAC 46:XXXIII.316, "Disclosure of Financial Interest by Referring Dental Health Care Provider." No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§316. Disclosure of Financial Interest by Referring  
Dental Health Care Provider**

A. This rule is authorized and mandated by R.S. 37:1744 and a violation of this Section will constitute a violation of either R.S. 37:776(A)(24) or R.S. 37:777(18).

B. No dental health care provider shall make referrals outside the same group practice as that of the referring dental health care provider to any other health care provider, licensed health care facility, or provider of health care goods and services, including, but not limited to, providers of clinical laboratory services, diagnostic services, medicinal suppliers, and therapeutic services when the referring dental health care provider has a financial interest served by such referrals, unless in advance of any such referral, the referring dental health care provider discloses to the patient, in writing, the existence of such financial interest.

C. *Financial Interest*—a significant ownership or investment interest established through debt, equity, or other means and held by a dental health care provider or a member of a dental health care provider's immediate family, or any form of direct or indirect remuneration for referral.

D. It shall be a violation of this Section for any licensee to enter into any arrangement or scheme, including cross-referral arrangements, if the licensee knows, or should know, that he or she has a principal purpose of ensuring referrals by the licensee to a particular entity, which referral, if made directly by the licensee, would be a violation of this Section.

E. Notwithstanding any other law to the contrary, any dental health care provider who violates the provisions of this Section shall refund all such sums received in payment for the goods and services furnished or rendered without disclosure of financial interest. Such a refund shall be paid to the individual patient, third-party payor, or other entity who made the payment.

F. Any violation of this Section constitutes grounds for the suspension or revocation of a license in addition to any other fines or restrictions on a dental license commensurate with the circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1744.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Health Care Provider  
Financial Interest Disclosure**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)  
TO STATE OR LOCAL GOVERNMENTAL UNITS  
(Summary)**

A cost of \$60 is estimated to implement this rule. Notification of this rule change will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups. Further, we are unaware of any dental health care providers who make referrals to an outside dental health care provider with whom they may have a significant financial interest. This rule is more germane to medicine, but it is mandated by R.S. 37:1744. We anticipate no costs nor economic benefit to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#013

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Licensure by Credentials (LAC 46:XXXIII.306)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental

Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.306, "Requirement of Applicants for Licensure by Credentials." No preamble has been prepared.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§306. Requirements of Applicants for Licensure by  
Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. ...
2. current possession of a nonrestricted license in another state as defined in R.S. 37:751(L); and
3. that while possessing a nonrestricted license in another state has been in active practice or full-time dental education for a minimum of three years immediately prior to applying for licensure; or while possessing a nonrestricted license in another state has completed a two-year general dentistry residency program or successfully completed a residency program in one of the board recognized dental specialties as defined in §301;
4. ...
5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the last seven years;
6. - 20. ...

B. ...  
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Licensure by Credentials**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

A cost of \$40 is estimated to implement this proposed rule. Notification of this proposed rule change will be provided to

our licensees via newsletter and/or pamphlet which is already budgeted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups. However, persons who apply for licensure by credentials must possess nonrestricted licenses prior to applying for licensure by credentials. At present, a person with a restricted license could apply for licensure by credentials. Applicants for licensure by credentials must not have failed the licensing clinical examination within the last 7 years as opposed to 3 years prior to applying for licensure by credentials in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#011

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Motions for Continuance of Hearing  
(LAC 46:XXXIII.915)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.915, "Motions for Continuance of Hearing." No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 9. Formal Adjudication**

**§915. Motions for Continuance of Hearing**

A. A motion for continuance of hearing shall be filed within the delay prescribed by §913 of these rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (4), (5), and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1319 (October 1993), amended LR 23:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans,

LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Motions for Continuance of Hearing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated implementation of costs or savings to the Board of Dentistry or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#017

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Restricted Licensees (LAC 46:XXXIII.105)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.105, "Requirements of Restricted Licensees." No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 1. General Provisions**

**§105. Restricted Licensees**

A. All applicants for a restricted license must successfully complete the Louisiana State Board of Dentistry examination in jurisprudence prior to issuance of said license, except those licenses issued for less than one year.

B. - E. ...

F. Part-time faculty of the LSU system shall be exempt from the licensure requirements of §105.B and C. However, part-time faculty in the LSU system shall be required to successfully complete the examination in jurisprudence as required in §105.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:23 (January 1996), LR 23:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Restricted Licensees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

A cost of \$40 is estimated to implement this proposed rule. Notification of this proposed rule change will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit, as restricted licensees must already successfully complete the jurisprudence examination.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups. However, dentists on the faculty of the LSU system will have less onerous licensure requirements.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#008

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Term of License; Renewal  
(LAC 46:XXXIII.409)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental

Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.409, "Term of License; Renewal." No preamble has been prepared.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part XXXIII. Dental Health Professions**

**Chapter 4. Fees and Costs  
Subchapter A. General Provisions  
§409. Term of License; Renewal**

All licenses shall be renewed annually or biannually and will expire on December 31 of each calendar year of the renewal period. All renewal license applications are to be mailed by the board to licensed dentists and dental hygienists at their last known mailing address as indicated in the board files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 23:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice. No preamble has been prepared.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Term of License; Renewal**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

A cost of \$40 is estimated to implement this proposed rule. Notification of this proposed rule change will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue will increase by approximately \$150,00 during the first year of biannual renewals, but will decrease by the same amount during the second year, thereby becoming revenue neutral.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups. However, half of the licensees of the Louisiana State Board of Dentistry will pay for a biannual renewal in advance. After the passage of one year, they will not have to pay for a second year, and, therefore, this becomes revenue neutral.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9708#014

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Certified Animal Euthanasia Technicians'  
Renewal Deadline (LAC 46:LXXXV.1211)**

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.1211 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1558 et seq.

The proposed amendment is a technical change to bring the rule in conformity with R.S. 37:1555, which sets September 30 of each year as the deadline date for renewal of certificates of approval.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 12. Certified Animal Euthanasia Technicians  
§1211. Renewal of Certificates**

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form which shall be provided by the board and by payment of the annual renewal fee established by the board.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on September 26, 1997.

A public hearing on the proposed changes will be held on September 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Charles B. Mann  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Certified Animal Euthanasia  
Technicians' Renewal Deadline**

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, except for those associated with publishing the amendments (estimated \$80). Certified animal euthanasia technicians are already aware of this deadline, which is set by statute.

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. There will be no revenue impact as no increase in fees will result from these amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on employment and competition.

Charles B. Mann  
Executive Director  
9708#028

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Internships and Residencies  
(LAC 46:LXXXV.1105)**

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.1105 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendment provides that the board may accept a clinical internship or residency of no less than 10 months at an accredited school of veterinary medicine in lieu of completion of a preceptorship program, as defined in Chapter 11.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 11. Preceptorship Program  
§1105. Applicants**

A. On and after the effective date of these provisions, every applicant for a license to practice veterinary medicine in the state of Louisiana must complete a preceptorship program during the senior year in an accredited school of veterinary medicine or after graduation. The board shall have



the discretionary right to waive the compliance with the preceptorship program when the applicant has been licensed in another state or is eligible for license without examination.

B. The board may accept a completed clinical internship or residency of no less than 10 months at an accredited school of veterinary medicine in lieu of completion of a preceptorship program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on September 26, 1997.

A public hearing on the proposed changes will be held on September 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Charles B. Mann  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Internships and Residencies

#### 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, except for those associated with publishing the amendments (estimated \$80). The veterinary profession will be informed of this proposed rule change via the board's regular newsletter, which is already a budgeted cost of the board.

#### 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. There will be no revenue impact as no increase in fees will result from these amendments.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or nongovernmental groups. If there is any impact on applicants, it will relieve those who have completed an acceptable internship or residency from having to also complete a preceptorship.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on employment and competition.

Charles B. Mann  
Executive Director  
9708#027

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Veterinary Medicine

#### Prescriptions and Microchip Implantation (LAC 46:LXXXV.705 and 713)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.Chapter 7 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The board proposes to amend LAC 46:LXXXV.705 to provide guidance to licensed veterinarians on their obligation to write a prescription for a client so long as a veterinarian-patient-client relationship exists. The proposed rule makes clear that the prescription must be written when a veterinarian-patient-client relationship exists, except under the following conditions:

1. when the veterinarian has determined that the patient's life would be in danger without the immediate administration of the prescription;
2. when, in the veterinarian's medical opinion, the prescribed substance is not medically safe for in-home administration by the client; and
3. when the veterinarian is not required to write a prescription for controlled substances.

The board proposes to adopt LAC 46:LXXX.713, which concerns microchip implantation procedures. This proposed rule makes clear that the implantation of a microchip device into an animal shall be performed only by a licensed veterinarian or under the direct supervision of a licensed veterinarian. Exemptions from this proposed rule are provided for animal control agencies operated by a state or local governmental agency and incorporated humane societies which have a contract with a local governmental agency to perform animal control services.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 7. Veterinary Practice

#### §705. Prescribing and Dispensing Drugs

A. - F. ...

G. It shall be considered a violation of the rules of professional conduct, within the meaning of R.S. 37:1526(14), for a veterinarian to refuse to write a prescription when a veterinarian-patient-client relationship has been established, and the veterinarian has determined that the patient's life is not endangered without the immediate administration of the prescription medication, provided that, in the veterinarian's medical opinion, the prescribed substance is medically safe for in-home administration by the client. The veterinarian shall not be required under this rule to write a prescription for controlled substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:

**§713. Microchip Implantation**

The implantation of a microchip device into an animal shall be performed only by a licensed veterinarian or under the direct supervision of a licensed veterinarian, except that no unlicensed person may perform surgery, diagnosis, prognosis, or prescribe drugs, medicines, or appliances as stated in §702.A.2. The following are exempt from this provision:

1. an animal control agency which is operated by a state or local governmental agency; or
2. a duly incorporated humane society which has a contract with a local governmental agency to perform animal control services on behalf of the local governmental agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on September 26, 1997.

A public hearing on the proposed changes will be held on September 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Charles B. Mann  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Prescriptions and  
Microchip Implantation**

**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, except for those associated with publishing the amendment (estimated \$80). The veterinary profession will be informed of this proposed rule change via the board's regular newsletter, which is already a budgeted cost of the board.

**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. There will be no revenue impact as no increase in fees will result from these amendments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

We do not anticipate any appreciable impact on any affected persons or nongovernmental groups. The prescription rule should make clearer to both veterinarian and client that the client, under most conditions, can obtain a prescription for a patient from the veterinarian and have it filled elsewhere. This clearly places the client in a free market for the purchase of prescriptions.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on employment and competition.

Charles B. Mann  
Executive Director  
9708#025

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Registered Veterinary Technician  
Certificate Renewals (LAC 46:LXXXV.811)**

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.811 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1549 et seq.

The proposed amendment is a technical change to bring the rule in conformity with R.S. 37:1546, which sets September 30 of each year as the deadline date for renewal of certificates of approval. The amendment also clarifies the process for renewal.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 8. Registered Veterinary Technicians  
§811. Certificate Renewal; Late Charge**

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form, which shall be provided by the board, and by payment of the annual renewal fee established by the board. Each year, 90 days prior to the expiration date of the certificate of approval, the board shall mail a notice to each registered veterinary technician stating the date his certificate will expire and providing a form for re-registration.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:26 (March 1990), amended LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on September 26, 1997.

A public hearing on the proposed changes will be held on September 25, 1997, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Charles B. Mann  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Registered Veterinary  
Technician Certificate Renewals**

**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, except for those associated with publishing the amendments (estimated \$80). Registered veterinary technicians are already aware of the deadline contained in this proposed rule since it is set by statute.

**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. There will be no revenue impact as no increase in fees will result from these amendments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There is no known effect on employment and competition.

Charles B. Mann  
Executive Director  
9708#026

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Medically Needy Program  
Service Coverage Restrictions**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted an emergency rule to terminate the Title XIX Medically Needy Program as an eligibility category under the Medicaid Program effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 6). This action was taken to avoid a budget deficit in the Medicaid Program due to the lack of sufficient funds required to match the federal financial participation required under Title XIX of the Social Security Act. A subsequent emergency rule was adopted in compliance with Executive Order MJF 96-17 to establish a state-funded Medically Needy Program with limitations (*Louisiana Register*, Volume 22, Number 7).

The department adopted an emergency rule to reinstate the Title XIX Medically Needy Program effective July 1, 1997 (*Louisiana Register*, Volume 23, Number 7). The department has subsequently determined it is necessary to amend the July 1, 1997 emergency rule to place restrictions in service coverage under the reinstated Title XIX Medically Needy Program. The eligibility criteria under the reinstated Title XIX Medically Needy Program shall remain the same as the eligibility criteria utilized in the Title XIX Medically Needy Program prior to July 1, 1996. Service coverage under the reinstated Title XIX Medically Needy Program shall be restricted to:

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;
- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner services;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;
- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy services.

The following services shall not be covered under the Title XIX Medically Needy Program:

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic services;
- 3) mental health clinic services;
- 4) home and community based waivers services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) services; and
- 10) tuberculosis clinic services.

All other components of the Title XIX Medically Needy Program shall be reinstated in accordance with the federal requirements as stated in the *Code of Federal Regulations*.

This action is necessary to protect the citizens of Louisiana from an imminent peril to their health and welfare that would result if they were unable to continue to receive necessary medical services and to avoid a budget deficit in the Medicaid Program.

#### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following service coverage restrictions in the reinstated Title XIX Medically Needy Program:

#### Covered Services

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;
- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;
- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy.

#### Noncovered Services

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic/services;
- 3) mental health clinic services;
- 4) home and community based waiver services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) Clinic services; and
- 10) Tuberculosis (TB) Clinic services.

All other components of the Title XIX Medically Needy Program shall be in accordance with the federal requirements as stated in the *Code of Federal Regulations*.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Friday, September 26, 1997 at 9:30 a.m. in the auditorium of the Department of Transportation and Development, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bobby P. Jindal  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medically Needy Program Service Coverage Restrictions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is estimated that implementation of this proposed rule will decrease state program expenditures by approximately \$1,909,978 for SFY 1997-98; \$1,972,569 for SFY 1998-99; and \$2,031,747 for SFY 1999-2000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this proposed rule will decrease federal revenue collections by approximately \$4,534,053 for SFY 1997-98; \$4,682,523 for SFY 1998-99; and \$4,822,998 for SFY 1999-2000.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Recipients in this eligibility category will experience limitations in service coverage. Providers of the services that are no longer covered for Medically Needy recipients will experience a reduction in reimbursement of approximately \$6,444,031 for SFY 1997-98; \$6,655,092 for SFY 1998-99; and \$6,854,745 for SFY 1999-2000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9708#083

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

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

Pharmacy Program—Maximum  
Allowable Overhead Cost

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act.

The Department of Health and Hospitals, Bureau of Health Services Financing provides a pharmacy dispensing fee in the Pharmacy Program, in accordance with the methodology approved in the State Plan for the Maximum Allowable Overhead Cost, which includes a \$0.10 provider fee collected on all prescriptions dispensed to Louisiana Medicaid residents by pharmacists. This dispensing fee is called the Louisiana Maximum Allowable Overhead Cost and is determined by updating the base rate through the application of certain economic indices to appropriate cost categories to assure recognition of costs which are incurred by efficiently and economically operated providers. During state fiscal year 1995-96 the bureau maintained the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-95 level. The following proposed rule continues the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-95 level.

#### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions applicable to the Maximum Overhead Cost under the Pharmacy Program:

##### Maximum Allowable Overhead Cost

1. For state fiscal year 1997-98, the Maximum Allowable Overhead Cost will remain at the level established for state fiscal year 1994-95. This Maximum Allowable Overhead Cost was established by applying the 1993 indices to appropriate cost categories for a one-year period.

2. No inflation indices or any interim adjustments will be applied to the Maximum Allowable Overhead Costs for the time period July 1, 1997 through June 30, 1998.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030.

A public hearing will be held on this matter on Friday, September 26, 1997 at 9:30 a.m. in the Auditorium of the Department of Transportation and Development, 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.

Bobby P. Jindal  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Pharmacy Program—Maximum Allowable Overhead Cost

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will decrease state program costs by approximately \$2,146,479 for SFY 1997-98; \$2,131,226 for SFY 1998-99; and \$2,140,497 for SFY 1999-2000.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will decrease federal revenue collections by approximately

\$5,095,421 for 1997-98; \$5,059,146 for SFY 1998-99; and \$5,081,153 for SFY 1999-2000.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The pharmacists enrolled in the Medicaid Program will continue to experience reduced reimbursements of approximately \$7,241,900 for SFY 1997-98; \$7,190,372 for SFY 1998-99; and \$7,221,650 for SFY 1999-2000 for pharmacy services rendered to Medicaid recipients.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9708#088

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

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

##### Substance Abuse Clinics

The Department of Health and Hospitals, Bureau of Health Services Financing is proposing to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, and as directed by the 1997-98 General Appropriation Act.

This proposed rule shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for substance abuse clinic services under the Medicaid Program. In February of 1996, the bureau adopted a rule to reimburse substance abuse clinics for only one service per day per recipient (*Louisiana Register*, Volume 22, Number 2). The bureau now proposes to amend the February 1996 rule to:

1. establish a maximum service limit of 26 visits per year for recipients age 21 and older for individual and group counseling therapy;

2. limit the total number of persons in group counseling therapy to no more than six persons per group and reduce the reimbursement rate to \$10 per eligible recipient;

3. establish a maximum service limit of 12 visits per year, per eligible recipient for family counseling therapy for recipients age 21 and older; and

4. terminate coverage for collateral counseling services under the Medicaid Program.

##### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing revises the policy governing the provision of substance abuse clinic services under the Medicaid Program to:

1. establish a maximum service limit of 26 visits per year for recipients age 21 and older for individual and group counseling therapy;

2. limit the total number of persons in group counseling therapy to no more than six persons per group and reduce the reimbursement rate to \$10 per eligible recipient;

3. reduce the maximum service limit to 12 visits per year, per eligible recipient for family counseling therapy for recipients age 21 and older; and

4. terminate coverage for collateral counseling services under the Medicaid Program.

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

A public hearing on this proposed rule is scheduled for Friday, September 26, 1997 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Substance Abuse Clinics**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is estimated that implementation of this proposed rule will decrease state program expenditures by approximately \$1,851,525 for SFY 1997-98; \$1,907,111 for SFY 1998-99; and \$1,964,325 for SFY 1999-2000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this proposed rule will decrease federal revenue collections by approximately \$4,395,240 for SFY 1997-98; \$4,527,139 for SFY 1998-99; and \$4,662,953 for SFY 1999-2000.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Substance abuse clinics enrolled in the Medicaid Program will experience reductions of approximately \$6,246,765 for SFY 1997-98; \$6,434,250 for SFY 1998-99; and \$6,627,278 for SFY 1999-2000 for substance abuse clinic services. In addition, recipients will experience limitations in the services received.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9708#089

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Labor  
Plumbing Board**

**Medical Gas Piping Installers (LAC 46:LV.304)**

The Plumbing Board proposes to amend the following rule as authorized by R.S. 37:1366(D) and 1368(G). This proposed rule is issued in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed rule seeks to lessen the regulation of a defined group of medical gas piping installers who are not required as a condition of employment to perform brazing duties.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part LV. Plumbers**

**Chapter 3. Licenses  
§304. Medical Gas Piping Installer License**

A. - I. ...

J. A medical gas piping installer shall, as a condition of licensing under these regulations, maintain his brazer performance qualification in accordance with NFPA 99 standard on *Gas and Vacuum Systems*, latest edition. However, any licensed medical gas piping installer who annually certifies, on a form supplied by the board, that he is engaged in a managerial, supervisory or maintenance and repair employment position and is not required as a condition of employment to conduct brazing, shall be relieved of the brazer performance qualification. Any material misrepresentation made on such form by an eligible medical gas installer may be a condition for revocation or suspension of that medical gas piping installer license.

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(G).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), amended LR 23:

Interested persons may submit comments to Don Traylor, Executive Director, Plumbing Board, 2714 Canal Street, Suite 512, New Orleans, LA 70119. He is responsible for responding to inquiries regarding the proposed rule. Such comments must be submitted no later than October 6, 1997.

Don Traylor  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Medical Gas Piping Installers**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No additional costs will be incurred by a state or local governmental unit. Minimal savings (\$500 annually) will be enjoyed by the Louisiana State Plumbing Board as a result of lessened paperwork.

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 governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Medical Gas Piping Installers subject to Plumbing Board examination and licensing will benefit from the proposed rule change. Those installers who do not engage in new construction work will be relieved of annual brazing certification requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employment opportunities will be enhanced, since a considerable number of licensed Medical Gas Piping Installers will be relieved of a potentially onerous re-licensing condition.

Louis L. Robein, Jr.  
Attorney  
9708#043

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Revenue and Taxation  
Sales Tax Division**

**Sales Tax Return—Quarterly Filing (LAC 61:I.4351)**

Under the authority of R.S. 47:306 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Sales Tax Division proposes to amend LAC 61:I.4351.B.1 to require sales taxpayers whose average tax liability is less than \$100 per month to file quarterly tax returns, and to allow taxpayers whose average tax liability is less than \$250 per month the option to file quarterly tax returns.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 43. Sales and Use Tax**

**§4351. Returns and Payment of Tax, Penalty for  
Absorption of Tax**

\* \* \*

B. Exceptions. Not all dealers are required to file returns on a monthly basis.

1. Upon registration, all dealers are required to file monthly returns. After the dealer has operated for a few months, and it is determined that the amount of tax liability averages less than \$100 per month, the dealer will be notified and required to file quarterly returns. The secretary may offer the option of quarterly filing to other dealers whose liabilities average less than \$250 per month. Application to file quarterly is not necessary, as notification is automatic once a determination is made by the secretary that such a filing procedure is in order. Quarterly returns should be filed on or before the 20th day of the first month of the next succeeding quarter. Irregular sales tax returns and use tax returns should be filed on or before the 20th day of the month following the

month in which the taxable transaction occurred. The returns should be prepared in a manner that will enable the secretary to ascertain the correctness of the tax computed to be due. Accordingly, each line of the tax return should be completed, and all amounts not taxable should be identified.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:306.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), LR 23:

Interested persons are invited to submit written comments on these proposed amendments. Comments should be submitted no later than Monday, September 29, 1997, at 4:30 p.m., to Raymond Tangney, Director of the Sales Tax Division, Box 201, Baton Rouge, LA 70821-0201 or by FAX (504) 925-3860.

Interested persons are also invited to attend the public hearing on these proposed amendments, which will be held on Tuesday, September 30, 1997, at 1 p.m., in the secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

John Neely Kennedy  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Sales Tax Return—Quarterly Filing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed amendment will require sales taxpayers whose average tax liability is less than \$100 per month to file quarterly tax returns and allow taxpayers whose average tax liability is greater than \$100 per month but less than \$250 per month the option to file quarterly tax returns, which will result in a cost savings to the department.

There are approximately 38,000 taxpayers currently filing monthly that will be allowed to file quarterly returns. If 35,000 of these taxpayers elect quarterly filing, the department would mail and process 280,000 fewer tax returns annually, which would result in cost savings of approximately \$400,000 based on reduced forms mailing costs and reduced paper processing, handling, and storage of sales tax returns. This proposed amendment may also result in additional cost savings from reduced initial delinquent billing costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The department is unable to estimate the number of sales taxpayers with average monthly tax payments less than \$250 who will choose to file their tax returns quarterly. Although there will be no effect on the state's revenue collections as a result of this proposed amendment, some taxes that are now being paid monthly will be paid quarterly, which will result in a loss in interest earnings due to the delayed deposit of funds into the treasury.

Assuming that 35,000 taxpayers currently filing monthly returns with \$150 average monthly tax payments elect to switch to quarterly filing, it is estimated that the state's annual interest income from investments would be reduced by \$276,000 based on a 5.3 percent annual interest rate (the current average interest



rate earned on short-term investments). This loss would be offset by the department's cost savings (see Section I).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Taxpayers whose average sales tax liability is less than \$250 per month will be allowed to file quarterly tax returns, which would result in a cost savings based on reduced paper document preparation and mailing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment should have no effect on competition or employment.

John Neely Kennedy  
Secretary  
9708#030

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Treasury  
Board of Review of Deputy Sheriffs' Supplemental Pay**

**Supplemental Pay Requirements and Board Operations**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Review of Deputy Sheriffs' Supplemental Pay Program ("Board of Review") hereby proposes to amend the following rule of the Board of Review of Deputy Sheriffs' Supplemental Pay.

The Board of Review approved a motion, at its meeting on March 5, 1997, to amend the rule for the administration and regulation of the Deputy Sheriffs' Supplemental Pay Program.

The purpose of this proposed rule change is to recognize, within the rule, the "Sheriff's Guide to Departmental Policies and Statutory Specifications for the Administration of the Supplemental Pay Program" ("the guide") which was adopted by the Board of Review of Deputy Sheriffs' Supplemental Pay.

The guide had been printed and sent to the sheriffs in October 1994, in response to their request for a working guide for the day-to-day administration of the Deputy Sheriffs' Supplemental Pay Program.

The guide contains the statutory requirements for the Deputy Sheriffs' Supplemental Pay Program and the administrative requirements of the Board of Review of Deputy Sheriffs' Supplemental Pay.

**Proposed Rule**

Paragraph 1. "The Sheriff's Guide to Departmental Policies and Statutory Specifications for the Administration of the Supplemental Pay Program" is hereby identified as the official guide to the administration of the Deputy Sheriffs' Supplemental Pay Program. Revisions to "The Sheriff's Guide" shall be approved by the Board of Review.

Paragraph 5. The board shall have bi-annual regular meetings each fiscal year, and the chairman may call additional regular meetings, as required. The meetings will be held in the office of the state treasurer.

Interested parties may submit written comments to Gary K. Hall, State Treasury Department, Chairman of the Board of

Review, Box 44154, Baton Rouge, LA 70804. Comments will be accepted through the close of business on September 26, 1997.

Carl V. Berthelot  
First Assistant State Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Deputy Sheriffs' Supplemental Pay**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS

There are no implementation costs or savings to state or local governmental units as the state treasurer's office is budgeted to perform these functions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS

There is no estimated 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 are no estimated costs or economic benefits to deputy sheriffs currently receiving supplemental pay.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment by this proposed rule.

Carl V. Berthelot  
First Assistant State Treasurer  
9708#053

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Treasury  
Housing Finance Agency**

**Homeownership Housing Program  
(LAC 71:II.Chapter 3)**

In accordance with R.S. 49:950 et seq., the Housing Finance Agency is proposing to adopt the following rule governing the Community Housing Development Organizations (CHDO) Homeownership Housing Program (Revolving Loan Pool). The purpose of the proposed rule is to govern the allocation and award of the funds under the program.

The Housing Finance Agency (the "agency") has adopted the form of the HOME project summary application package for the CHDO Homeownership Housing Program (Revolving Loan Pool). The following proposed rule and policies govern the allocation and award of the funds under the program.

**Title 71**

**TREASURY**

**Part II. Housing Finance Agency**

**Chapter 3. CHDO Homeownership Housing Program  
(Revolving Loan Pool)**

**§301. General**

A. The CHDO Homeownership Housing Program is being established by the agency to encourage Community Housing Development Organizations (CHDO) to serve as developers



or sponsors in the construction, reconstruction and/or the acquisition-rehabilitation of not more than 20 buildings consisting of not more than one single-family housing unit for purchase by households at or below 80 percent of the area median income for the parish within which the housing units are located.

1. The single-family housing units are to develop in phases not exceeding five units per phase.

2. All units must be constructed or rehabilitated in accordance with the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926.

3. Newly constructed units must meet the current edition of the *Model Energy Code* published by the Council of American Building Officials.

B. The Louisiana Housing Finance Agency (the "agency") will not accept applications for projects to be located in other participating jurisdictions as listed below:

1. city of Alexandria;
2. city of Shreveport;
3. city of Kenner;
4. East Baton Rouge Parish (with exception of cities of Baker and Zachary);
5. city of Lafayette;
6. city of Lake Charles;
7. Jefferson Parish;
8. city of Monroe;
9. St. Charles Parish;
10. city of New Orleans; and
11. Terrebonne Parish.

C. HOME funds will be made available to CHDOs in a revolving loan pool to fund up to five phases and no more than five units in any one phase.

D.1. Eligible borrowers must qualify to purchase housing units under the CHDO Homeownership Housing Program by evidencing an ability to qualify for a mortgage loan under the agency's HOME/MRB program.

2. The HOME/MRB program of the agency will serve as a source of take-out financing for all units under the CHDO Homeownership Housing Program. Developers will receive an appropriate reservation of funds under the HOME/MRB program for take-out financings.

3. All housing units under the CHDO Homeownership Housing Program must qualify under FHA guidelines for minimum property standards.

E.1. The CHDO Homeownership Housing Program is available for the rehabilitation of substandard housing units for eligible borrowers who currently own their own homes only if such homes require and will undergo qualified rehabilitation.

2. If a CHDO desires to include qualified rehabilitation as part of this project summary application, evidence must be submitted prior to the commitment of any HOME funds to the rehabilitation of the housing unit that:

- a. the housing unit is substandard and will be rehabilitated to satisfy minimum HQS;
- b. the rehabilitation of the housing unit satisfies the requirements of a qualified rehabilitation; and
- c. the cost of the rehabilitation and any existing mortgage debt may be refinanced under the agency's

HOME/MRB program. All units must qualify under FHA's minimum property standards.

F. HOME funds will be allocated to projects consisting of either:

1. single-family units in which each housing unit is located on a single lot and in which each housing unit and lot may be purchased by an eligible borrower; or

2. if an eligible borrower currently occupies the housing unit, the rehabilitation of the housing unit for the eligible borrower satisfies the conditions for a qualified rehabilitation and financing under the agency's HOME/MRB program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

### §303. Definitions

*Abandoned*—a housing unit which has been certified by the developer/owner and the local jurisdiction within which the housing unit is located that the unit has been vacant for at least 18 months.

*Accessible*—a site, building, facility, or portion thereof that complies with the Uniform Federal Accessibility Standards and that can be approached, entered, and used by physically disabled people.

*Adaptable*—the ability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be added or altered so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability.

*Application*—the CHDO Homeownership Housing Program (Revolving Loan Pool) HOME project summary.

*Appraised Value*—an appraisal by an individual or firm which is acceptable to FHA, VA, RECD, FNMA or the PMI insurer, as applicable, subject to the right of the issuer to further limit the pool of acceptable individuals or firms.

*Builder*—the general contractor or any other entity executing a contract with the developer to construct and/or rehabilitate a housing unit.

*Builder Profit Fee Base*—line 49 of the estimate and certificate of actual cost certified in accordance with Generally Accepted Accounting Principles by an independent certified public accountant as having been incurred and reduced by any general overhead (line 44).

*CHDO*—a Community Housing Development Organization as defined at 24 CFR 92.2 of the federal regulations.

*Debarred Developer*—any developer who is sanctioned or prohibited from participating in any housing program sponsored by any federal agency or by any state or local government or by any instrumentality of a federal, state or local government.

*Developer*—any person or entity (including persons or entities which are related to or have an identity of interest with such person or entity) which owns or develops a project, including any general partner of a partnership, any builder related to or having an identity of interest with the person or entity which owns or develops the project and any consultant receiving any fee or compensation to help develop a project.

*Developer Fee*—any profit or income realized by the developer in connection with the development of the project.

*Developer Fee Base*—the development costs of a project reduced by any acquisition costs and all developer fees (including builder profit and overhead when there is an identity of interest between the builder and the developer).

*Development Costs*—the capitalized costs of a building certified in accordance with generally accepted accounting principles by an independent certified public accountant as having been incurred as of the placed-in service date of the building.

*Elderly Household*—a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

*Eligible Borrower*—any person having an ownership interest in the residential housing unit:

1. who is expected to principally and permanently live in the residence being financed within a reasonable period of time (not to exceed 60 days) following the closing of the mortgage loan;

2. who is primarily or secondarily liable on the mortgage and has, in the case of a conventional mortgage loan, received home buyer training from a FNMA certified home buyer training program;

3. whose annualized monthly income does not exceed the maximum permissible household income as set forth in Exhibit III of this CHDO homeownership financing program HOME project summary application, as may be amended from time to time;

4. who is a first-time home buyer; provided, however, that for purposes of this definition, the term *eligible borrower* shall not include a mere cosigner of the mortgage loan who does not have an ownership interest in the residential housing unit being financed pursuant to such mortgage loan.

*Existing Housing*—housing units which have previously been occupied.

*First-Time Home Buyer*—a mortgagor, other than a mortgagor with respect to a qualified rehabilitation loan, who has not had a present ownership interest in a residence at any time during the three-year period ending on the date the mortgage is executed, or a mortgagor who is the first resident of a residence following the completion of a qualified rehabilitation of the residence.

*FNMA*—the Federal National Mortgage Association.

*Governmental Assistance*—includes any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit tax benefit, or any other form of direct or indirect assistance from the federal, state or local government for use in, or in connection with, a specific housing project.

*Handicapped Equipped Units*—units which are accessible and in which certain building spaces and elements, such as kitchen counters, sinks, and grab bars have been added or attached so as to accommodate the needs of a handicapped household.

*Handicapped Household*—a household composed of one or more persons at least one of whom is considered to have a physical, mental or emotional impairment which:

1. is expected to be of long-continued and indefinite duration;

2. substantially impedes the ability to live independently; and

3. is of such a nature that such ability could be improved by more suitable housing conditions. A person shall be considered handicapped if:

a. such person has a developmental disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 60001(7)]; or

b. such person is infected with the Human Acquired Immunodeficiency Virus (HIV) who is disabled as a result of infection with the HIV; or

c. such person has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently, and whose impairment could be improved by more suitable housing conditions.

*Hard Costs*—line 49 of the estimate and certificate of actual costs.

*HOME/MRB Program*—the agency's program for financing mortgage loans with a combination of HOME funds and proceeds of mortgage revenue bonds.

*Home Buyer Training Program*—a program (other than a self-instruction program) recognized by FNMA or the agency for first-time home buyers and which is provided by independent third-party contractors or by a CHDO authorized to provide first-time home buyer training.

*HQS Standards*—the Housing Quality Standards promulgated in HUD regulations at 24 CFR 882.109, including the basic "performance requirements" with respect to the following:

1. sanitary facilities;
2. food preparation and storage space;
3. space and security;
4. thermal environment;
5. illumination and electricity;
6. structure and materials;
7. interior air quality;
8. water supply;
9. lead-based paint;
10. access;
11. site and neighborhood; and
12. sanitary condition.

*HUD*—the U.S. Department of Housing and Urban Development.

*Independent Qualified Housing Consultant*—a professional housing consultant who has no identity of interest with any builder or developer in any state and who, by virtue of academic training, licensing and/or experience, is a recognized expert skilled in the requirements of conducting a market survey and demand study.

*Lender*—a financial institution that is participating as a lender under the agency's HOME/MRB program.

*Local Nonprofit Sponsor*—a Section 501(c)(3) or 501(c)(4) organization in which not more than 15 percent of the members of the governing board are domiciled outside the service area of the nonprofit and at least 75 percent of the governing board are domiciled within the market area of the project or is a state-certified Community Housing Development Organization (CHDO) with a service area encompassing the market area of the project.

*Market Area*—in rural areas or municipalities with a total population of less than 75,000, an area encompassing at least

the parish within which the project is located; and in municipalities of 75,000 or more, an area encompassing only the municipality if the housing consultant certifies that such a limitation is appropriate in view of demographic and mobility factors permitting the limitation of the market areas only to the municipality.

**Maximum Permissible Acquisition Cost Limits**—the applicable amount set forth in Exhibit II of the HOME project summary application as updated from time to time by the issuer.

**Maximum Permissible Household Income Limits**—with respect to an eligible borrower acquiring a residential housing unit in a parish, the applicable limits for such parish set forth in Exhibit III of the HOME project summary application as updated from time to time by the issuer.

**Maximum Sales Price**—the FHA 203(b) mortgage insurance limits for the area within which the project is located.

**Minimum HQS**—

1. the Section 8 Minimum Housing Quality Standards at 24 CFR 882.109 and all applicable state and local codes (including the *Southern Building Code*), rehabilitation standards, ordinances and zoning ordinances,

2. with respect to new construction, the current edition of the *Model Energy Code*, and

3. with respect to substantially rehabilitated housing, the cost-effective energy conservation and effectiveness standards in 24 CFR part 39.

**Minimum Property Standards**—the Minimum Property Standards in 24 CFR 200.925 or 200.926 or MPS.

**New Construction**—housing units which have not previously been occupied.

**Phase**—the construction of not more than the lesser of five units or 20 percent of all the units proposed in the application.

**Pre-qualified Applicant**—a prospective eligible borrower who has completed a home buyer training program.

**Qualified Rehabilitation**—any rehabilitation of a building occupied by an owner prior to the beginning of rehabilitation and certified by a CHDO on Exhibit IV of the HOME project summary application as satisfying the following conditions:

1. there is a period of at least 20 years between the date on which the building was first used (for residential or commercial purposes) and the date on which the physical work on such rehabilitation begins;

2. in the rehabilitation process:

a. 50 percent or more of the existing external walls of such building are retained in place as external walls;

b. 75 percent or more of the existing external walls of such building are retained in place as internal or external walls; and

c. 75 percent or more of the existing internal structural framework of such building is retained in place; and

3. the expenditures for such rehabilitation are in an amount at least equal to 25 percent of the eligible borrower's adjusted basis (for federal income tax purposes) in the residence.

For purposes of Paragraph 3, the eligible borrower's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the eligible borrower acquires the residence.

**RD**—the Rural Development Division of the U.S. Department of Agriculture.

**RD Target Area**—an area designated in writing by Rural Development of the U.S. Department of Agriculture as a priority area for financing housing under the 515 Housing Program.

**Replacement Cost**—with respect to a project involving substantial rehabilitation, the cost of new construction of a project with identical unit and square footage configuration at the site.

**Scattered Site**—a project consisting of multiple buildings containing housing units provided that each building is located on a single lot and provided further that each building may not contain more than one housing unit.

**Substandard**—any housing unit which does not satisfy the HQS standards and which requires substantial rehabilitation.

**Substantial Rehabilitation**—any rehabilitation in which the hard costs equal or exceed \$15,000 per unit or in which the rehabilitation satisfies the requirements of a qualified rehabilitation.

**Total Development Cost**—development costs plus the cost of land.

**Townhouse Units**—a single-family housing unit which shares a common wall with another single-family housing unit but which is located on land to which title is transferred to the homeowner.

**Vacant**—a housing unit which is certified by the CHDO/owner and the local jurisdiction to have not been occupied for a period of at least 90 days, and which is reasonably expected to remain vacant for an indefinite duration because the unit is substandard.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:600.6.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

### §305. Application Submission

Applicants wishing to receive a commitment of 1998 HOME funds must submit one original HOME project summary-CHDO Homeownership Housing Program application plus two copies, along with a nonrefundable application fee computed in accordance with the fee schedule below:

1.	Application Fee	\$1,000
2.	Analysis Fee*	\$1,000
3.	Cost Certification Audit Fee**	\$2,500

\* If a second analysis is necessary, only one-half of the analysis fee will be charged.

\*\* Only if applicant does not contract with independent CPA to perform cost certification audit.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:600.6.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

### §307. Application Review, Evaluation and Selection

A. Applications will be reviewed by agency staff only upon submission of the application (including all appendices), appropriate application fee, and accompanying submissions.

B. Applications will generally be evaluated to ensure that the application package is complete.

C. Incomplete applications will be returned to the applicant and will be processed by the agency only upon resubmission of a completed application package prior to the next application deadline and receipt of the reprocessing fee.

D. Applications must score at least 80 points to receive a commitment of HOME funds under the CHDO Homeownership Housing Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

### **§309. Maximum Home Fund Allocations**

A. No project will be allocated home funds under the CHDO Homeownership program in excess of \$200,000.

B. No related persons, entities, principals thereof or agents thereof having an identity of interest shall be allocated HOME funds under the CHDO Homeownership Housing Program in excess of \$200,000.

1. Developer fees, builder's profit and builder's overhead shall not exceed the amount permitted under HUD's administrative guidelines on subsidy layering without approval of the agency.

2. The maximum amount of HOME funds allowable per project is the lesser of \$200,000 or 85 percent of total development cost of units proposed in any phase of the project proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

### **§311. Implementation Guidelines and Processing Restrictions and Procedures**

A. Implementation Guidelines. All projects must be feasible and viable. The project must satisfy the following implementation guidelines:

1. HOME funds will be allocated only to fill the gap between other sources of funds available to the project and the required uses of funds in the project. Conventional financing or equity must equal at least 15 percent of total development cost for each phase of a project.

2. Neither appraised value nor total development cost plus points and fees paid by or on behalf of the eligible borrower under the HOME/MRB program may exceed the maximum permissible acquisition cost for single-family units for the area within which the unit is located.

3. Maximum HOME funds budgeted to develop a unit may not exceed 85 percent of the total development cost per unit during the construction period for any phase of development.

4. All projects must be scattered site or consist of townhouse units.

5. Developer fees shall not exceed 15 percent of the developer fee base. The combined builder profit and builder overhead shall not exceed 8 percent of the builder profit base.

#### **B. Market Study**

1. If the total number of units in a project consists of 16 or more units and the project involves any new construction or the conversion of an existing nonresidential building to residential rental use, a detailed market study dated as of a date no earlier than 90 days prior to the application deadline

must be submitted by an independent qualified housing consultant evidencing demand for additional Homeownership units in the market area.

2. The market study must:

a. specify in detail the sources of demand for new Homeownership units by low income households and that such low income households will pay no more than 30 percent of their household income for PITI;

b. contain a confirmation as to the total number of rental units that have received building permits over the 24-month period ending 120 days prior to the application deadline and that the construction and placement in service of such units in the pipeline will not affect the absorption efficiency of the project;

c. document the request for points in the selection criteria for special needs groups, new construction in areas with 95 percent rental occupancy and large families occupying single-family units having four or more bedrooms.

3. In addition to the submission of the market study, the independent qualified housing consultant must execute and submit by the application deadline a certification of demand for new units.

C. Total Development Cost Limitations. No project will be reserved or allocated HOME funds if the total development cost per unit plus points deemed paid by or on behalf of an eligible borrower as specified under the agency's HOME/MRB program exceed the FHA single-family mortgage limits for single-family units within the area which the unit is located.

D. Dollar Per Square Foot Limits. No project will be reserved or allocated HOME funds if the total development cost per square foot exceeds \$75.

#### **E. Developer Fees and Builder Profit Limits**

1. Developer fees for a project shall not exceed 15 percent of the developer fee base.

2. Builder profit shall not exceed 6 percent of the builder profit fee base and builder overhead shall not exceed 2 percent of the builder profit fee base unless approved by the agency in connection with projects:

a. without an identity of interest between the developer and the builder; and

b. in which the construction contract was awarded on the basis of a competitive solicitation of qualified contractors.

F. Proposed Sale Price Per Units. No unit in project may be sold for more than the maximum sales price reduced by any fees or points deemed paid by or on behalf of an eligible borrower, as specified under the agency's HOME/MRB program.

G. Appraisals. Appraisals establishing a project's fair market value will be required in connection with all projects financed with HOME funds.

H. Identities of Interest. An identity of interest is construed to exist when:

1. there is any financial interest of the developer in the builder or any financial interest of the builder in the developer;

2. any officer, director or stockholder or partner of the developer is also an officer, director or stockholder or partner of the builder;

3. any officer, director, stockholder or partner of the developer has any financial interest in the developer; or any officer, director, stockholder or partner of the builder has any financial interest in the developer;

4. the developer advances any funds to the builder;

5. the developer supplies and pays, on behalf of the builder, the cost of any architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by a developer in connection with its obligations under the construction contract;

6. the developer takes stock or any interest in the builder corporation as consideration of payment;

7. there exists or comes into being any side deals, arrangements, contracts or undertakings entered into or contemplated, thereby altering, amending, or canceling any of the required closing documents, except as approved by the agency;

8. any relationship (e.g., family) existing which would give the builder or developer control or influence over the price of the contract or the price paid to any subcontractor, material supplier or lessor of equipment.

I. Cost Certifications. The agency must review the certification of the certificate of actual cost audited as of the placed-in service date in accordance with Generally Accepted Accounting Principles (GAAP) by an independent certified public accountant.

J. Subsidy Layering Review. Prior to releasing any retainage of HOME funds for a project, a subsidy layering review will be conducted in connection with any project receiving HOME funds.

K. Debarred Developer. No debarred developers may be reserved HOME funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

**§313. Accompanying Submissions**

Applications must be accompanied by submissions listed below:

1. Affirmative Marketing Procedures. Applicants must indicate in Appendix XIII affirmative marketing requirements and procedures that will be adopted. Such procedures must be in accordance with HUD regulations.

2. Owner's Relocation Plan. Applicants who propose projects involving occupied buildings must include, as Appendix XIV, a relocation plan in the initial application and submit an occupied tenant list and must be in accordance with HUD regulations.

3. Appraisal

a. Applicant must include, as Appendix XV, a copy of any appraisal which was used to estimate the AS-IS and completed value of the project.

b. The appraised value of any unit within the project must be less than or equal to the maximum permissible acquisition cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

**§315. Selection Criteria to Award Home Funds to Affordable Rental Housing Projects**

	POINTS
A. Ratio of Project's Intermediary Cost to Development Costs (See Subsection K for formula to calculate ratio)	
1. Less than or equal to 10%	20 ___
2. More than 10% but less than or equal to 15%	15 ___
3. More than 15% but less than or equal to 20%	10 ___
4. More than 20%	0 ___
B. Project Contains Handicapped Equipped Units	
1. two or fewer units	5 ___
2. three to five units	10 ___
3. six or more units	15 ___
C. Project Serves Large Families Percentage of Units having Four or More Bedrooms	
1. two or fewer units	5 ___
2. three to five units	10 ___
3. six or more units	15 ___
D. Project involves New Construction in Areas with 95% or more residential rental occupancy	25 ___
E. All Units in Project are Vacant or Abandoned or all Units Located in a MRB Targeted Area	25 ___
F. Project to Reconstruct or Rehabilitate Substandard Housing Units to Minimum Property Standards or to construct New Units with Total HOME Funds Per Unit not Exceeding:	
\$ 5,000	50 ___
\$ 15,000	40 ___
\$ 25,000	30 ___
\$ 35,000	20 ___
\$ 45,000	10 ___
G. Economic Development Benefits. Project located in geographic area certified by Department of Economic Development to benefit from location of new facilities or expansion of existing facilities which will generate additional jobs and housing needs.	50 ___
H. Developer Fees (including builder profit and builder overhead when there exists identity of interest between builder and developer) are 10% or less under subsidy layering review guidelines	25 ___
I. Matching Certification Exceeds \$50,000	50 ___
J. Applicant has Submitted List of Pre-qualified Applicants	
1. At least 5 pre-qualified applicants	5 ___
2. At least 10 pre-qualified applicants	10 ___
3. At least 15 pre-qualified applicants	15 ___
4. At least 20 pre-qualified applicants	20 ___
5. At least 25 pre-qualified applicants	25 ___
TOTAL	_____

K. Formula to Calculate Ratio of Project's Intermediary Cost to Development Costs

Step 1: Add following amounts from Appendix II

Line II.B (Land Improvements)	\$ _____
Line II.C(ii) (Demolition)	\$ _____
Line II.C(iii) (Rehab or New Construction)	\$ _____
TOTAL	\$ _____

Step 2: Add following amounts from Appendix II

Line II.D (Subtotal)	\$ _____
Line II.F (Subtotal)	\$ _____
Line II.G (Subtotal)	\$ _____
TOTAL	\$ _____

Step 3: Divide Total of Step 1 by Total of Step 2 \_\_\_\_\_%  
and specify percentage

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

**§317. CHDO Home Ownership Housing Program Home Project Summary Application and Exhibits**

The CHDO Home Ownership Housing Program Home Project Summary Application and the exhibits thereto (referred to in Chapter 3 of these rules) are available upon request through the Louisiana Housing Financing Agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:

Any interested person may submit written comments regarding the contents of the proposed rule to V. Jean Butler, President, Housing Finance Agency, 200 Lafayette Street, Third Floor, Baton Rouge, LA 70802. All comments must be received no later than 4:30 p.m., September 22, 1997.

V. Jean Butler  
President

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: CHDO Homeownership Housing Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposed rule will have no measurable impact to state agency fiscal operations.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

These properties will be subject to ad valorem taxes at the local level. The construction of the homes involve purchase of supplies and equipment by contractors which will increase state and local sales tax collections.

The interim construction jobs will increase state income tax collections. The purchase of furnishings for these homes will also increase state and local sales tax collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Low income persons and families will receive the economic benefit of more affordable housing and will have a cap on the percentage of their household budget allocated for housing expense.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No significant effect of this proposed rule on competition is anticipated. Implementation of the program will generate interim construction jobs.

V. Jean Butler  
President  
9708#071

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Treasury  
Office of the Treasurer**

**State Tax Revenue Limit**

In accordance with the legislature's directive contained in R.S. 47:5010, the state treasurer, acting through the Department of the Treasury, hereby proposes a rule to establish the value of the State Tax Revenue Limit; to define "self-generated funds" as that term is used in R.S. 47:5003, in order to permit the annual computation and declaration by the Department of the Treasury of state tax revenue for each fiscal year; and to provide for the administration of the Tax Surplus Fund provided by R.S. 47:5008.

**I. Determination of the State Tax Revenue Limit**

**A. Basis of Calculation of State Tax Revenue Limit.** Pursuant to 47:5002, the state tax revenue limit is the percentage formed by dividing state tax revenue for the 1978-79 fiscal year by state personal income for 1977. The State Tax Revenue Limit shall be rounded to the nearest tenth of 1 percent.

The state tax revenue for the 1978-79 fiscal year is \$1,755,114,254.11.

The state personal income for 1977 is \$23,187,000,000.

**B. Value for State Tax Revenue Limit.** The State Tax Revenue Limit is hereby established as 7.6 percent.

**C. Definition of Self-Generated Funds to Permit Determination of State Tax Revenue for a Fiscal Year**

*Self-Generated Funds*—for purposes of calculation of state tax revenue:

a. those monies the state receives which are classified by the department receiving the funds in "means of financing" group codes 05, 06, and 11 and in the following object codes:

- 1435 Interest on Investments
- 1440 Interest Income 8(g) Settlement
- 1445 Gain from Sales of Securities
- 1450 Loss from Sales of Securities
- 1455 Dividends on Investments
- 1460 Other—Investment Income
- 1730 Tuition—Vo-Techs
- 1735 Ineligible Patient Fees
- 1775 Sales to Non-State Agencies—Merch & Comm
- 1780 Sales to Non-State Agencies—AEF
- 1785 Sales to Non-State Agencies—Services

1790 Sales to Non-State Agencies—Timber

1795 Miscellaneous Receipts—Conversion of Property

b. this listing shall be modified, as appropriate, to reflect changes made to self-generated object codes in the State's Chart of Accounts which is maintained by the Office of Statewide Reporting and Accounting Policy within the Division of Administration;

c. at the end of each fiscal year, no later than August 30, the State Treasurer shall submit to the House Appropriations Committee and the Senate Finance Committee (State Treasury oversight committees) a listing of self-generated object codes that are to be utilized in the determination of state tax revenue for the fiscal year previously ended.

*State Tax Revenue*—as defined by R.S. 47:5003, excludes federal funds, royalties, interagency transfers, proceeds from the First Use Tax, severance taxes, and self-generated funds.

## II. Declaration of Maximum State Tax Revenue

Within six months after the close of the previous fiscal year, the state treasurer shall declare maximum state tax revenue for the year then ended, by a letter addressed to the commissioner of Administration, the president of the Senate and the speaker of the House of Representatives of the Louisiana State Legislature.

## III. Administration of Tax Surplus Fund

Monies classified to the Tax Surplus Fund shall be invested in the same manner as monies classified to the state general fund. Disbursements from the Tax Surplus Fund shall only be made pursuant to an appropriation by the legislature for this purpose.

Interested parties may submit written comments to Gary K. Hall, financial officer, State Treasury, Box 44154,

Baton Rouge, LA 70805. Comments will be accepted through the close of business September 26, 1997.

Carl V. Berthelot  
First Assistant State Treasurer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Tax Revenue Limit

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs or savings to the state or local governmental units as the State Treasurer's Office is budgeted to perform these functions.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
If state tax revenues exceed the maximum state tax revenue limit in any given fiscal year, then the excess state tax revenue is classified to the Tax Surplus Fund (R.S. 47:5008) to be appropriated for the purpose of making tax refunds. The estimate of excess state tax revenue in any particular future fiscal year cannot be determined.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
If state tax revenues exceed the maximum state tax revenue limit in any given fiscal year, then the excess state tax revenue is classified to the Tax Surplus Fund (R.S. 47:5008) to be appropriated for the purpose of making tax refunds. The estimate of excess state tax revenue in any particular future year cannot be determined.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect on competition and employment.

Carl V. Berthelot  
First Assistant State Treasurer  
9708#054

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

# Legislation

## LEGISLATION

### State Legislature House of Representatives

House Concurrent Resolution Number 31 of the  
1997 Regular Session—Family Independence Project  
(by Representative Windhorst)

#### A CONCURRENT RESOLUTION

To amend the Department of Social Services, Office of Family Support, Family Independence Project rule (LAC 67:III.1301.A), which provides for exceptions to the time limitations on the receipt of cash benefits.

WHEREAS, the Department of Social Services is the state agency responsible for administering the state's welfare programs, including Temporary Assistance for Needy Families Block Grant benefits, Supplemental Security Income benefits, food stamps, and child support enforcement services; and

WHEREAS, the Department of Social Services is authorized to adopt agency rules in accordance with the provisions of the Administrative Procedure Act which requires notice of the intended action to be published in the *Louisiana Register* prior to the date the agency will take action on the rule, notice to interested parties of the proposed rule, public hearings on the proposed rule, and legislative oversight of the proposed rule; and

WHEREAS, the Department of Social Services is permitted to adopt an emergency rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, if it finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than otherwise provided; and

WHEREAS, the department normally uses its rulemaking authority to facilitate many of the functions placed within the responsibility of the agency without the delay associated with formally introducing legislation and having such approved by the legislative body; and

WHEREAS, on August 22, 1996, President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which implemented the most sweeping changes in the welfare system since its inception in the 1960's; and

WHEREAS, the new federal welfare reform legislation requires the state to make significant changes in its welfare programs and grants the state the flexibility to design its welfare programs in a way that will meet the needs of current and potential recipients and the fiscal needs of the state; and

WHEREAS, during the 1995 Regular Session, prior to the enactment of the new federal welfare reform law, the Louisiana Legislature enacted the Welfare Reform Act of 1995 which provided for time limitations on cash benefits,

school attendance requirements, and immunization requirements; and

WHEREAS, the legislature recognized the importance of reforming the state's welfare programs and began to implement changes in these programs prior to the issuance of any federal mandates; and

WHEREAS, the state later incorporated its welfare reform initiatives into the state plan for the new cash assistance program, the Temporary Assistance for Needy Families Block Grant program; and

WHEREAS, providing exceptions to the requirements of the Welfare Reform Act of 1995 will diminish the impact of the state welfare reform initiatives and will not conform with the intent of said legislation; and

WHEREAS, the ability of any state to reform its welfare programs will require a commitment to support provisions adopted for a sufficient period of time which will allow the state to determine if the state welfare reform measures implemented have achieved their intended purpose; and

WHEREAS, providing exceptions to the new state welfare reform program will prevent the legislature from adequately measuring the impact of the reform initiatives and from determining when a modification in the program is necessary to promote the goals of the program; and

WHEREAS, R.S. 49:969 authorizes the legislature to suspend, amend, or repeal any rule or regulation or body of rules or regulations adopted by a state department, agency, board, or commission by concurrent resolution; and

WHEREAS, legislators owe a duty to their constituents to oversee the welfare reform measures being undertaken by the state to ensure that the changes being implemented will be most beneficial to the individual recipients and to the residents of the state; and

WHEREAS, allowing the Department of Social Services to use the agency rulemaking process to exercise the newly inherited flexibility granted to the state in administering its welfare programs by creating exceptions to the requirements of the state welfare reform program may allow the department to implement a state welfare program without the level of legislative input desired and to implement a program which is not designed to achieve the goal of the reform measures—self-sufficiency of recipients.

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 67:III.1301.A is hereby amended to read as follows:

#### §1301. Terms and Conditions

A. Time Limitations: The Office of Family Support shall deny AFDC cash benefits to families if the parent has received AFDC for at least 24 months during the prior 60-month period. Only months of AFDC receipt after the January 1, 1997 date of implementation count toward the 24-month limit. This provision does not apply in the following situations (in two parent households both parents must meet at least one of these criteria):



1. the parent is incapacitated or disabled;
2. factors relating to job availability are unfavorable;
3. the parent loses his job as a result of factors not related to his job performance; or
4. an extension of benefits of up to one year will enable the adult to complete employment related education or training.

\* \* \*

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the office of the *Louisiana Register* and to the Department of Social Services, Office of Family Support.

BE IT FURTHER RESOLVED that the *Louisiana Register* is hereby directed to publish a brief summary of this Resolution as required by R.S. 49:969 and is also directed to incorporate the amendments to LAC 67:III.1301.A into the *Louisiana Administrative Code* and to transmit a copy of the revised rules to the Department of Social Services, Office of Family Support.

Hunt Downer  
Speaker of the House of Representatives

Randy L. Ewing  
President of the Senate

9708#006

## LEGISLATION

### State Legislature House of Representatives

House Concurrent Resolution Number 108 of the  
1997 Regular Session—Medically Needy Program  
(by Representative Riddle)

#### A CONCURRENT RESOLUTION

To repeal rules eliminating the Medically Needy Program within the Medicaid program; to repeal rules creating a state-funded Medically Needy Program; to provide for effective dates; and to provide for related matters.

WHEREAS, the elimination of the Medically Needy Program within the Medicaid program was one of the reductions in services and reimbursements that the Department of Health and Hospitals indicated would be necessary for the Medicaid program to remain within its appropriation for Fiscal Year 1996-1997; and

WHEREAS, Senate Concurrent Resolution Number 66 of the 1996 Regular Session, which was adopted without a single dissenting vote or objection, urged and requested that the

governor, the commissioner of administration, and the secretary of the Department of Health and Hospitals work diligently, creatively, and resourcefully to find a method to financially support the Medically Needy Program within the Medical Vendor Program for Fiscal Year 1996-1997; and

WHEREAS, the department later restored part of the program through a state-funded Medically Needy Program, which was fully funded with state funds and in excess of the amount of state funds which would be matched by the Health Care Financing Administration under special arrangement enacted by congress for the 1996-1997 Fiscal Year; and

WHEREAS, for the 1997-1998 Fiscal Year, there is no similar special arrangement setting a ceiling on the amount of federal assistance that will be provided when matched by state dollars; and

WHEREAS, for an estimated \$10,000,000 in state general fund dollars above the amount proposed for a state-funded Medically Needy Program, the state can fully restore a federally-matched Medically Needy Program within the Medicaid program; and

WHEREAS, R.S. 49:969 grants the legislature the statutory authority by Concurrent Resolution to suspend, amend, or repeal any rule or regulation or body of rules or regulations adopted by a state department, agency, board, or commission.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby repeal any and all rules adopted by the Department of Health and Hospitals creating a state-funded Medically Needy Program and eliminating a Medically Needy Program within the state Medicaid program including rules eliminating categories of eligibility which must be covered by a state seeking Medicaid funds to operate a Medically Needy Program.

BE IT FURTHER RESOLVED that repeal of rules eliminating the federally-assisted Medically Needy Program as provided in this Resolution shall become effective on July 1, 1997, including rules eliminating categories of eligibility which must be covered by a state seeking Medicaid funds to operate a Medically Needy Program.

BE IT FURTHER RESOLVED that repeal of rules creating the state Medically Needy Program as provided in this Resolution shall become effective upon the successful enrollment of participants in the state Medically Needy Program in the federally-assisted Medically Needy Program.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the *Louisiana Register*.

Hunt Downer  
Speaker of the House of Representatives

Randy L. Ewing  
President of the Senate

9708#007

# Potpourri

## POTPOURRI

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Horticulture Commission**

### Landscape Architect Registration Exam

The next Landscape Architect Registration Examination will be given December 8-9, 1997, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is as follows:

New Candidates: September 12, 1997

Re-Take Candidates: September 26, 1997

Reciprocity Candidates: November 14, 1997

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 12, 1997. Questions may be directed to (504) 925-7772.

Bob Odom  
Commissioner

9708#051

## 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 20-24, 1997, at 9:30 a.m. at the Lomax Hall, Louisiana Tech Campus, Ruston, LA. The deadline for sending in application and fee is September 22, 1997. No applications will be accepted after September 22, 1997.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 22, 1997. Questions may be directed to (504) 925-7772.

Bob Odom  
Commissioner

9708#052

## POTPOURRI

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

### Declaration of Quarantine: North Carolina Sweet Potato Quarantine and Embargo

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the Administrative Procedure Act, R.S. 49:953 et seq., and R.S. 3:1771 and 1772, the commissioner of Agriculture and Forestry hereby exercises the powers granted to him by R.S. 3:1771 and 1772 to declare a reciprocal quarantine on sweet potatoes from North Carolina and an embargo prohibiting importation of all sweet potatoes, vines, plants and slips from North Carolina.

R.S. 3:1771 makes it unlawful for "any person, firm or corporation to ship or transport into this state, or to sell, deal in, or handle in any manner within this state, any agricultural or horticultural plant or plant product from any state, territory, or foreign country which prohibits the shipment from this state of any such agricultural or horticultural plant or plant product by reason of quarantine or embargo of any kind or nature."

The state of North Carolina has imposed a quarantine and embargo on Louisiana sweet potatoes. Despite Louisiana's adherence to the Sweet Potato Weevil Technical Committee protocols, the negligible threat of movement of sweet potato weevils from Louisiana to North Carolina and the best efforts of the Louisiana Department of Agriculture and Forestry to amicably resolve this matter, North Carolina continues to maintain its quarantine and embargo.

Because R.S. 3:1771 automatically imposes a reciprocal quarantine or embargo in this situation and because R.S. 3:1772 places the responsibility for enforcement on the commissioner of Agriculture and Forestry, the commissioner hereby declares a reciprocal quarantine and embargo on all sweet potatoes, vines, plants and slips produced in or shipped from North Carolina to Louisiana.

This reciprocal quarantine and embargo shall be enforced under and in accordance with the Department of Agriculture and Forestry's Sweet Potato Weevil Quarantine regulations (LAC 7:XV.125-147).

This reciprocal quarantine and embargo is effective July 17, 1997, and shall continue in effect until North Carolina's quarantine and embargo of Louisiana sweet potatoes is lifted.

Bob Odom  
Commissioner

9708#001

**POTPOURRI**

**Department of Health and Hospitals  
Board of Embalmers and Funeral Directors**

**Embalmer/Funeral Director Examination**

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, September 13, 1997 at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino  
Executive Director

9708#091

**POTPOURRI**

**Department of Health and Hospitals  
Office of Public Health  
Nutrition Section**

Women, Infants and Children  
(WIC) State Plan—1997-1998

In accordance with Public Laws 99-500 and 99-591, the Louisiana Special Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC program's State Plan for 1997-98. The plan describes in detail the goals and the planned activities of the WIC program for the next year.

Interested persons may find copies of the state plan at the Central Nutrition/WIC Office (address below) or apply directly to the Nutrition/WIC office for copies of the plan at \$ .25 per page. Interested individuals should submit their requests for copies or their comments on the plan to Department of Health and Hospitals, Attention: State Plan, Office of Public Health, Nutrition Section, Room 406, Box 60630, New Orleans, LA 70160.

Additional information may be gathered by contacting Henry Klimek at (504) 568-5065.

Pamela P. McCandless, M.P.H.  
Administrator

9708#084

**CUMULATIVE INDEX**  
(Volume 23, Number 8)

1997		
Pages		Issue
1 — 128	.....	January
129 — 256	.....	February
257 — 381	.....	March
382 — 532	.....	April
533 — 639	.....	May
640 — 841	.....	June
842 — 921	.....	July
922 — 1076	.....	August

CR—Committee Report	EO—Executive Order
ER—Emergency Rule	L—Legislation
N—Notice of Intent	P—Potpourri
PPM—Policy and Procedure Memorandum	R—Rule

**ADMINISTRATIVE CODE UPDATE**

**Cumulative**  
 January 1996 - December 1996, 110  
 January 1997 - March 1997, 516  
 January 1997 - June 1997, 913

**AGRICULTURE AND FORESTRY**

**Agricultural and Environmental Sciences, Office of**  
 Adjudicatory hearing, 308N, 854R  
 Boll Weevil, 137ER, 195R, 251P  
 Commercial applicator, 134ER, 192R, 643ER  
 Landscape architecture, 87N, 113P, 854R, 1070P  
 Pesticide, 134ER, 192R, 307N, 643ER, 843ER, 853R  
 Quarantine list, 517P  
 Retail floristry, 87N, 376P, 633P, 833P, 854R, 1070P  
 School pesticide application, 134ER, 192R, 643ER  
 Seed, 751N  
 Termite, 754N  
 Wood destroying insect, 260ER, 308N, 854R

**Agro-Consumer Services, Office of**  
 Bar code scan, 211N, 386ER, 856R  
 Fee, 196R

**Animal Health Services, Office of**  
 Contagious disease, 196R  
 Equine Infectious Anemia, 138ER, 453N, 535ER, 943R  
 Livestock auction, 453N  
 Poultry, 142ER, 539ER, 949R  
 Rendering plant, 196R  
 Swine, 538ER, 755N, 924ER

**Commissioner, Office of the**  
 Antelope, 540ER  
 Deer, 540ER  
 Elk, 540ER  
 Emergency airstrip, 213N, 262ER, 703R  
 Sweet potato, 1070P

**Forestry, Office of**  
 Forest management, 553R  
 Indian Creek, 553R  
 Timber stumpage, 86N, 943R

**Marketing, Office of**  
 Eggs, 293R  
 Fruits, 757N  
 Vegetables, 757N

**Rice Promotion Board**  
 Election results, 519P  
 Meeting minutes, 519P

**CIVIL SERVICE**

**Civil Service Commission**  
 Attorney fees, 594N  
 Charges, 594N  
 Performance planning/review, 471N, 594N  
 Settlement, 594N

**Ethics, Board of**  
 Hearings, 458N  
 Lobbyist report, 309N, 704R  
 Organization/powers, 458N  
 Penalties, 458N  
 Records/reports, 458N  
 Registration, 458N  
 Substantive change hearing, 833P

**CULTURE, RECREATION, AND TOURISM**

**Secretary, Office of the**  
 Byways, 35R

**ECONOMIC DEVELOPMENT**

**Architectural Examiners, Board of**  
 Continuing education, 87N  
 License, 402R  
 Limited liability company, 873N  
 Prepared documents, 90N  
 Seal/stamp, 403R

**Boxing and Wrestling Commission**  
 Agents/officials, 644ER  
 Deposits, 644ER  
 Promotions, 644ER

**Certified Public Accountants, Board of**  
 Comprehensive revisions, 759N, 873N

**Commerce and Industry, Office of**  
 Enterprise Zone, 295R

**Contractors, Licensing Board for**  
 Examination, 1000N  
 Hearing, 1000N  
 License, 1000N

**Economic Development Corporation**  
 Award program, 36R  
 BIDCO, 554R  
 Micro loan, 555R  
 Minority and Women Business Development Program, 858R  
 Small Business Equity Program, 858R  
 Small business loan, 40R  
 Venture capital, 558R  
 Workforce development, 43R

**Financial Institutions, Office of**  
 Capital company, 776N  
 Fees/assessments, 296R, 311N, 706R  
 Insurance, 47R  
 Records retention, 311N, 705R

**Racing Commission**  
 Apprentice jockey, 475N, 950R  
 Bleeder medication, 474N, 950R  
 Electric battery, 14ER, 215N, 708R  
 Expense deposit, 13ER, 215N, 707R  
 Horse investigation, 476N, 951R  
 Interstate wager, 216N, 708R  
 Jockey, 263ER, 474N, 475N, 950R  
 License, 263ER, 475N, 950R  
 Pari-Mutuel, 14ER, 217N, 709R  
 Payment method, 217N, 709R  
 Preference order, 475N

**Secretary, Office of the**  
 Economic Development Award Program, 925ER, 1001N  
 Economically disadvantaged, 49R  
 Workforce Development and Training Program, 928ER, 1001N

## EDUCATION

### Elementary and Secondary Education, Board of

#### Bulletin 741

Agribusiness, 1002N  
Agriscience, 1002N  
Alternative schools/programs, 92N, 560R  
Class size, 403R  
Elective, 91N, 560R  
GED score, 404R  
Math requirement, 218N, 709R

#### Bulletin 746

Driver/traffic safety, 784N  
Health/physical education, 95N, 562R  
K-12 certification, 219N, 710R  
Noncertified personnel, 595N  
Principal, 93N, 561R

#### Bulletin 1134

Library media, 96N, 563R

#### Bulletin 1213

School bus, 1003N

#### Bulletin 1706

Exceptional children, 143ER, 645ER

#### Bulletin 1868

Personnel Manual, 183ER, 685ER

#### Bulletin 1929

Accounting and Uniform Government Handbook, 477N, 951R  
Board advisory council, 784N  
Finance and property, 404R  
Minimum Foundation Program, 55R

### Student Financial Assistance Commission

Scholarship and Grant Manual, 313N, 711R

### Tuition Trust Authority

Bylaws, 1003N  
START Saving, 314N, 711R

## ENVIRONMENTAL QUALITY

### Air Quality and Radiation Protection, Office of

AQ114 Lead-based paint, 1020N  
AQ144 NESHAP source categories, 56R  
AQ145 Ozone nonattainment areas, 197R  
AQ146 Nonattainment new source review, 197R  
AQ147 Permit application/information submittal, 96N, 404R  
AQ148 Particulate matter, 220N, 720R  
AQ149 Organic compound emission, 322N  
AQ150 SOCMI vent stream exemption, 1041N  
AQ151 Crude oil and condensate, 785N  
AQ152 General conformity, 478N, 720R  
AQ153 Title V permit fee adjustment, 1010N  
AQ154 Chemical accident prevention, 1009N  
AQ155 Crematory, 874N  
AQ156 SOCMI chemicals, 1037N  
AQ157 Chemical accident prevention, 1008N  
AQ158 Stage II vapor recovery, 1038N  
AQ159 Batch processing VOC emission, 1035N  
NE018 Radioactive material/waste, 599N  
NE019 Mammography, 596N  
Air toxics program, 523P, 833P  
Clean fuel fleet, 833P  
Compliance certification, 522P  
Fugitive emission, 113P, 523P  
MSW Landfill, 633P  
Mobile sources, 833P  
Ozone standard, 833P

### Legal Affairs and Enforcement, Office of

Regulatory agenda, 523P

### Secretary, Office of the

HW051 Land disposal, 15ER  
HW058 Treatment facility, 478N, 721R  
OS013 Rulemaking petition, 297R  
OS021 Risk based corrective action, 523P  
OS022 Declaratory ruling, 600N

### Waste Services, Office of (formerly Office of Solid and Hazardous Waste)

SW023 Waste tire, 184ER, 224N, 686ER, 721R  
SW024 Local government financial assurance, 479N, 954R  
SW025 Municipal solid waste landfills, 799N  
SW026 Solid Waste Site, 876N  
HW051 Land disposal, 299R  
HW052 Financial assurance and cleanup, 787N  
HW054 Universal waste, 332N, 567R  
HW055 RCRA V federal package, 329N, 564R  
HW057 Marathon Oil delisting, 221N, 524P, 952R  
Hazardous waste generator, 376P

### Water Resources, Office of

WPO20 Louisiana Pollutant Discharge Elimination System (LPDES), 225N, 722R  
WPO21 Best management practices, 199R  
WPO22 Adoption by reference, 199R  
WPO23 Produced water discharge, 16ER, 18ER, 184ER, 264ER, 345N, 686ER, 859R  
WPO24 Louisiana Pollutant Discharge Elimination System (LPDES), 800N, 957R  
WPO25 LPDES program, 1042N

## EXECUTIVE ORDERS

MJF 96-69 JTPA Program Merger, 1  
MJF 96-70 Occupational Information Coordinating Committee, 1  
MJF 96-71 Postsecondary Review Commission, 2  
MJF 96-72 French Heritage—Joint Committees, 3  
MJF 96-73 School Based Health Center Investigation, 3  
MJF 96-74 School Based Health Clinic Task Force, 4  
MJF 96-75 Forest Products Industry Development Task Force, 5  
MJF 96-76 Tangipahoa River Task Force, 6  
MJF 96-77 Statewide Intermodal Transportation Plan Steering Committee, 7  
MJF 96-78 Bond Allocation—Calcasieu Parish Authority, 7  
MJF 96-79 Unclassified State Employee Leave, 8  
MJF 97-1 Scenic By-Way Program, 129  
MJF 97-2 Bond Allocation—Housing Finance Agency, 129  
MJF 97-3 Calcasieu Parish Public Trust Authority, 130  
MJF 97-4 Automobile Insurance Rate Deduction Task Force, 130  
MJF 97-5 Office of the First Lady, 131  
MJF 97-6 Bond Allocation—Parish of Ouachita, 131  
MJF 97-7 Removal of Abandoned Barges and Vessels, 132  
MJF 97-8 DWI/Vehicular Homicide Task Force, 133  
MJF 97-9 Individual Wastewater Treatment Systems Task Force, 133  
MJF 97-10 Child Care and Development Block Grant Advisory Council, 257  
MJF 97-11 School Based Health Clinics Investigation, 257  
MJF 97-12 International Trade Commission, 257  
MJF 97-13 School Based Health Clinic Task Force, 258  
MJF 97-14 Emergency Response Commission, 382  
MJF 97-15 Violence-free Workplace, 382  
MJF 97-16 International Trade Commission, 383  
MJF 97-17 Board of Parole, 383  
MJF 97-18 Bond Allocation—Housing Finance Agency, 383  
MJF 97-19 Federal Property Assistance Program, 384  
MJF 97-20 Bond Allocation—Public Facilities Authority, 533  
MJF 97-21 School Based Health Clinic Task Force, 533  
MJF 97-22 Bond Allocation—Lafayette Economic Development Authority, 640  
MJF 97-23 Mineral Board Signature Authorization, 640  
MJF 97-24 Bond Allocation—East Baton Rouge Mortgage Finance Authority, 641  
MJF 97-25 Bond Allocation—New Orleans Home Mortgage Authority, 641  
MJF 97-26 Individual Wastewater Treatment Systems Task Force, 842  
MJF 97-27 Special Permits—Agronomic and Horticultural Crop Harvest, 922  
MJF 97-28 Bond Allocation—Jefferson Parish Home Mortgage Authority, 922

## FIREFIGHTERS' PENSION AND RELIEF FUND

### City of New Orleans and Vicinity

Deferred Retirement Option Plan (DROP), 605N  
Domestic relations, 803N

## GAMING (also see Public Safety)

Louisiana Lottery Corporation  
On-line lottery, 63R

## GOVERNOR'S OFFICE

### Administration, Division of

Architects Selection Board  
Interview procedure, 388ER  
Voting, 388ER  
Commissioner, Office of the  
Hearing conduct, 67R

Community Development, Office of

Consolidated Annual Action Plan, 114P  
 HUD hearings, 915P  
 Property Assistance Agency  
 Fleet management, 300R  
**Crime Victims Reparations Board**  
 Definitions, 268ER, 483N, 861R  
**Elderly Affairs, Office of**  
 Area Agency on Aging (AAA), 485N  
 Hearing, 484N  
 Long term care, 347N  
 Planning and Service Area (PSA), 485N  
 Service procurement, 488N  
 State plan, 806N  
**Oil Spill Coordinator's Office**  
 Restoration, 633P  
**Patient's Compensation Fund Oversight Board**  
 Coverage scope, 67R  
 Enrollment, 67R  
 General provisions, 67R  
 Surcharges, 67R  
**Rural Development, Office of**  
 Funding, 19ER, 97N  
 Projects, 19ER, 97N

## HEALTH AND HOSPITALS

**Alcohol and Drug Abuse, Office of**  
 Urine drug screen, 200R  
**Citizens with Developmental Disabilities, Office for**  
 Medication attendant, 616N  
**Dentistry, Board of**  
 Address, 1045N  
 Advertising, 199R, 1044N  
 Continuing Education, 1046N  
 Fees, 1047N  
 Health care provider disclosure, 1048N  
 Hearing, 1050N  
 License/renewal, 1051N  
 Licensure by credentials, 1049N  
 Other dental service location, 1045N  
 Prescription, 199R  
 Restricted license, 1050N  
 Soliciting, 1044N  
**Embalmers and Funeral Directors, Board of**  
 Exam, 114P, 634P, 1071P  
**Medical Examiners, Board of**  
 Clinical exercise physiologist, 405R  
 Obesity, 605N  
 Pain medication, 727R  
**Nursing, Board of**  
 Board officer, 492N, 962R  
 Education, 490N, 960R  
 License, 490N, 492N, 960R, 962R  
 Registration, 492N, 962R  
**Pharmacy, Board of**  
 Education, 806N  
 Licensure, 807N  
 Parenteral/enteral pharmacy, 808N  
 Practice, 809N  
 Technician, 815N  
**Psychologists, Board of Examiners of**  
 Reciprocity licensure, 489N, 861R  
**Public Health, Office of**  
 Informed consent, 74R  
 Neonatal screening, 301R, 579R  
 Preventive Health Block Grant, 834P  
 Sanitary Code  
 Human immunodeficiency Virus (HIV), 878N  
 Immunization, 20ER, 230N, 729R  
 Permit, 98N, 412R  
 Reportable disease, 302R  
 Seafood, 303R  
 Sewage, 878N  
 Shellfish, 349N, 729R  
 Toledo Bend/Sabine River, 99N, 412R  
 Sewage, 269ER, 348N, 728R  
 Women, Infants and Children (WIC) State Plan, 1071P  
**Radiologic Technology Examiners, Board of**  
 Definitions, 71R  
 Education, 71R  
**Secretary, Office of the**  
 Adult day/health care, 820N  
 Alien, 24ER, 231N, 388ER  
 Ambulatory surgical center, 99N, 412R  
 Case management  
 Infants/toddlers, 269ER, 494N, 690ER, 866R  
 Targeted service, 274ER, 732R

Community/family support, 350N, 862R  
 Developmentally disabled, 26ER, 391ER, 544ER, 730R, 848ER  
 Direct reimbursement, 21ER, 201R  
 Disproportionate share, 22ER, 270ER, 495N, 690ER, 866R  
 Early Periodic Screening Diagnosis and Treatment (EPSDT), 186ER, 413R  
 Elderly home care, 272ER, 497N, 844ER  
 Home health, 822N  
 Hospital Program  
 Out-of-state services, 390ER, 822N, 845ER  
 Laboratory service, 274ER, 414R  
 Long-term hospital, 28ER, 202R, 931ER  
 Low income family, 29ER, 232N, 390ER, 731R  
 Maternal and Child Health Block, 819N  
 Medicaid, 100N, 201R, 414R  
 Medical transportation, 879N  
 Medically needy, 30ER, 188ER, 203R, 392ER, 414R, 846ER, 846ER, 1055N  
 Medicare, 203R  
 Mentally retarded, 26ER, 391ER, 544ER, 730R, 848ER, 916P, 932ER  
 Nursing facility, 114P, 617N, 823N, 970R  
 Nursing home, 692ER, 880N  
 Pharmacy program, 848ER, 1056N  
 Physician management, 201R  
 Professional Services Program, 187ER, 203R, 414R  
 Rehabilitation hospital, 28ER, 202R  
 Rehabilitation services, 188ER, 731R  
 Substance abuse, 849ER, 1057N  
 Surveillance, 827N  
 Temporary Assistance for Needy Families (TANF), 31ER, 233N, 393ER, 745R  
 Utilization review, 827N  
 Voter registration, 355N, 745R  
 Wheelchair, 185ER, 413R  
 X-ray, 693ER, 826N  
**Veterinary Medicine, Board of**  
 Appeal/review, 877N  
 Board operations, 610N, 965R  
 Education, 818N  
 Euthanasia, 268ER, 606N, 963R, 1052N  
 Exam, 916P  
 Fees, 607N, 963R  
 Internship, 1052N  
 License, 608N, 964R  
 Microchip, 1053N  
 Practice, 615N, 969R  
 Preceptorship, 613N, 968R  
 Prescription, 1053N  
 Professional conduct, 269ER, 494N, 614N, 968R  
 Residency, 1052N  
 Veterinary technician, 1054N

## INSURANCE

**Commissioner, Office of the**  
 Reg 32—Benefits coordination, 415R  
 Reg 33—Medicare supplement, 101N, 422R  
 Reg 38—Defense costs, 902N  
 Reg 41—Defense costs, 902N  
 Reg 46—Long-term care, 356N, 975R  
 Reg 61—Actuarial opinion statement, 110CR

## LABOR

**Employment Security, Office of**  
 Continuance/postponement, 75R  
 Reopening/rehearing, 75R  
**Plumbing Board**  
 Medical gas, 1058N  
**Workers' Compensation, Office of**  
 Hearing officer, 77R  
 Individual self-insurer, 499N, 868R

## LEGISLATURE

**House of Representatives**  
 Committee on Administration of Criminal Justice  
 Mega jackpot bingo, 632CR  
 HCR 31—Family Independence Project, 1068L  
 HCR 108—Medically Needy Program, 1069L  
 Insurance Committee  
 Oversight and Accreditation Subcommittee  
 Regulation 61—Actuarial Opinion Statement, 110CR

## NATURAL RESOURCES

**Capital Area Ground Water Conservation Commission**  
Water well permits, 34R  
**Conservation, Office of**  
Custody transfer, 234N, 580R  
Gas/oil ratio, 235N 581R  
Multiple completion, 238N, 583R  
Natural gas, 235N  
Oil/gas commingling, 240N, 584R  
Oilfield waste facility, 376P, 376P, 526P, 527P, 634P, 635P,  
635P, 834P, 834P, 835P, 835P  
Orphaned oilfield, 114P, 252P, 525P, 916P  
**Secretary, Office of the**  
Oyster Lease Damage Evaluation Board, 500N  
State lands, 189ER, 693ER  
West Belle Pass coastal restoration, 836P

## PUBLIC SAFETY AND CORRECTIONS

**Board of Pardons**  
Clemency, 934ER  
**Corrections Services**  
Adult facility transfer, 937ER  
**Gaming Control Board**  
Board hearing, 31ER, 77R  
Record preparation/submission, 288ER, 304R  
Riverboat gaming  
Document delivery, 827N  
Gaming area, 623N  
Financial statement, 827N  
License, 31ER, 77R  
Licensee, 289ER, 371N, 746R  
Loan, 289ER, 371N, 746R  
Patron, 289ER, 371N, 746R  
Permit, 31ER  
Permitee, 289ER, 371N, 746R  
Rules review, 827N  
Video Draw Poker  
Application, 827N  
Devices, 827N  
Gaming establishment, 827N  
Hearing, 31ER, 77R  
License, 827N  
Sanction, 31ER, 77R  
**Liquefied Petroleum Gas Commission**  
Permit, 32ER  
Refrigerant, 545ER, 623N, 990R  
**Motor Vehicles, Office of**  
Privacy, 624N, 990R  
Vehicle registration, 696ER, 903N  
**Private Security Examiners, Board of**  
Board, 587R  
Definitions, 587R  
Investigations, 587R  
Training, 587R  
**State Fire Marshal, Office of**  
Fire extinguisher, 849ER  
**State Police, Office of**  
Bingo, Keno, Raffle, 393ER, 504N

## REVENUE AND TAXATION

**Sales Tax Division**  
Sales tax, 510N, 1059N  
Use tax, 510N  
**Secretary, Office of the**  
Electronic filing, 829N  
Electronic Funds Transfer (EFT), 102N, 448R  
**Severance Tax Division**  
Natural gas, 527P  
Natural resources, 830N  
Oilfield site, 78R  
**Tax Commission**  
Ad Valorem tax, 204R  
Commercial improvement, 252P  
Timber stumpage, 86N, 943R

## SOCIAL SERVICES

**Community Services, Office of**  
Child abuse/neglect, 243N, 590R, 907N  
Emergency Shelter Grants Program (ESGP), 377P  
Social Services Block Grant (SSBG), 527P  
Weatherization, 254P  
**Family Support, Office of**  
Arrearage, 209R  
Child support, 291ER, 304R  
Electronic benefits transfer, 511N, 869R

<sup>1</sup>Family Independence Temporary Assistance Program (FITAP)  
Alien, 103N, 399ER, 448R  
Eligibility, 78R, 104N, 448R  
<sup>2</sup>Find Work, 104N, 448R  
Standard filing unit, 78R  
<sup>3</sup>Family Independence Work Program, 106N, 450R  
Food stamps, 32ER, 79R, 243N, 546ER, 590R  
Individual and Family Grant, 244N, 591R  
Support authority/enforcement, 245N, 747R, 831N, 908N  
Welfare reform, 116P  
**Rehabilitation Services, Office of**  
Vocational Rehabilitation Policy Manual, 292ER, 628N, 699ER,  
994R  
**Secretary, Office of the**  
Child care, 247N, 591R  
Community/family support, 350N, 862R

### *Social Services Footnotes:*

<sup>1</sup>formerly Aid to Families with Dependent Children (AFDC)  
<sup>2</sup>formerly Job Opportunities and Basic Skills Training Program (JOBS)  
<sup>3</sup>formerly Project Independence

## TRANSPORTATION AND DEVELOPMENT

**Engineering, Office of**  
Utility relocation, 210R  
**Louisiana Offshore Terminal Authority (LOTA)**  
Offshore terminal facility license, 837P  
**Professional Engineers and Land Surveyors, Board of**  
**Registration for**  
Seal, 512N, 869R  
Signature, 512N, 869R  
**Sabine River Compact Administration**  
Spring meeting, 635P  
**Secretary, Office of the**  
Crescent City Connection, 84R, 85R

## TREASURY

**Deputy Sheriffs' Supplemental Pay Program, Board of Review of**  
Board operations, 1060N  
Supplemental pay, 1060N  
**Housing Finance Agency**  
HOME Affordable Rental Housing, 250N, 749R  
Homeownership Housing Program, 1060N  
**State Employees Group Benefits Program, Board of Trustees of the**  
Catastrophic illness, 305R, 700ER  
Coverage continuation, 306R  
Emergency room, 306R  
Infertility, 33ER, 248N, 546ER, 995R  
Medicare, 700ER  
Pre-existing condition, 850ER  
Preferred Provider Organization (PPO), 700ER  
Prescription drug, 33ER, 191ER, 249N, 371N, 547ER, 547ER,  
592R, 701ER, 870R  
Sleep disorder, 701ER  
Special enrollment, 850ER  
**State Employees' Retirement System, Board of Trustees of the**  
Election, 548ER, 629N, 996R  
**Teachers' Retirement System, Board of Trustees of the**  
Deferred Retirement Option Program (DROP), 85R  
**Treasurer, Office of the**  
State tax revenue limit, 1066N

## WILDLIFE AND FISHERIES

**Fisheries, Office of**  
King Mackerel, 938ER  
Mussel, 550ER, 831N  
**Wildlife and Fisheries Commission**  
Alligator, 851ER  
Bait dealer, 86R  
Black Bass, 514N, 551ER, 630N, 998R  
Black Drum, 211R  
Deer, 939ER  
Dove, 109N, 592R  
Duck, 552ER, 631N  
Fishing license, 941ER  
Flounder, 211R  
Game hunting, 373N, 871R  
Oyster, 34ER, 192ER, 941ER  
Migratory bird, 939ER  
Muzzleloader, 940ER  
Pheasant, 941ER  
Red Snapper, 400ER  
Reef fish, 372N  
Sheepshead, 211R  
Shrimp, 552ER, 852ER, 940ER, 942ER, 942ER

Spanish Lake, 374N, 872R  
Toledo Bend, 514N, 998R  
Turkey, 401ER, 908N  
Waddill Wildlife Refuge, 912N



OFFICE OF THE STATE REGISTER INSERTION ORDER (eff.9/96)

1051 North Third Street Post Office Box 94095
Baton Rouge, LA 70804-9095 (504)342-5015 FAX 342-1057

(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)

[ ] EMERGENCY RULE (ER); [ ] NOTICE OF INTENT (NOI); [ ] RULE; [ ] POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) \_\_\_\_\_, 19 \_\_\_\_\_ Louisiana Register the document indicated above.

Office/Board/Commission promulgating this document

Department under which office/board/commission is classified

(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document

Provide a short descriptive listing for this document to be used in the Louisiana Register's TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a NOI):

\*If sending a diskette, indicate the name of the file on diskette:

Important: If submitting both an ER and a NOI to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here: [ ]

Signature of Agency Head or Designee

Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # \_\_\_\_\_

[ ] ISIS AGENCY: I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

AGENCY ORGANIZATION # OBJECT SUB-OBJECT REPORTING CATEGORY

[ ] NON-ISIS AGENCY: I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Signature of Agency Head or Designee - Phone #

Agency Name

Street Address or Post Office Box

City ST Zipcode

Office of the State Register Use Only

1/4 PG + \_\_\_ Lines 1/2 PG + \_\_\_ Lines 3/4 PG + \_\_\_ Lines

\_\_\_ Full PG(s) + \_\_\_ Lines Typesetting \_\_\_ TOTAL \_\_\_

**EMERGENCY RULE (ER) INSTRUCTIONS:**

1) For an ER which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI), send the new ER on \*diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.

2) For an ER which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI):

a) if **MINOR REVISIONS** are made, XEROX a copy of the previous ER or NOI from the *Louisiana Register*, and show changes/revisions with a red pen; or

\*b) if **MAJOR REVISIONS** are made, send a new ER on \*diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.

**NOTICE OF INTENT (NOI) INSTRUCTIONS:**

1) For a NOI which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):

a) send the new NOI on \*diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.

2) For a NOI which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):

a) if **MINOR REVISIONS** are made, XEROX a copy of the previous NOI or ER from the *Louisiana Register*, and show changes/revisions with a red pen; send a \*diskette with opening/introductory paragraphs; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures; **OR**

\*b) if **MAJOR REVISIONS** are made, send a new NOI on \*diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.

**RULE INSTRUCTIONS:**

1) If the NOI was published in full (rule text included) XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen.

2) If the NOI referenced the reader to rule text in an ER, XEROX the entire NOI from the *Louisiana Register*(including page numbers and document number at the end of the fiscal statement) and XEROX the entire ER from the *Louisiana Register*(including page numbers and document number at the end of the document); show changes/revisions with a red pen.

3) If the NOI was referenced (rule text was not printed) xerox the entire NOI from the *Louisiana Register*(including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen . **IMPORTANT: if changes/revisions have been made to the unpublished rule text since it was originally proposed through the NOI, send a NEW \*diskette of the rule text with all changes incorporated into the document.**

**POTPOURRI INSTRUCTIONS:**

Send a \*diskette containing the document.

