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This public document was published at a total cost of \$3,670.34. 1,300 copies of this public document were published in this monthly printing at a cost of \$5,670.34. The total cost of all printings of this document including reprints is \$3,670.34. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-970. 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.

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# Executive Orders

## EXECUTIVE ORDER BR 89 - 1

Executive Order BR-88-41 is hereby amended so as to provide in Section 4 thereof as follows:

SECTION 4: The said special task force is further charged to recommend to me, not later than March 15, 1989, a proposal for the selection of judges and justices of the courts, as referenced immediately above, whether elective, appointive, or a combination thereof; provided that uniformity as to the selection process be maintained within the various levels of the state judiciary.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 13th day of January, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

## EXECUTIVE ORDER BR 89 - 2

Executive Order BR-88-20 is hereby amended so as to provide in Section 3, Paragraph 2 thereof as follows:

The following are appointed members of the Special Task Force from the Senate: Messrs. Dennis Bagneris, Larry Bankston, Oswald Decuir, Randy Ewing, John Hainkel and J. E. Jumonville, Jr.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 13th day of January, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

## EXECUTIVE ORDER BR 89 - 3

Executive Order BR-88-43 is hereby amended so as to provide in Section III, Paragraph 2 as follows:

The following are appointed members of the Task Force from the Senate: Messrs. Hainkel, Poston, Hollis, Hinton, Osterberger and Jumonville.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this the 13th day of January, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

## EXECUTIVE ORDER BR 89 - 4

WHEREAS, Executive Order (the "Executive Order") was executed by the governor of the State of Louisiana (the "governor") on September 1, 1988 pursuant to the provisions of the Tax Reform Act of 1986 (the "Act") and provides for the allocation of bonds subject to the private activity bond volume limits of the Act for the calendar year ending December 31, 1988 (the "Ceiling"); and

WHEREAS, Section 4.14 of the executive order provides that if the Ceiling exceeds the aggregate amount of bonds during any year by all issuers, the governor may allocate such excess to issuers for one or more carryforward projects permitted under Act through the issuance of an executive order; and

WHEREAS, there remains as of the date hereof \$93,975,000 of the Ceiling which was not used for projects in the calendar year ending December 31, 1988; and

WHEREAS, the governor desires to allocate all of the excess unused Ceiling to certain projects which are eligible for a carryforward under the Act:

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct the following:

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986 and in accordance with the request for carryforwards filed by the issuing authorities listed below, there is hereby allocated to said issuing authorities the following amounts of excess unused private activity volume limit under the Ceiling for the following carryforward projects:

ISSUER	CARRYFORWARD PROJECT	CARRYFORWARD AMOUNT
Parish of Jefferson Home Mortgage Authority	Qualified Mortgage Bonds (Jefferson Parish)	\$43,975,000
Louisiana Housing Finance Agency	Qualified Mortgage Bonds (Statewide)	\$30,000,000
Village of Hodge	Renovation of electric utility system (Stone Container Corp.)	\$20,000,000

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the third day of February, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

## EXECUTIVE ORDER BR-89-5

WHEREAS, the Louisiana Highway Safety Commission was created as a division of the office of the Governor by Act 275 of 1968 and Act 278 of 1977, and was subsequently transferred to the Department of Public Safety pursuant to Act 83 of 1977;

WHEREAS, the membership of the Commission was fixed by said Acts at twenty-one members to be appointed by the governor; and

WHEREAS, there are certain departments and officials the functions, activities and legal responsibilities of which involve or affect highway safety and whose experience, expertise and guidance are invaluable to the statewide program;

NOW THEREFORE I, BUDDY ROEMER, governor of the State of Louisiana, do hereby order and direct the following:

The membership of the Louisiana Highway Safety Commission is increased to include four ex-officio members: the adjutant general of Louisiana, the deputy secretary of Public Safety Services/Superintendent of State Police, the secretary of Department of Transportation and Development and the judicial administrator of the Supreme Court of Louisiana.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the city of Baton Rouge, on this the sixth day of February, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Economic Development Economic Development Corporation

The Department of Economic Development, Louisiana Economic Development Corporation, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rules for the Louisiana Venture Capital Program.

It was necessary to adopt these rules as emergency rules in order to implement, as quickly as possible, these provisions, due to the need for economic assistance to sectors in the state economy.

The rules of the Minority Venture Capital Match Program are promulgated pursuant to the authority of R.S.51:2310D (3) (a).

## Title 19

### CORPORATIONS AND BUSINESS

#### Part VII. Louisiana Economic Development Corporation

##### Subpart 2. Louisiana Venture Capital Program

#### Chapter 5. Louisiana Minority Venture Capital Match Program

##### §501. Eligibility

Any Louisiana-owned and headquartered Venture Capital Fund with a minimum of \$250,000 of privately raised capital for equity investment under management may apply.

##### §503. Valuation of Investment Fund

The amount of funds under management shall mean the value of any monies invested in a business plus the unexpended monies available for investment. The value of an equity investment shall be the amount of dollars actually invested.

##### §505. Fund Management

Management shall be comprised of individuals with substantial experience in business operations and financing, including business startup or expansion financing. The development of these investments may have been done for the individual's own account or on behalf of others.

##### §507. Application Procedure

A. The application shall contain but not be limited to:

1. resumés of principals;
2. current balance sheet and income statement of applicant fund and individual investments;
3. balance sheet and income statement of all funds and investments managed by applicant principals during the last three years and/or other investments managed by the principals in the last three years.
4. list of fund investors.

##### §509. Amount of Investment

The corporation may invest up to \$2,500,000. The corporation may use its discretion to set the ratio of corporation investment to private investment. However, the ratio shall not exceed \$1 of corporation monies to \$2 of privately raised dollars.

##### §511. Terms of Investments

Corporation investments shall be made on the same terms and conditions as those of other investors in the fund.

##### §513. Creation of a Louisiana Fund

The applicant shall, on receipt of funds from the corporation, immediately set up an account in a financial institution domiciled in Louisiana to be called the Louisiana fund and deposit the proceeds of the state's investment into that fund. The proceeds of this fund shall be used solely for investments in minority owned enterprises maintaining headquarters and production facilities in Louisiana.

##### §515. Reporting Requirements

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

##### §517. Inactivity

If no activity has occurred in the Louisiana fund for a period of two years, the Venture Fund shall be reviewed by the

board of the corporation. After review the board may choose to revoke its investment.

Nadia L. Goodman  
Acting Executive Director

## DECLARATION OF EMERGENCY

### Department of Economic Development Economic Development Corporation

The Department of Economic Development, Louisiana Economic Development Corporation, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rules for the Louisiana Venture Capital Program.

It was necessary to adopt these rules as emergency rules in order to implement, as quickly as possible, these provisions, due to the need for economic assistance to sectors in the state economy.

The rules of Venture Capital Incentive Program are promulgated pursuant to the authority of R.S. 51:2310D (1) (a).

### Title 19

### CORPORATIONS AND BUSINESS

#### Part VII. Louisiana Economic Development Corporation

#### Subpart 2. Louisiana Venture Capital Program

#### Chapter 1. Louisiana Venture Capital Co-Investment Program

##### §101. Eligibility

A. Any venture capital fund, headquartered out of the State of Louisiana, with five years experience in the management of investments made with the capital of other investors and having at least \$7,500,000 under management is eligible to apply for certification under this program.

##### §103. Application for certification

A. The application for certification shall contain but not be limited to the following:

1. a cover letter that states that application to the program for certification is being made and indicating reason for application for certification;
2. resumés of the principal manager(s);
3. list of all funds managed by the partner(s);
4. amount of fund(s);
5. project preferences including:
  - a. role in financing
  - b. type of financing
  - c. minimum investment
  - d. preferred investment
  - e. preferred investment (LBO)
6. industry preferences;
7. five-year statement showing investments made and results of those investments;
8. experience with co-investment with any other governmental agency;
9. previous/current experience with projects within Louisiana.

##### §105. Procedure for Certification Review

A. The application will be submitted to the executive director of the corporation no later than two weeks prior to the

regular monthly meeting of the screening committee of the board. He shall review and analyze the information. If the application is complete, he shall submit it and his analysis to the next meeting of the screening committee of the corporation board which shall review the application and make a recommendation to the next meeting of the full board for certification or denial. Upon certification, a certification number shall be assigned the applicant by the corporation.

##### §107. Co-investment Criteria

A. Certified venture capital funds may apply to the corporation for a co-investment by the corporation in a round of financing in a specific project. The project must be for a Louisiana based enterprise maintaining headquarters and production facilities in Louisiana. The corporation shall not co-invest more than 25 percent of the total venture capital investment in the proposed round of financing of the project. The corporation investment shall not exceed \$500,000 in the proposed round of financing.

##### §109. Application Procedures for Co-investment

A. The summary application must contain but not be limited to:

1. applicant information
  - a. venture capital fund name
  - b. address
  - c. LEDEC certification number
  - d. telephone number
2. project firm information
  - a. name of business
  - b. address (postal and physical)
  - c. phone number
  - d. year established
  - e. state chartered in
  - f. legal structure of business
  - g. IRS tax number
  - h. product or service
  - i. headquarters location
  - j. location of all production and research and development facilities
  - k. list any pending litigation
  - l. list any bankruptcy or insolvency filings
3. owner/manager information
  - a. name
  - b. address
  - c. title
  - d. social security number
  - e. percent of ownership
  - f. annual compensation
  - g. list any pending litigation
  - h. list any bankruptcy or insolvency filings
4. use of funds
  - a. purpose
  - b. amount
5. securities given in exchange for investment
  - a. list types of securities to be issued in this round of financing to all investors with any terms and/or conditions attached thereto
  - b. equity information
    - a. list all equity investors with numbers of shares owned, type of shares owned, dollar value of investment and date of investment
    - b. total shares authorized by class

- c. total shares outstanding by class
- B. A business plan that contains but is not limited to:
  1. business goals and earnings projections and potential return to investors
  2. market analysis
    - a. description of total market
    - b. industry trends
    - c. target market
    - d. competition
  3. products or services
    - a. description of product line
    - b. proprietary position: patents, copyrights and legal and technical considerations and ownership of same
    - c. comparison to competitors' products
  4. manufacturing process (if applicable)
    - a. materials
    - b. sources of supply
    - c. production methods
  5. marketing strategy
    - a. overall strategy
    - b. pricing policy
    - c. sales terms
    - d. method of selling, distributing and servicing products
  6. management plan
    - a. form of business organization
    - b. board of directors composition
    - c. officers: organization chart and responsibilities
    - d. resumés of key personnel
    - e. staffing plan/number of employees
    - f. facilities plan/planned capital improvements
    - g. operating plan/schedule of upcoming work for next one to two years.
  7. financial data (for existing firms)
    - a. financial history (five years to present)
 

See NOTE 1
    - b. Three-year financial projections (first year by quarters; remaining years annually)
      - i. Profit and loss statements
      - ii. Balance sheets
      - iii. Cash flow chart
      - iv. Capital expenditure estimates
    - c. explanation of projections
    - d. key business ratios
    - e. explanation of use and effect of new funds
    - f. potential return to investors compared to competitors and industry in general.
 

NOTE 1. All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)
  8. financial data for startup firms
    - a. three-year financial projections (first year by quarters; remaining years annually)
      - i. Profit and loss statements
      - ii. Balance sheets
      - iii. Cash flow chart
      - iv. Capital expenditure estimates
    - b. explanation of projections
    - c. key business ratios
    - d. explanation of use and effect of new funds
    - e. potential return to investors compared to competitors and industry in general.
 

NOTE 1. All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)

- 9. schedule of debt
  - a. to whom
  - b. date opened
  - c. original balance
  - d. present balance
  - e. payment schedule
  - f. date of maturity
  - g. rate
  - h. collateral
  - i. terms of convertibility
  - j. list all liens against the project firm and related firms
- 10. list of trade creditors/suppliers
  - a. creditor name
  - b. address
  - c. date opened
  - d. high credit
  - e. balance
  - f. terms
- 11. collateral offered
  - a. type and description
  - b. present market value
    - i. appraisals no more than 90 days old at time of application
    - c. present balance owed
    - d. total value of collateral
    - e. source of repayment
      - i. primary source
      - ii. secondary source
    - f. federal and state tax status
      - i. date of current tax status
      - ii. date of last audit
      - iii. deficiencies assessed/proposed

**§111. Procedure for Application Review**

The application will be submitted to the executive director of the corporation no later than two weeks prior to the regular monthly meeting of the screening committee of the board. He shall review and analyze the information. If the application is complete, he shall submit it and his analysis to the next meeting of the screening committee of the corporation board which shall review the application and make a recommendation to the next meeting of the full board for approval or denial.

**§113. General Policy**

A. The corporation shall not approve any co-investment if the project firm has presently pending, at the federal, state or local level, any proceeding concerning denial or revocation of any necessary license or permit.

B. The corporation will invest in the project on the same terms and conditions as the certified venture capital fund.

C. The requirement of personal guarantee shall be negotiated by the board on a project-by-project basis.

D. Nothing contained herein shall limit the ability of the board or committee thereof to make a reasonable decision based on information submitted to it.

**§115. Conditions for Disbursements of Funds**

A. The secretary-treasurer and one of the following: president of the corporation, chairman or executive director shall execute all necessary legal instruments at the closing after certification by counsel that all legal requirements have been met.

B. In the case that the co-investment is to be disbursed in a phased funding, the monies provided by the corporation shall be placed in an escrow account to be disbursed at the joint written request of both the venture capital fund co-investor and the

project firm at the same rate of disbursement as that of the co-investor venture capital firm. The secretary-treasurer shall have the authority to release the funds from escrow.

**§117. Compliance Requirements of Project Firms**

A. Each year, on the anniversary of the initial disbursement of funds, each recipient of funds shall provide the following:

1. list of all stockholders with the number of shares held by each at any time during the previous year;
2. monthly statement of financial condition including, but not limited to, a balance sheet, profit and loss statement, changes in financial condition, capital reconciliation;
3. current reconciliation of net worth;
4. one-year projected cash flow statement. Statement must be prepared on a month-to-month basis, accompanied with footnotes;
5. current personal financial statement of all principals;
6. annual (within 90 days of the end of the fiscal year) audited financial statement prepared by a certified public accountant;
7. current insurance policies.

**§119. Repayment Terms**

The board of the corporation shall have the sole responsibility to set repayment terms on a project-by-project basis.

**§121. Confidentiality and Conflict of Interest**

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

B. Conflict of Interest. No member of the corporation, employee thereof, or employee of the Department of Economic Development or members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever. If any contract or agreement shall be made in violation of the provisions of this Section the same shall be null and void and no action shall be maintained thereon against the corporation.

**§123. Ownership of Stock and Incidents Thereto**

Stock taken in co-investment shall be held by the Corporation. The board through its duly authorized designee shall vote the stock.

Nadia L. Goodman  
Acting Executive Director

**DECLARATION OF EMERGENCY**

**Department of Economic Development  
Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rules for the Louisiana Venture Capital Program.

It was necessary to adopt these rules as emergency rules in order to implement, as quickly as possible, these provisions,

due to the need for economic assistance to sectors in the state economy.

The rules of the Venture Capital Match Program are promulgated pursuant to the authority of R.S.51:2310D (2) (a).

**Title 19**

**CORPORATIONS AND BUSINESS**

**Part VII. Louisiana Economic Development Corporation**

**Subpart 2. Louisiana Venture Capital Program**

**Chapter 3. Louisiana Venture Capital Match Program**

**§301. Eligibility**

Any Louisiana-owned and headquartered Venture Capital Fund with a minimum of \$5,000,000 of privately raised capital for equity investment under management may apply.

**§303. Valuation of Investment Fund**

The amount of funds under management shall mean the value of any monies invested in a business plus the unexpended monies available for investment. The value of an equity investment shall be the amount of dollars actually invested.

**§305. Fund Management**

Management shall be comprised of individuals with substantial experience in business operations and financing, including business startup or expansion financing. The development of these investments may have been done for the individual's own account or on behalf of others.

**§307. Application Procedure**

- A. The application shall contain but not be limited to:
1. resumes of principals;
  2. current balance sheet and income statement of applicant fund and individual investments;
  3. balance sheet and income statement of all funds and investments managed by applicant principals during the last three years and/or other investments managed by the principals in the last three years;
  4. list of fund investors.

**§309. Amount of Investment**

The corporation may invest up to \$2,500,000. The corporation may use its discretion to set the ratio of corporation investment to private investment. However, the ratio shall not exceed \$1 of corporation monies to \$2 of privately raised dollars.

**§311. Terms of Investments**

Corporation investments shall be made on the same terms and conditions as those of other investors in the fund.

**§313. Creation of a Louisiana Fund**

The applicant shall, on receipt of funds from the corporation, immediately set up an account in a financial institution domiciled in Louisiana to be called the Louisiana Fund and deposit the proceeds of the state's investment into that fund. The proceeds of this fund shall be used solely for investments in enterprises maintaining headquarters and production facilities in Louisiana.

**§315. Reporting Requirements**

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

**§317. Inactivity**

If no activity has occurred in the Louisiana Fund for a

period of two years or reporting requirements are not met, the Venture Fund shall be reviewed by the board of the corporation. After review the board may choose to revoke its investment.

Nadia L. Goodman  
Acting Executive Director

## **DECLARATION OF EMERGENCY**

### **Department of Economic Development Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rules for the Louisiana Small Business Equity Program.

It was necessary to adopt these rules as emergency rules in order to implement, as quickly as possible, these provisions, due to the need for economic assistance to sectors in the state economy.

The rules of the Louisiana Small Business Equity Program are promulgated pursuant to the authority of R.S. 51:2322 (7).

## **Title 19**

### **CORPORATIONS AND BUSINESS**

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

##### **Subpart 3. Louisiana Small Business Equity Program**

#### **Chapter 5. Feasibility Studies**

##### **§501. Eligibility**

Any Louisiana business that is science-based or developing new technology is eligible to apply. Basic research for the project must be completed and a prototype completed or process defined. The feasibility study must be able to be completed within 24 months.

##### **§503. Application**

A. The applicant business shall submit a funding request to include but not be limited to:

1. a statement of the problem to be solved by the development;
2. the extensiveness of the problem;
3. history of the research leading to the development of the prototype;
4. if commercialized, effect on economy of Louisiana, U.S. and world;
5. outline of commercialization process;
6. amount requested, use of funds schedule and anticipated schedule of distribution;
7. duration of project;
8. resumes of principal researchers and project developer;
9. requested payback terms;
10. number of jobs to be created if commercialized;
11. financials on company and project developers.

##### **§505. Use of Funds**

Funds use is limited to expenses necessary to demonstrate feasibility of project. Eligible budget items will be negotiated.

##### **§507. Reporting and Disbursement Requirements**

Financial and narrative progress reports shall be submitted quarterly from the start up date of the feasibility study. A final report shall be due within 60 days of completion of the study.

##### **§509. Loan Terms**

A. Contracts for repayment between businesses whose projects are deemed feasible for commercialization and the Corporation shall be confected within 120 days of completion of the feasibility study or all sums shall be due and payable at that time. Methods of payback may include term loan, royalty or equity. Interest shall not exceed two points below New York Prime at the beginning of the payback. The term shall not exceed five years.

B. Contracts for repayment between businesses whose projects are not deemed feasible for commercialization and the corporation shall be confected for repayment of the principal amount only within 120 days of completion of the feasibility study or all sums are due and payable at that time. The term shall not exceed 10 years.

##### **§511. Size of Project**

The maximum amount loaned by the corporation per project is \$500,000. Under no circumstances shall the amount exceed 90 percent of the project cost. The applicant business shall provide at least 10 percent of the project cost.

Nadia L. Goodman  
Acting Executive Director

## **DECLARATION OF EMERGENCY**

### **Department of Economic Development Louisiana Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rules for the Louisiana Small Business Equity Program.

It was necessary to adopt these rules as emergency rules in order to implement, as quickly as possible, these provisions, due to the need for economic assistance to sectors in the state economy.

The rules of the Louisiana Small Business Equity Program are promulgated pursuant to the authority of R.S. 51:2322 (7).

## **Title 19**

### **CORPORATIONS AND BUSINESS**

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

##### **Subpart 3. Small Business Equity Program**

#### **Chapter 1. Loan Guaranty Program**

##### **§101. Purpose**

To provide for a method of stimulating business development, business acquisition, business growth, and retention of Louisiana based businesses through participation in or guaranteeing debt or equity leverage that uses the private commercial financial sector as the primary source of funds and responsible lead lender. Authority: Attorney General Opinion 88-470.

##### **§103. Eligibility**

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



B. Small business growth concerns which fall in the specific Standard Industrial Codes as provided by R.S. 51:2325.

C. Priority will be given to, but not be restricted to, businesses owned and operated by disadvantaged individuals in high unemployment areas, as defined by the Louisiana Department of Labor and as stated in R.S. 51:2321.

**§105. Application Process**

A. The application shall include but not be limited to:

1. personal information
  - a. name
  - b. address
  - c. Social Security Number
  - d. telephone number
  - e. title of individual

f. a personal credit report supplied by the applicant at the applicant's expense. The credit report shall be supplied by a national credit reporting company such as, but not limited to the Credit Bureau, Chiltons Credit Bureau, TRW Credit Bureau, etc.

2. business information
  - a. name of business
  - b. address (mail and physical)
  - c. phone number
  - d. year established
  - e. state chartered in
  - f. legal structure of business
  - g. IRS tax number
  - h. business line
3. owner/manager information

- a. name
- b. address
- c. title
- d. Social Security Number
- e. percentage of ownership
- f. annual compensation

4. loan information
  - a. purpose
  - b. amount
  - c. proposed terms
  - d. breakdown of loan funds
    - i. building cost
    - ii. land cost
    - iii. equipment cost
    - iv. inventory cost
    - v. other costs
  - e. attached exhibits for loan purpose and use of funds

with complete cost break down.

5. summary of collateral available to secure loan

- a. type and description
  - i. exhibits attached for description
- b. present market value
  - i. exhibits attached for appraisals

- c. present balance owed
- d. total value of collateral

6. source of repayment

- a. primary source
- b. secondary source

7. recap of five-year history of earnings and cash flow

- a. year
- b. net income
- c. income taxes accrued
- d. depreciation

8. schedule of debt

- a. to whom
- b. date opened
- c. original balance
- d. present balance
- e. monthly payment
- f. date of maturity
- g. rate
- h. collateral

9. list of trade creditors/suppliers

- a. creditor name
- b. address
- c. date opened
- d. high credit
- e. balance
- f. terms

10. contingencies

a. list any co-signer(s) or guarantor(s) on any present loans;

- b. list all litigation pending on owner or company;
- c. list all bankruptcy or insolvency proceedings involving owner or company;

11. a comprehensive business plan must be attached to the application that contains but is not limited to the following:

- a. a cover letter which contains:
  - i. dollar amount requested
  - ii. terms and timing of loan request
  - iii. type and price of collateral
- b. summary

- i. business description
  - (a). name
  - (b). location and plant description
  - (c). product
  - (d). market and competition
  - (e). management expertise
- ii. business goals

- iii. summary of financial needs and application of funds
- iv. earnings projections and potential return to investors
- c. market analysis

- i. description of total market
- ii. industry trends
- iii. target market
- iv. competition
- d. products or services
  - i. description of product line

ii. proprietary position: patents, copyrights and legal and technical considerations

- iii. comparison to competitors products
- e. manufacturing process (if applicable)

- i. materials
- ii. sources of supply
- iii. production methods

f. marketing strategy

- i. overall strategy
- ii. pricing policy
- iii. sales terms
- iv. method of selling, distributing and servicing products
- g. management plan

- i. form of business organization
- ii. board of directors composition
- iii. officers: organization chart and responsibilities
- iv. resumes of key personnel

- v. staffing plan/number of employees
- vi. facilities plan/planned capital improvements
- vii. operating plan/schedule of upcoming work for next one to two years.
- h. financial data
  - i. financial history (five years to present) - See NOTE 1
  - ii. five-year financial projections (first year by quarters; remaining years annually)
    - (a). profit and loss statements
    - (b). balance sheets
    - (c). cash flow chart
    - (d). capital expenditure estimates
  - iii. explanation of projections
  - iv. key business ratios
  - v. explanation of use and effect of new funds
  - vi. potential return to investors compared to competitors and industry in general.

NOTE 1: All financial statements *must* meet Generally Accepted Accounting Principals (GAAP)

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

#### **A. General Policy**

1. The corporation shall not approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The corporation shall not approve any loan or guarantee if the applicant or business has been or is presently in any bankruptcy proceedings.

3. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Louisiana Economic Development Corporation except by subsequent vote of approval by the board at the next meeting of the board.

4. The requirement of personal guarantees shall be negotiated on a project-to-project basis.

#### **B. Submission and Review Policy**

1. All applications must be submitted no later than four weeks prior to the scheduled screening committee meeting for consideration at the next scheduled board meeting of the corporation following the screening committee meeting.

2. The bank will submit to LEDEC a completed application with analysis. The LEDEC staff will do analysis independent of bank analysis.

3. The bank will submit to LEDEC the same pertinent data that it did to the bank's loan committee, whatever pertinent data the bank can legally supply.

4. LEDEC staff will review the application and analysis then make recommendations. The staff will work with the bank on terms of loan and LEDEC loan stipulations.

5. The screening committee will review the completed application and will make recommendations to board.

6. The Board of Directors will review all recommendations and will approve or reject the proposal.

7. The applicant will be notified within five working days by mail of the outcome of the application.

8. A guarantee commitment letter will be mailed to the bank within five working days of approval by the board.

### **§109. Collateral**

A. Collateral to loan ratio will be no less than one to one.

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

#### **C. Collateral Value Determination.**

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

2. The appraisal cannot be over 90 days old.

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

1. fixed assets - real estate, buildings, fixtures;

2. equipment, machinery, inventory;

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

4. accounts receivable with supporting aging schedule. Not to exceed 90 percent of receivable value.

E. Unacceptable collateral may include but not be limited to the following:

1. stock in applicant company and or related companies;

2. personal items.

### **§111. Terms**

A. No less than five years nor more than statutory maximum.

B. There is no penalty for early pay out.

### **§113. Rate**

A. Prime Rate of applicants bank on date of application to bank.

### **§115. Equity**

A. Will be 25 percent of LEDEC guarantee amount.

B. Equity is defined to be

1. cash

2. paid in capital

3. paid in surplus and retained earnings

4. partnership capital and retained earnings

C. No research, development expense nor intangibles of any kind will be considered equity.

### **§117. Use of Funds**

A. Purchase fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent for the term of the guarantee, unless otherwise approved by the bank and LEDEC.

B. Equipment or machinery.

C. Line of credit for accounts receivable or inventory.

D. Working capital, limited to normal use.

E. Debt restructure shall not exceed 49 percent of the total guarantee.

### **§119. Guaranty Agreement**

A. Bank responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

B. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDEC board.

C. LEDEC may guarantee up to a maximum of 75 percent of the total loan.

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

E. There will be an annual reduction of the guarantee:

1. in proportion to the principal reduction of the amortized portion of the loan;

2. if no principal reduction has not occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

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

G. Delinquency will be defined according to the bank's

normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guarantee agreement.

I. Escrowed funds shall be maintained in a manner jointly approved by LEDEC and the state Treasurer's office in an amount equal to the amount of the outstanding guarantees.

#### **§121. Loan Closing**

A. The secretary-treasurer of the corporation and one of the following: president of the corporation, chairman of the board, or executive director shall execute all necessary legal instruments at or for the loan closing.

1. The loan documents must satisfy all legal requirements as evidenced by the written approval of the corporation's attorney.

#### **§123. Loan Administration and Tracking**

A. Loan administration shall be the responsibility of the bank. Administration fees paid by the borrower for extraordinary administration will be allowed within reason with consent of the Board of Directors.

B. The guarantee agreement will outline any information needed from the borrower or the bank for loan tracking by the corporation.

#### **§125. Confidentiality**

A. Confidential information in the files of the corporation acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give out a credit rating or confidential information out regarding any applicant.

#### **§127. Conflict of Interest**

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

Nadia L. Goodman  
Acting Executive Director

### **DECLARATION OF EMERGENCY**

#### **Department of Economic Development Economic Development Corporation**

The Department of Economic Development, Louisiana Economic Development Corporation, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rules for the Louisiana Small Business Equity Program.

It was necessary to adopt these rules as emergency rules in order to implement, as quickly as possible, these provisions, due to the need for economic assistance to sectors in the state economy.

The rules of the Louisiana Small Business Equity Pro-

gram are promulgated pursuant to the authority of R.S. 51:2322 (7).

### **Title 19**

### **CORPORATIONS AND BUSINESS**

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

#### **Subpart 3. Small Business Equity Program**

#### **Chapter 3. Loan Participation Program**

#### **§301. Purpose**

To provide for a method of stimulating business development, business acquisition, business growth, and retention of Louisiana based businesses through participation or guaranteeing in debt or equity leverage that uses the private commercial financial sector as the primary source of funds and responsible lead lender. Authority: Attorney General Opinion 88-470.

#### **§303. Eligibility**

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

B. Small business growth concerns which fall in the specific Standard Industrial Codes as provided by R.S. 51:2325.

C. Priority will be given to, but not be restricted to, businesses owned and operated by disadvantaged individuals in high unemployment areas, as defined by the Louisiana Department of Labor and as stated in R.S. 51:2321.

#### **§305. Application Process**

A. The application shall include but not be limited to:

1. personal information

a. name

b. address

c. Social Security Number

d. telephone number

e. title of individual

f. a personal credit report supplied by the applicant at the applicant's expense. The credit report shall be supplied by a national credit reporting company such as, but not limited to the Credit Bureau, Chiltons Credit Bureau, TRW Credit Bureau, etc.

2. business information

a. name of business

b. address (mail and physical)

c. phone number

d. year established

e. state chartered in

f. legal structure of business

g. IRS tax number

f. description of business

3. owner/manager information

a. name

b. address

c. title

d. Social Security Number

e. percentage of ownership

f. annual compensation

4. loan information

a. purpose

b. amount

c. proposed terms

d. breakdown of loan funds

i. building cost

ii. land cost

iii. equipment cost

- iv. inventory cost
  - v. other costs
  - e. attached exhibits for loan purpose and use of funds
- with complete cost break down.
5. summary of collateral available to secure loan
    - a. type and description
      - i. exhibits attached for description
    - b. present market value
      - i. exhibits attached for appraisals
    - c. present balance owed
    - d. total value of collateral
  6. source of repayment
    - a. primary source
    - b. secondary source
  7. recap of five-year history of earnings and cash flow
    - a. year
    - b. net income
    - c. income taxes accrued
    - d. depreciation
  8. schedule of debt
    - a. to whom
    - b. date opened
    - c. original balance
    - d. present balance
    - e. monthly payment
    - f. date of maturity
    - g. rate
    - h. collateral
  9. list of trade creditors/suppliers
    - a. creditor name
    - b. address
    - c. date opened
    - d. high credit
    - e. balance
    - f. terms
  10. contingencies
    - a. list any co-signer(s) or guarantor(s) on any present loans
    - b. list all litigation pending on owner or company
    - c. list all bankruptcy or insolvency proceedings involving owner or company
  11. A comprehensive business plan must be attached to the application that contains but is not limited to the following:
    - a. a cover letter which contains:
      - i. dollar amount requested
      - ii. terms and timing of loan request
    - iii. type and price of collateral
    - b. summary
      - i. business description
        - (a). name
        - (b). location and plant description
        - (c). product
        - (d). market and competition
        - (e). management expertise
      - ii. business goals
      - iii. summary of financial needs and application of funds
      - iv. earnings projections and potential return to investors
      - c. market analysis
        - i. description of total market
        - ii. industry trends
        - iii. target market
        - iv. competition
        - d. products or services
          - i. description of product line

- ii. proprietary position: patents, copyrights and legal and technical considerations
- iii. comparison to competitors' products
- e. manufacturing process (if applicable)
  - i. materials
  - ii. sources of supply
  - iii. production methods
- f. marketing strategy
  - i. overall strategy
  - ii. pricing policy
  - iii. sales terms
- iv. method of selling, distributing and servicing products
- g. management plan
  - i. form of business organization
  - ii. board of directors composition
  - iii. officers: organization chart and responsibilities
  - iv. resumés of key personnel
  - v. staffing plan/number of employees
  - vi. facilities plan/planned capital improvements
  - vii. operating plan/schedule of upcoming work for next one to two years.
    - h. financial data
      - i. financial history (five years to present) - See NOTE 1
      - ii. five-year financial projections (first year by quarters; remaining years annually)
        - (a). profit and loss statements
        - (b). balance sheets
        - (c). cash flow chart
        - (d). capital expenditure estimates
      - iii. explanation of projections
      - iv. key business ratios
        - v. explanation of use and effect of new funds
      - vi. potential return to investors compared to competitors and industry in general.

NOTE 1: All financial statements *must* meet Generally Accepted Accounting Practices (GAAP)

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

#### **A. General Policy**

1. The corporation shall not approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The corporation shall not approve any loan or guarantee if the applicant or business has been or is presently in any bankruptcy proceedings.

3. The terms or conditions imposed and made part of any loan or loan guarantee authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Louisiana Economic Development Corporation except by subsequent vote of approval by the board at the next meeting of the board.

4. The requirement of personal guarantees shall be negotiated on a project-to-project basis.

B. All applications must be submitted no later than four weeks prior to the scheduled screening committee meeting for consideration at the next scheduled board meeting of the corporation following the screening committee meeting.

C. The bank will submit to LEDEC a completed application with analysis. Staff will do analysis independent of bank analysis.

D. The bank will submit to LEDEC the same pertinent data that it did to the bank's loan committee, whatever pertinent data the bank can legally supply.

E. The staff will review the application and analysis and

will make a recommendation. Staff will work with the bank on terms of loan and LEDEC loan stipulations.

F. The screening committee will review the completed application and will make recommendations to board.

G. The Board of Directors will review the recommendations and will approve or reject the proposal.

H. The applicant will be notified within five working days by mail of the outcome of the application.

I. A loan commitment letter will be mailed to the bank within five working days.

**§309. Collateral**

A. Collateral to loan ratio will be no less than one to one.

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

C. Collateral Value Determination.

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

2. The appraisal cannot be over 90 days old.

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

1. fixed assets - real estate, buildings, fixtures;

2. equipment, machinery, inventory;

3. personal guarantees are open for negotiation, if used there must be adequate supporting signed and dated personal financial statements.

E. Unacceptable collateral may include, but not be limited to, the following:

1. accounts receivable;

2. stock in applicant company and or related companies;

3. personal items.

**§311: Terms**

A. No less than five years nor more than 30 years.

B. There is no penalty for early pay out.

**§313. Rate**

A. Open to negotiations, adjustable rates and fixed rates available

B. Less than commercial rate (Chase Prime)

**§315. Equity**

A. There will be no less than 25 percent of LEDEC injection.

B. Equity is defined to be

1. cash

2. paid in capital

C. No research, development expense nor intangibles of any kind will be considered equity.

**§317. Use of Funds**

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

B. Purchase of equipment, machinery, or inventory

C. Working capital, limited to normal use.

D. Debt Restructure restricted to 25 percent of total loan.

**§319. Participation Agreement**

A. The bank is responsible for administration and monitoring of loan.

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

C. The lead bank may sell other participation with LEDEC's consent.

D. LEDEC will participate up to a maximum of 40 percent of the total loan request.

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

F. The bank is able to set its rate according to risk.

1. Blend our rate to yield a lower overall rate to project.

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

**§321. Loan Closing and Disbursement of Loan Proceeds**

A. The secretary-treasurer of the corporation and one of the following: president of the corporation, chairman of the board, or executive director shall execute all necessary legal instruments at or for the loan closing.

1. The loan documents must satisfy all legal requirements as evidenced by the written approval of the corporation's attorney.

2. Disbursement will be made in the name of the lead bank and into an account in the lead bank.

**§323. Loan Administration and Tracking**

A. Loan administration shall be the responsibility of the lead bank. Administration fees paid by the borrower for extraordinary administration will be allowed within reason with consent of the Board of Directors.

B. The Loan Participation Agreement will spell out any information needed from the borrower or the bank for loan tracking by the corporation.

**§325. Confidentiality**

A. Confidential information in the files of the corporation acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give a credit rating or confidential information out regarding any applicant.

**§327. Conflict of Interest**

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

Nadia L. Goodman  
Acting Executive Director

**DECLARATION OF EMERGENCY**

**Board of Elementary and Secondary Education**

Passing Scores for Criterion-Referenced Test  
and Graduation Test

The State Board of Elementary and Secondary Education, at its meeting of January 26, 1989, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and adopted the department's recommended passing scores on the state criterion-referenced tests for grades 3-5-7, and state graduation test, including the written composition component of the graduation test as listed below:

Grade	Subject	Scale Score
3	Language Arts	347
3	Mathematics	353
5	Language Arts	549

Grade	Subject	Scale Score
5	Mathematics	549
7	Language Arts	752
7	Mathematics	743
Graduation Test	Language Arts	1053
Graduation Test	Mathematics	1048
Graduation Test	Science	1042
Graduation Test	Social Studies	1041
Graduation Test	Written Composition	1047

This emergency adoption of this policy is necessary in order for the local school systems to have the opportunity to inform the teachers, parents, and students of these requirements before the scheduled testing dates in April, 1989. Effective date of this emergency rule is February 20, 1989.

Em Tampke  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Test Security Policy

The State Board of Elementary and Secondary Education, at its meeting of January 26, 1989, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953B and approved the following Test Security Policy.

The Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious.

#### TEST SECURITY

1. Tests administered by or through the State Board of Elementary and Secondary Education shall include but not be limited to:

- a. Teacher Evaluation Test for Vocational-Technical Education
- b. The High School Graduation Exit Examination
- c. High School Equivalency Program Test (GED)
- d. All Criterion-Referenced Tests (CRT) and Norm-Referenced Tests (NRT).

2. For purposes of this policy, school districts shall include LEA, Special School District #1, special schools, and vocational-technical schools, and institutions which utilize tests administered through the Board of Elementary and Secondary Education or the Department of Education. It shall be a violation of test security for any person to do any of the following:

- a. administer test in a manner that is inconsistent with the administrative instructions provided by the Louisiana Department of Education, which would give students an unfair advantage or disadvantage;
- b. give examinees access to test questions prior to testing;
- c. copy, reproduce, or use in any manner inconsistent with test regulations all or part of any secure test booklet;
- d. coach examinees during testing or alter or interfere with examiner's responses in any manner;
- e. make answer keys available to examinees;
- f. fail to follow security regulations for distribution and

return of secure test as directed, or fail to account for and secure test materials before, during or after testing;

g. participate in direct aid, counsel, assist in, encourage, or fail to report any of the acts prohibited in this section.

3. Each local school district shall develop and adopt a district test security policy. The policy shall provide for the security of the materials during testing and the storage of all secure tests and test materials, including observational answers, keys, video tapes and completed observation sheets and examinee answer documents before, during and after testing.

4. Test materials, including all test booklets and other materials containing secure test questions, answer keys, and student responses, shall be kept secure and accounted for in accordance with the procedure specified in the examination program administration manuals and other communications provided by the State Department of Education. Such procedures shall include but are not limited to the following:

a. All test materials shall be kept in secure, locked storage prior to and after administration of any test.

b. All test materials shall be accounted for and written documentation kept by test administrators and proctors for each point at which test materials are distributed and returned.

c. Any discrepancies noted in the number or serial numbers of testing materials received from contractors shall be reported to the assistant superintendent for research and development by designated institutional or school district personnel prior to the administration of the test.

d. In the event the test materials are determined to be missing while in the possession of the institution or school district, designated institutional or school district personnel shall immediately by telephone notify the assistant superintendent of research and development. The designated institutional or school district personnel shall investigate the cause of the discrepancy and provide the Department of Education with a report of the investigation within 30 calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witness to the occurrence. Officials from the State Department of Education are authorized to conduct additional investigations.

5. Each district superintendent shall designate annually one individual in the district authorized to procure test instruments which are utilized in testing programs administered by or through the State Board of Elementary and Secondary Education or the State Department of Education. The name of the individual designated shall be provided in writing to the assistant superintendent of research and development, State Department of Education.

6. The state superintendent of Education may disallow, after investigation, test results which may have been achieved in a manner which is violative of test security.

7. The State Department of Education shall establish procedures to identify:

a. improbable achievement of test score gains in consecutive years;

b. situations in which collaboration between or among individuals occurs during the testing process;

c. a verification of the number of all tests distributed and the number of tests returned;

d. any other situation which may result in invalidation of test results.

8. In cases where test results are not accepted because of

breach of test security or action by the State Department of Education, any programmatic, evaluative, certification, or graduation criteria dependent upon the data shall not have been met.

9. Individuals shall adhere to all procedures specified in all operation manuals governing the mandated testing program.

10. Any individual(s) who knowingly engages in any activities during testing which results in invalidation of scores derived from the high school graduation exit examination, the high school equivalency program test (GED) or the vo-tech teachers' evaluation examinations shall forfeit the test results and will be allowed to retake the test at the next test administration.

11. Anyone known to be involved in the presentation of forged, counterfeit, or altered identification for the purposes of obtaining admission to a test administration site for any test administered by or through the State Board of Elementary and Secondary Education shall have breached test security. Any individual(s) who knowingly cause(s) or allow(s) the presentation of forged, counterfeit or altered identification for the purpose of obtaining admission to any test administration site shall forfeit all test scores and will be allowed to retake the test at the next test administration. Any teacher or other school personnel who allows or breaches test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., policy and regulations adopted by the Board of Elementary and Secondary Education, and any and all laws that may be enacted by the Louisiana Legislature.

The policy is adopted as an emergency rule in order for it to be in effect for the up-coming tests to be administered this Spring. The policy supersedes the Test Security Policy advertised as a notice of intent in the June 20, 1988 issue of the *Louisiana Register*. Effective date of this emergency rule is February 20, 1989.

Em Tampke  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Environmental Quality Nuclear Energy Division

In accordance with R.S. 49:953(B) of the Administrative Procedure Act and under the authority of R.S. 30:1061, the secretary of the Department of Environmental Quality hereby declares that environmental contamination by and human exposure to technologically-enhanced concentrations of naturally-occurring radioactive materials (NORM), such as have been identified recently in the oil and gas industry, present a number of serious human health concerns. Therefore, it is the secretary's position that this emergency rulemaking is necessary to protect workers that may be exposed to NORM and to determine the magnitude and distribution of NORM contamination within our state in the most expeditious manner available.

The Louisiana Nuclear Energy Division is adopting amendments to the Louisiana radiation regulations under emergency rule procedures. The proposed amendments will become effective February 20, 1989, and will require written notification within 90 days as described in §1410 D. §1411 of the rule also requires implementation by all affected parties of worker: protection radiological precautions published October 20, 1988, as interim policy may be used as guidance.

For additional information or clarification, contact the Department of Environmental Quality, Nuclear Energy Division at 504 925-4518.

### Title 33

### ENVIRONMENTAL QUALITY

### Part XV. Nuclear Energy

### Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Materials (NORM)

#### §1401. Purpose

The regulations in this Chapter establish radiation safety requirements for the possession, use, transfer, and disposal as approved by the division, of naturally occurring radioactive materials which do not include source, special nuclear or by-product materials regulated pursuant to the licensing requirements in Chapter 3.

#### §1402. Scope

These regulations apply to any person who engages in the extraction, mining, beneficiating, processing, use, transfer, or disposal of NORM in such a manner as to technologically alter the natural sources of radiation or their potential exposure pathways to humans.

These regulations also apply to scale deposits in tubulars and equipment and to soil contaminated by the cleaning of the scale deposits.

The regulations in this Chapter address the introduction of NORM into materials or products in which neither the NORM nor the radiation emitted from the NORM is considered to be beneficial to the materials or products. The manufacture and distribution of materials or products containing NORM in which the NORM and/or its associated radiation(s) is considered to be a beneficial attribute are licensed under the provisions of Chapter 3.

This Chapter also addresses waste management, transfer and disposal with regard to both inactive and active sites and facilities involved in storage and/or cleaning of tubulars and contaminated equipment. In the case of closed or inactive pits, surveys are required only at the time of transfer for unrestricted use.

#### §1403. Definitions

As used in this Part, the following definitions apply:

*Beneficial attribute or beneficial to the product* means that the radioactivity of the product is necessary to the use of the product.

*Beneficiating* means the processing of materials for the purpose of altering the chemical or physical properties to improve the quality, purity or assay grade of a desired product.

*Naturally occurring radioactive materials (NORM)* means any nuclide which is radioactive in its natural physical state (i.e., not man-made), but does not include source or special nuclear material.

#### §1404. Exemptions

A. Persons who receive, possess, use, process, transfer, distribute, and dispose of NORM are exempt from the requirements of these regulations if the materials based on evaluation procedures approved by the division contain or are contaminated at concentrations less than 30 picocuries per gram (1110Bq/kg) of radium-226, 0.05 percent by weight of uranium or thorium, or 150 picocuries per gram (5550 Bq/kg) of any other NORM radionuclide.

B. Persons who receive source material as authorized under the general license in §321.A, and products or materials containing NORM distributed in accordance with a specific license issued by the division or an equivalent license issued by another licensing state are exempt from these regulations.

C. Persons who receive, possess, store, use, process, transfer, sell, manufacture, distribute or dispose of raw materials, intermediates, process streams, products, by-products, (including bauxite refinery and phosphogypsum recycle/reuse raw materials and products), and wastes, related to the production of bauxite refinery and phosphate fertilizer materials products and by-products, are exempt from these regulations.

D. The manufacturing, distribution, use, and disposal of the following products/materials are exempt from the requirements of these regulations:

1. potassium and potassium compounds which have not been isotopically enriched in the radionuclide K-40; and
2. brazil nuts.

E. The wholesale and retail distribution (including custom blending), possession, and use of the following products/materials are exempt from the requirements of these regulations:

1. phosphate and potash fertilizer;
2. phosphogypsum for agricultural uses;
3. materials used for building construction if such materials contain NORM which has not been technologically enhanced;
4. natural gas and natural gas products; and
5. crude oil and crude oil products.

F. Produced waters from crude oil and natural gas production are exempt from the requirements of these regulations.

**§1405. Effective Date**

The provisions and requirements of this Part shall take effect February 20, 1989, and shall apply to all facilities, sites, equipment, and/or materials owned or controlled by a person on or after that date.

**§1410. General License**

A. A general license is hereby issued to mine, extract, receive, possess, own, use, and process NORM not exempted in §1404 without regard to quantity. This general license does not authorize the manufacturing or distribution of products containing NORM in concentrations greater than those specified in §1404.A.

B. 1. Facilities and equipment contaminated with NORM in excess of the levels set forth in Appendix A of this Part shall not be released for unrestricted use. The decontamination or maintenance of such equipment and facilities shall only be performed by a general licensee for on-site maintenance or by persons specifically authorized by the division or another licensing state to conduct such work. Each general licensee shall establish written procedures to ensure worker protection and for the survey (or screening) of equipment and components to ensure that the levels in Appendix A of this Part are not exceeded.

2. Equipment contaminated with NORM in excess of the levels set forth in Appendix A of this Part may be released for maintenance and/or overhaul provided the recipient is operating under a general license or is specifically authorized to perform the activity on contaminated equipment. The decontamination, remediation or maintenance of equipment, facilities, and land shall only be performed by persons operating under a general license or specifically authorized by the division or another licensing state to conduct such work.

C. No person shall transfer land for unrestricted use where the concentration of radium-226 in soil averaged over any 100 square meters exceeds the background level by more than:

1. 5 pCi/gm, averaged over the first 15 cm of soil below the surface; and
2. 15 pCi/gm, averaged over 15 cm thick layers of soil

more than 15 cm below the surface.

D. Persons subject to the general license established by §1410.A shall file the following information with the division: name of owner or possessor, name of responsible person, mailing address, telephone number, address or location where NORM exists. The information shall be submitted within 90 days after the effective date of these regulations. A confirmatory survey for each of the locations shall be submitted by December 31, 1989 pursuant to the NORM Regulatory Guide issued by the division.

**§1411. Protection of Workers During Operations**

Each person subject to the general license in §1410 shall conduct operations in compliance with the standards for radiation protection set forth in Chapters 4 and 10.

**APPENDIX A  
ACCEPTABLE SURFACE  
CONTAMINATION LEVELS FOR NORM**

NUCLIDE*	AVERAGE**†	MAXIMUM**‡	REMOVEABLE§¶
U-nat. U-235. U-238. and associated decay products, including except Ra-226. Th-230. Ac-227. Po-210. and Pa-231	5,000 dpm alpha 100 cm <sup>2</sup>	15,000 dpm alpha 100 cm <sup>2</sup>	1,000 dpm alpha 100 cm <sup>2</sup>
Transuranics. Ra-226. Ra-228. Th-230. Th-228. Pa-231. Ac-227	100 dpm 100 cm <sup>2</sup>	300 dpm 100 cm <sup>2</sup>	20 dpm 100 cm <sup>2</sup>
Th-nat. Th-232. Ra-223. Ra-224. U-232	1,000 dpm 100 cm <sup>2</sup>	3,000 dpm 100 cm <sup>2</sup>	200 dpm 100 cm <sup>2</sup>
Beta gamma emitters including Pb-210 †includes with decay modes other than alpha emission or spontaneous fission) except others noted above.	5,000 dpm beta. gamma 100 cm <sup>2</sup>	15,000 dpm beta. gamma 100 cm <sup>2</sup>	1,000 dpm beta. gamma 100 cm <sup>2</sup>

\*Where surface contamination by both alpha and beta-gamma emitting nuclides exists, the limits established for alpha and beta-gamma emitting nuclides should apply independently.

†As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed by an appropriate detector for background, efficiency, and geometric factors associated with the instrumentation.

‡Measurements of average contamination level should not be averaged over more than one square meter. For objects of less surface area, the average should be derived for each object.

§The maximum contamination level applies to an area of not more than 100 cm<sup>2</sup>.

¶The amount of removable radioactive material per 100 cm<sup>2</sup> of surface area should be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an appropriate instrument of known efficiency. When removable contamination on objects of less surface area is determined, the pertinent levels should be reduced proportionally and the entire surface should be wiped.

¶ The average and maximum radiation levels associated with surface contamination resulting from beta-gamma emitters should not exceed 0.2 mrad/hr (2uGy/hr) at 1 cm and 1.0 mrad/hr (10uGy/hr) at 1 cm, respectively, measured through not more than 7 milligrams per square centimeter of total absorber.

Paul H. Templet, Ph.D.  
Secretary



## DECLARATION OF EMERGENCY

### Department of Environmental Quality Office of Water Resources Water Pollution Control Division

In accordance with the emergency provisions of the Administrative Procedure Act R.S. 49:953(B), and under the authority of R.S. 30:2011(D)(1) and 30:2074(B)(3), the Secretary of the Department of Environmental Quality declares that an emergency action is necessary to add new language under LAC 33:IX.708 Exploration for and Production of Oil and Natural Gas. This emergency action will provide the Office of Water Resources with the critical data necessary for the determination of the potential impact of produced water discharges on the environment of coastal Louisiana and the commercial and sport fisheries and fishery nursery grounds associated with that area. The secretary therefore establishes the following new requirements which shall be effective February 20, 1989.

A radioactivity measurement, acute toxicity test, and chronic toxicity test shall be conducted using test methods approved by the administrative authority on representative samples of all existing produced water discharges which flow to the surface waters of the state. The results of the radioactivity measurement and the average daily discharge rate (barrels per day) shall be submitted to this office by August 20, 1989. The results of the toxicity tests and the average daily discharge rate (barrels per day) shall be submitted to this office by February 20, 1990.

This emergency rule shall expire on June 20, 1989, but the secretary of the Department of Environmental Quality has initiated rulemaking procedures to finalize the requirements of this rule (please refer to the proposed rule section within this issue of the *Louisiana Register*).

Paul H. Templet, Ph.D.  
Secretary

## DECLARATION OF EMERGENCY

### Department of Justice Office of the Attorney General Electronic Video Bingo Panel

In accordance with the emergency provisions of the Administrative Procedure Act (R.S. 49:953.B) and R.S. 33:4861.17, the Attorney General's Electronic Video Bingo Panel proposes to adopt the following emergency rule, amending and supplementing the definition of "Charitable Organization" as contained in §103 of the Department of Justice Electronic Video Bingo rules.

The attorney general is specifically authorized under R.S. 33:4861.17.F to adopt rules and regulations governing the use of electronic video bingo machines and proposes the adoption of the emergency rule to bring the definition of "Charitable Organization" as contained in §103 in conformity with the definition of "Charitable Organization" contained in R.S. 33:4861.4.C and R.S. 40:1485.5.D (2) which permits the licensing of a charitable organization which has not qualified with the Internal Revenue Service for an exemption from federal income tax under §501 (C) (3), (4), (7), (8), (10), or (19) of the Internal Revenue Code.

The adoption of this proposed emergency rule is neces-

sary to continue providing essential and consistent regulation of Electronic Video Bingo Machines and to avoid imminent peril to charities of the state and the public who play the machines or the manufacturers and distributors of the machines.

## Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part VII. Department of Justice

#### Chapter 1. Electronic Video Bingo Rules

##### §103. Definitions and Terms (Amend)

The definitions are amended to add the following definition:

*Charitable organization* is defined as:

A. Any non-profit veterans, eleemosynary, benevolent, education, religious, fraternal or civic or service association or corporations domiciled in this state. Any such organization or corporation shall have qualified with the United States Revenue Service for an exemption from federal income tax under Section 501 (c) (3), (4), (7), (8), (10) or (19) of the Internal Revenue Code.

B. Additionally, pursuant to the authority granted to the Electronic Video Bingo Unit, Office of the Attorney General, State of Louisiana as provided under RS 33:4861.17 and RS 33:4861.4. C., the governing authority of any parish or municipality may license the following organizations, as defined herein, to hold and operate Electronic Video Bingo Games without the requirement that any such organization qualify with the Internal Revenue Service for an exemption from federal income tax as specified by R.S. 33:4861.1(1): Mardi Gras carnival organizations, civic or service associations, volunteer fire companies, booster clubs, and parent teachers associations. For the purposes of this Section, the following definitions shall apply:

1. A Mardi Gras carnival organization shall mean an organization domiciled in this state which presents pre-Lenten festivities, including street parades, and which has received a permit to parade from a municipal or parish governing authority.

2. A civic or service association shall mean an organization domiciled in this state which is operated for the purpose of promoting the social welfare or providing service to the community and which has derived \$5,000 or less in gross receipts from its charitable games of chance during the prior calendar year.

3. A volunteer fire company shall mean an organization which has been engaged by the governing authority of a parish, municipality, or fire protection district to provide fire protection services to the area of this state under its jurisdiction and which is comprised predominantly of individuals who provide such services voluntarily and without compensation.

4. A booster club shall mean an organization which promotes and supports the activities, functions, or programs of a public or a private nonprofit elementary or secondary school in this state and which has been designated by the school board of the parish or city in which such school is located to collect funds in the name of that school. Only one such organization shall be designated for each school.

5. A parent-teacher association shall mean an organization which is comprised of teachers and parents of children enrolled in a public or a private nonprofit elementary or secondary school in this state and which has been designated by the school board of the name of that school. Only one such organization shall be designated for each school.

C. A bonafide senior citizen recreation club, upon appli-

cation to the municipality or parish, shall be exempt from the licensing and reporting procedure enumerated in R.S. 33:4861.5 through R.S. 33:4861.14 of this Part in a municipality or parish whose governing authority has decided to Permit Electronic Video Bingo Games within its limits as provided in R.S. 33:4861.3. A senior citizen recreation club for the purpose of this Part shall be defined as an organization which is sanctioned by the local council on aging, is composed of a group of persons 60 years of age or older, and whose only function is to provide amusement and diversion for its members.

Dale C. Wilks  
Chairman

**DECLARATION OF EMERGENCY**

**Department of Justice  
Office of the Attorney General  
EVB Panel**

In accordance with the emergency provisions of the Administrative Procedure Act (R.S. 49:953.B) and R.S. 33:4861.17, the Attorney General's EVB Panel proposes to adopt the emergency rules attached hereto amending and supplementing §§107 and 113 of Title 7 Corrections, Criminal Justice and Law Enforcement Part VII: Department of Justice Chapter 1. Electronic Video Bingo Rules dated 8-88 as outlined below:

**Title 7  
CORRECTIONS, CRIMINAL JUSTICE  
AND LAW ENFORCEMENT  
Part VII. Department of Justice**

**Chapter 1. Electronic Video Bingo Rules  
§107. Permitting Process (amended)**

**B. Application for Permit Stamp**

3. The first installment (\$50) of the non-refundable \$600 permit fee must accompany each application.

**E. Expirations or renewal of permit**

1. Individual permits are good for one year (12 months) from date of issuance.

2. An application for permit renewal and the first payment of \$50 of the \$600 non-refundable permit fee must be submitted to the Electronic Video Bingo Unit of the Department of Justice on forms prescribed by the department, 90 days prior to the listed expiration date of the individual permit.

All fees must be paid, a new permit issued, and new seals affixed to the machine before a previously permitted machine may be operated for a new 12-month permitted period.

3. The department will consider the same criteria for renewal of permits as for the original issuance of permits. Failure to satisfy permit criteria contained in the act may result in denial or removal of a permit.

**§113. Fees (amended)**

This non-refundable fee must be submitted in the following manner:

C. 2. a. An initial payment of \$50 shall be paid at the time of application for permit.

b. The balance of the annual non-refundable \$600 fee shall be paid in equal installments of \$50 on the first of each succeeding month during the 12-month permit period until such

time as the entire non-refundable fee of six hundred dollars has been paid.

c. Once a machine has been permitted the distributor is liable for the full non-refundable \$600 permit fee.

The adoption of these proposed emergency rules are necessary to continue providing essential and consistent regulation of Electronic Video Bingo Machines and to avoid imminent peril to charities, the state of Louisiana, the public who play the machines, and the manufacturers and distributors of the machines.

Dale Wilks  
Chairman

**DECLARATION OF EMERGENCY**

**Department of Social Services  
Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rule in the Food Stamp Program.

Emergency rulemaking is necessary because correspondence received from the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) dated November 4, 1988, mandated a February 1, 1989 implementation date. Federal regulations are forthcoming.

**RULE**

Effective February 1, 1989 foster children are to be considered "boarders" and must be certified under the provisions governing boarder status in Section C-140 and E-210 of the FAM-4. The provision under E-211.1 which prohibits granting boarder status to children under 18 years of age who are under the parental control of an adult household member does not apply with regard to foster children. In addition, the foster care payments must be excluded from consideration as income to the household providing the foster care.

However, foster care households continue to have the option to treat the foster children as members of the household in accordance with current boarder policy. The entire foster care payments would then count as income to the household.

May Nelson  
Secretary

**DECLARATION OF EMERGENCY**

**Department of Social Services  
Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953-B to adopt the following rule in the Food Stamp Program.

Emergency rulemaking is necessary because correspondence received from the United States Department of Agriculture (USDA) dated January 10, 1989 mandated an implementation date of January 1, 1989. Federal regulations are forthcoming.

RULE

Effective January 1, 1989, advance earned income tax credits (EITC) will not be counted as income for food stamp purposes. However, the amount of the EITC payment will still have to be estimated. This amount will be counted toward the household's resources just as EITC payments made as tax refunds are.

May Nelson  
Secretary

# Rules

RULE

**Department of Agriculture and Forestry  
Livestock Sanitary Board**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Department of Agriculture and Forestry, Livestock Sanitary Board, hereby repeals former regulation, LAC 7:11734 adopted pursuant to House Bill No. 1 of the First Extraordinary Session, 1988 and Executive Order No. BR 88-5 and adopts the following regulations.

**Title 7**

**AGRICULTURE AND ANIMALS  
Part XXI. Diseases of Animals**

**Chapter 117. Livestock Sanitary Board  
Subchapter B. Cattle**

**§11734. Brucellosis Vaccination and Fee**

A. Henceforth, all non-vaccinated heifer calves between four and 12 months of age must be vaccinated with USDA approved Brucellosis Strain 19 vaccine prior to being sold and there is hereby established and henceforth there shall be a fee to be paid by the Louisiana livestock auction markets of \$2 for each heifer calf vaccinated for Brucellosis, which fee shall be known as the brucellosis vaccination fee.

B. The brucellosis vaccination fee shall be collected by the Louisiana livestock auction markets from the sale proceeds and remitted to the Louisiana Department of Agriculture and Forestry. The fee shall be remitted monthly, no later than the tenth day of the month following the month in which the fee is collected by the Louisiana livestock auction markets and on a form prescribed by the Louisiana Department of Agriculture and Forestry.

C. This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the Livestock Sanitary Board program and are

anticipated to generate \$146,000 annually in revenues. The kinds and anticipated amounts of costs, which will be offset by this fee, include but are not limited to: Other Charges/Professional Services - \$127,750; Indirect Costs - \$18,250. The Department of Agriculture and Forestry shall suspend collection upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program. The commissioner of the Department of Agriculture and Forestry hereby certifies that written approval to adopt this regulation was received on July 1, 1988 from the commissioner of administration.

D. If any part of the regulation is determined to be invalid for any reasons whatsoever then, in that event, the validity of the remainder of said regulation shall nevertheless not be adversely affected thereby.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15: (February 1989).

Bob Odom  
Commissioner

RULE

**Department of Agriculture and Forestry  
Market Commission**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Agriculture and Forestry, Market Commission, has adopted the following regulation:

**Title 7**

**AGRICULTURE AND ANIMALS  
Part I. Administration**

**Chapter 1. Market Bulletin**

**§101. Subscriber Fee**

A. There is hereby established and henceforth shall be a biennial fee to be paid by the subscribers to the Louisiana Market Bulletin of \$10, which shall be known as the subscription fee.

B. The subscription fee shall be paid by the subscriber to the Louisiana Department of Agriculture and Forestry biennially and when paid shall entitle the subscriber to 52 issues of the *Louisiana Market Bulletin*.

C. This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the Louisiana Market Bulletin program and are anticipated to generate \$100,000 annually in revenues. The kinds and anticipated amounts of costs, which will be offset by this fee, include, but are not limited to: Personal Services - \$22,551; Operating Expenses - \$66,200; Indirect costs - \$11,249. The Department of Agriculture and Forestry shall suspend collection upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program. The commissioner of the Department of Agriculture and Forestry hereby certifies that written approval to adopt this regulation was received on July 1, 1988 from the commissioner of administration.

D. If any part of the regulation is determined to be invalid for any reason whatsoever then, in that event, the validity of the

remainder of said regulations shall nevertheless not be adversely affected thereby.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 15: (February 1989).

Bob Odom  
Commissioner

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Advisory Commission on Pesticides

The Louisiana Advisory Commission on Pesticides has adopted pesticide rules and regulations, LAC 7, Chapter 131, as follows:

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

#### Chapter 131. Louisiana Advisory Commission on Pesticides

#### Subchapter B. Definitions

#### §13103. Definitions

A. *Bulk storage of pesticides* means the storage of any pesticide which is held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight.

B. *Director* means the director of the pesticide commission or his duly authorized representatives acting at his direction.

C. *District office* means any office of the department other than the Baton Rouge office.

D. *Herbicide* means any substance or mixture of substances intended for use in preventing or inhibiting the growth of, killing, or destroying plants and plant parts defined to be pests by the commissioner. The term "herbicide" shall for the purposes of these regulations include a substance or mixture of substances intended for use as a plant growth regulator, defoliant, or desiccant.

E. *Inorganic arsenicals* means any herbicide containing a compound formed by a reaction between arsenic and any substance which does not contain a carbon-hydrogen (organic) group (radical). Examples are arsenic trioxide, sodium arsenate, and arsenic acid.

F. *Insecticide* means any substance or mixture of substances intended for preventing or inhibiting the establishment, reproduction, development, or growth of; destroying; or repelling any member of the class insecta or other allied classes in the phylum arthropoda that is defined as a pest by the commission.

G. *Phenoxy herbicides* means any herbicide as defined above that contains a phenoxy derivative of lower aliphatic acid as an ingredient thereof.

H. *Public utility* means a business or service which is engaged in regularly supplying the public with a service which is of public consequence and need, such as electricity, gas, water, transportation, or telephone or telegraph service.

I. *Resident* means any person who has been domiciled in Louisiana for a period of at least 90 days immediately preceding the date of application for the license and/or certification and has not claimed residence elsewhere for any purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202 and 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15: (February 1989).  
Subchapter D. Registration of Pesticides

#### §13113. Standard Registrations

A. Application for registration shall consist of two types, namely, initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of November each year. Application shall be made on forms prescribed by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15: (February 1989).

#### §13115. Special Registrations

B. 1. e. The appropriate application fees as required by LAC 7:13129 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3222.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15: (February 1989).

#### §13119. Examinations of Applicators, Salepersons and Agricultural Consultants

##### G. Delete

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15: (February 1989).

#### Subchapter F. Certification

#### §13121. Certification of Private Applicators

B. Examinations for certification for private applicators of pesticides will be given during office hours upon request of the applicant at Baton Rouge in the Office of Pesticides and Environmental Programs, at any district office of the Department of Agriculture and Forestry; or at the office of the county agent in any parish of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3241 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15: (February 1989).

#### Subchapter G. Fees

#### §13129. Fees

A. Fees required under pesticide statutes and these regulations are as follows:

1. Annual Registration of Pesticides	\$100
2. Special Local Need Registration Application Fee	\$100
3. Annual License Fee - Resident	\$100
- Non-resident	\$200
4. Annual Equipment Inspection (each item)	\$ 25
5. Annual Field Scout Registration Fee	\$ 5
6. Consultant Certification Application Fee	\$ 15
7. Certification Fees	
Private Applicator - for three years	\$ 10
Employees of Local, State and Federal Government in course of public employment - annual	\$ 10

- All other Commercial Applicators - annual \$ 15
- 8. Examination Fees (for each exam - Private Applicator exempt)
  - In Baton Rouge \$ 10
  - At Meeting Outside Baton Rouge \$ 15
  - At District Offices \$ 20
- 9. Duplicate Licenses and/or Certification Cards- same as original
- 10. Requested Lists and Copies - postage + minimum of \$1 or postage + 25 cents/page

B. Fees for licensing shall be paid at the time of application for said license.

C. Fees for registration of field scouts and for equipment inspections shall be paid at the time of application for appropriate license.

D. Fees for registrations, examinations, and certifications shall be paid at the time the application is submitted.

E. No application shall be processed until all criteria for which the application is made has been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended LR 15: (February 1989).

Bob Odom  
Commissioner

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Quarantine Program

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Quarantine Program adopts the following regulations:

#### Title 7 AGRICULTURE AND ANIMALS Part XV. Plant Diseases

##### Chapter 95. Crop Pests and Diseases Subchapter C. Sweet Potato Weevil Quarantine §9543. Fees

A. A fee of \$.04 per bushel shall be charged for each bushel of sweet potatoes moved and/or shipped within Louisiana.

B. The fee on sweet potatoes moving to processing plants shall be collected on the basis of the amount of purchase less 10 percent for breakdown and shrinkage while in storage.

C. Time when fees are to be assessed:

1. Fresh Market - Fees are assessed at the time a certificate permit is issued to authorize sale, offer for sale, movement, or shipment of the sweet potatoes.

2. Processing Plants - Fees are assessed at the time the sweet potatoes are moved into a plant for processing and/or packed to be shipped as nonprocessed potatoes.

3. Repealed

4. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1734 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, LR 15: (February 1989).

Bob Odom  
Commissioner

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:16 the Department of Agriculture and Forestry has adopted the following regulation:

#### Title 7 AGRICULTURE AND ANIMALS Part I. Administration

##### Chapter 1. Agriculture Chemistry §103. Agricultural Laboratory Fees

A. There is hereby established and henceforth shall be a fee paid by the users of the Louisiana Agricultural Chemistry Laboratory, which fees shall be known as Laboratory Fees and they shall be as follows:

Pesticide Residue Samples	Up to \$100 per analysis
Pesticide Formulation Samples	Up to \$ 50 per analysis
Water Samples	Up to \$ 35 per analysis
Feed, Fertilizer and Lime Samples	Up to \$ 40 per analysis
All Other Samples	Up to \$ 50 per analysis

Each laboratory procedure will be, for purposes of this regulation, considered a separate analysis.

B. The laboratory fees shall be paid by the party requesting analysis and shall be payable to the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:16.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15: (February 1989).

Bob Odom  
Commissioner

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Quarantine Program

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Quarantine Program adopts the following regulations:

**Title 7**  
**AGRICULTURE AND ANIMALS**  
**Part XV. Plant Diseases**

**Chapter 95. Crop Pests and Diseases**  
**Subchapter B. Nursery Stock Quarantines**  
**§9526. Nursery Certificate Permit Fees**

A. There is hereby established and henceforth there shall be an annual fee paid by nursery permittees as follows:

1. Any nursery which consists of acreage greater than 2500 square feet or greenhouse area greater than 200 square feet shall be \$50 per location per year and all other nursery certificate permittees shall pay a fee of \$10 per location per year.

2. There is hereby established and henceforth there shall be a fee of \$.05 per nursery certificate permit tag issued by the Louisiana Department of Agriculture and Forestry to the nursery certificate permittee.

B. The aforementioned fees shall be paid by the permittee to the Louisiana Department of Agriculture and Forestry at the time of application for nursery certificate permits, which permits shall expire on January 31 of each year and shall be renewed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry LR 15: (February 1989).

Bob Odom  
Commissioner

**RULE**

**Department of Agriculture and Forestry**  
**Office of Agricultural and Environmental Sciences**  
**Seed Commission**

*(Editors Note: This rule was originally published in the September, 1988 issue of the Louisiana Register, and is being reprinted to correct a typographical error.)*

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:1433, notice is hereby given that the Department of Agriculture and Forestry, Seed Commission, adopted the following rule and regulation:

**§8787. Seed Irish Potato Certification Standards (Out-of-State)**

A. Conditions governing shipment on movement of seed Irish potatoes into Louisiana shall conform to the following:

1. Seed Irish potatoes must have passed field and storage seed certification requirements of the proper certifying agency. The tolerances for insects and diseases shall be the same as those set forth in the Louisiana Certified Seed Regulation for Seed Irish Potatoes (LAC 7:XIII.8787).

2. Each container of seed moved into, offered for sale, or sold in Louisiana shall have attached thereto an official foundation, registered, or certified seed tag issued by the proper certifying agency in the state of origin.

B. The shipper must register with the Department of Agriculture and Forestry, on a form to be furnished by the department, before making shipments into Louisiana.

C. On or before the date of shipment, the shipper must notify the Department of Agriculture and Forestry of each ship-

ment or movement into Louisiana, using a notification form to be furnished by the Department of Agriculture and Forestry.

D. A certificate from the authorized certification agency of the state or territory of origin must be attached to the inside and near the top of the door in refrigerated cars in which the seed Irish potatoes are shipped, or mailed to the Department of Agriculture and Forestry, certifying that:

1. The area in which the seed Irish potatoes were produced is apparently free of late blight infection, or

2. The Irish potatoes were produced in a field apparently free of late blight infection, and the tubers on bin or tuber inspection were apparently free of late blight infection.

E. Transit Inspection

1. Certified seed Irish potatoes shipped into Louisiana shall be inspected by a representative of the Louisiana Department of Agriculture and Forestry upon request by an interested party. Requests for inspection shall be made prior to shipment by contacting the Louisiana Department of Agriculture and Forestry.

2. A Louisiana Department of Agriculture and Forestry certificate of inspection shall be issued upon inspection, providing the Irish potatoes have met the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:578 (November 1982), LR 12:825, amended LR 9:201 (April 1983), repealed and re-adopted LR 12:825 (December 1986), amended LR 14: (September 1988), LR 15: (February 1989).

Bob Odom  
Commissioner

**RULE**

**Department of Agriculture and Forestry**  
**Office of Agro-Consumer Services**  
**Commission of Weights and Measures**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures hereby repeals former regulation, LAC 7:17523(D) adopted pursuant to House Bill No. 1 of the First Extraordinary Session, 1988 and Executive Order No. BR 88-5 and adopts the following regulation:

**Title 7**  
**AGRICULTURE AND ANIMALS**

**Part XXXV. Commission of Weights and Measures**

**Chapter 175. Commission of Weights and Measures**  
**§17523. Registration**

A - C. ...

D. An annual registration fee as specified in R.S. 55:20 shall be paid as follows:

1. scales with a capacity of 0 to 1,000 pounds (Category 1) - \$15;

2. scales with a capacity of over 1,000 pounds to 10,000 pounds (Category 2) - \$60;

3. scales with a capacity of over 10,000 pounds (Category 3) - \$85;

4. Repealed.

E. - P. ...

This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the weights and measures program and are anticipated to generate \$456,304 annually in revenues. The kinds and anticipated amounts of costs, which will be offset by this, include, but are not limited to: Personal Services - \$331,489; Travel - \$14,183; Operating Expenses - \$110,632. The Department of Agriculture and Forestry shall suspend collection upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 55:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987) amended LR 15: (February 1989).

Bob Odom  
Commissioner

## RULE

### Department of Agriculture and Forestry Office of Forestry

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Department of Agriculture and Forestry, Office of Forestry, adopts the following regulations:

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXIX. Forestry

#### Chapter 209. Timberland

#### §20901. Timberland Fire Protection Fee

A. There is hereby established and henceforth there shall be an annual fee, paid by the owners of timberland in Louisiana, of \$.08 per acre of timberland, which shall be known as the timberland fire protection fee, notwithstanding any law or constitutional provision to the contrary, said fee assessed for this purpose shall not exceed \$.08 per acre to any property owner.

B. The fire protection fee shall be paid by the property owner to the sheriff and ex-officio tax collector of the parish in which the property is located in the same manner as other parish taxes; and, when collected, shall be remitted to the Louisiana Department of Agriculture and Forestry.

C. This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the Office of Forestry and are anticipated to generate \$1,120,000 annually in revenues. The kinds and anticipated amounts of costs, which will be offset by this fee, include, but are not limited to: Personal Services - \$1,120,000. The Department of Agriculture and Forestry shall suspend collection

upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program. The commissioner of the Department of Agriculture and Forestry hereby certifies that written approval to adopt this regulation was received on July 1, 1988 from the commissioner of administration.

D. If any part of the regulation is determined to be invalid for any reason whatsoever then, in that event, the validity of the remainder of said regulation shall nevertheless not be adversely affected thereby.

Bob Odom  
Commissioner

## RULE

### Department of Agriculture and Forestry Office of Management and Finance

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) the Louisiana Department of Agriculture and Forestry, adopts the following regulations:

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXIII. Meat and Poultry Inspection

#### Chapter 169. Meat and Poultry Inspection Program

#### §16935. Meat, Poultry and Seafood Fee

A. There is hereby established and henceforth there shall be a monthly fee to be paid by retailers, as defined in LRS 47:301, for red meat, poultry and seafood. The fee shall be an amount equal to .87 percent of the wholesale value of all sales of red meat, poultry and seafood sold in Louisiana. The fee shall be known as the meat, poultry and seafood fee. The department may adopt and publish guidelines which facilitate calculation and collection of this fee.

B. For purposes of administration and convenience, the meat, poultry and seafood fee shall be paid by retailers at the same time and in the same manner as retail sales taxes are remitted. The meat, poultry and seafood fee shall be forwarded by the retailer to the Louisiana Department of Revenue and Taxation. The meat, poultry and seafood fee shall be delinquent if not paid by the due date provided in Law for the remittance of Louisiana Retail Sales Tax.

C. 1. Any retailer failing to pay the meat, poultry and seafood fee established herein shall be subject to a reasonable civil fine of not more than \$50, which fine may be levied by the Department of Agriculture and Forestry upon a finding of intentional delinquency of all or a part of any fees due after the conduct of an adjudicatory hearing in accordance with the Louisiana Administrative Procedure Act. Each day of delinquency shall be considered a separate offense and violation.

2. In any such adjudicatory hearing pertaining to delinquency, the establishment by competent evidence that the respondent is a retailer of meat, poultry, or seafood products and that the fee has not been paid by the due date or that said fees received are less than the amount due based on respondent's purchases of meat, poultry or seafood, shall constitute a "prima

facie" case of delinquency and burden of proof shall, thereafter, shift to the respondent.

D. Any authorized representative of the Louisiana Department of Agriculture and Forestry or the Louisiana Department of Revenue and Taxation shall have access to, and may enter at all reasonable hours, all places of business operated by retailers where meat, poultry or seafood are purchased, stored, processed, manufactured, or sold, or where the retailer maintains books, papers, accounts, records, or other documents related to such activities. The Louisiana Department of Agriculture and Forestry may subpoena, and any authorized representative of the Departments of Agriculture and Forestry or Revenue and Taxation may inspect, copy, and/or audit any of such books, papers, records, accounts or documents, all for the purpose of determining whether the retailer is complying with the provisions of this regulation. The authority granted hereinabove shall also extend to books, papers, records, accounts, or other documents of persons doing business with retailers. Any information gained through utilization of the authority granted hereinabove in this section shall be treated as confidential and shall be used only for the administration of this regulation; provided, that such information may be divulged by a person when called upon to testify in any adjudicatory proceeding or in any court proceeding, and provided further, that nothing contained in this regulation shall prevent the use of any information procured by the department or the commissioner in the compiling and dissemination of general statistical data, containing information procured from a number of retailers and compiled in such a manner as not to reveal individual information of any retailer.

E. This regulation shall expire 12 years from the date of adoption. The fees shall only be used to pay for all direct and indirect costs of the Federal/State Cooperative Meat and Poultry Inspection Program, Meat, Poultry and Seafood Grading and Certification activities, animal disease prevention activities of the Louisiana Livestock Sanitary Board, animal theft prevention of the Louisiana Livestock Brand Commission, poultry related activities of the Poultry and Egg Division and for audit functions required by the aforementioned programs and are anticipated to generate \$6,090,000 annually in revenues. The kinds and anticipated amounts of costs, which will be offset by this fee, include, but are not limited to: Personal Services - \$3,757,266; Travel - \$69,064; Operating Expenses - \$620,122; Professional Services - \$7,590; Other Charges - \$612,665; Capital Outlays - \$20,580; Indirect Costs - \$1,017,457. The Department of Agriculture and Forestry shall suspend collections upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program. The Commissioner of the Department of Agriculture and Forestry hereby certifies that written approval to adopt this regulation was received on July 1, 1988 from the Commissioner of Administration.

F. If any part of the regulation is determined to be invalid for any reason whatsoever then, in that event, the validity of the remainder of said regulation shall nevertheless not be adversely affected thereby. This rule and the repeal of the existing emergency rule is effective July 10, 1988.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, LR 15: (February 1989).

Bob Odum  
Commissioner

## **RULE**

### **Department of Economic Development Real Estate Commission**

Notice is hereby given that the Louisiana Real Estate Commission adopted amendments to the following rules and regulations of the Commission: LAC 46:LXVII. 303 and 313 deleting the 30-day filing deadline for examination applications and the 10-day notification from the testing service of the scheduled examination; the rules provide that filing and notification deadlines will be scheduled and announced in advance by the Commission; and Section 503 deletes the requirement for the date, time and place of the scheduled examination to be provided to the applicant on the testing service submitted admittance ticket.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXVII. Real Estate**

### **Chapter 3. Applications for Initial Licenses**

#### **§305. Receipt of Applications**

All applications for the real estate license examination must be submitted to the commission in accordance with scheduled Application Processing Division deadline. Applicants will not be scheduled for the exam until Application Processing determines the applicant meets all requirements. The responsibility for timely submission of initial applications rests solely with each individual applicant.

#### **§313. Admittance Authorization**

Upon complying with the above requirements, an applicant shall be issued an admittance authorization from the testing service prior to the date of the examination. The admittance authorization will specify the date, place and time of the examination for which admittance is authorized. An applicant must present his/her authorization and photographic evidence of the applicant's identity (e.g. driver's license, I.D. card) before taking the examination.

### **Chapter 5. Exams**

#### **§503. Information on Admittance Authorization**

An examination may be taken only at the place, on the date and time authorized by the testing service.

Jane H. Moody  
Executive Director

## **RULE**

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

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published September 20, 1988 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below: Rule 3.01.51.aa(3)

The board adopted an amendment to Bulletin 741 to provide that students other than the academically able may take



Introduction to Algebra at the eighth grade level at the option of the local school system.

Em Tampke  
Executive Director

## RULE

### Office of the Governor Division of Administration

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), R.S. 39:1490(B) and R.S. 39:1521, notice is hereby given that the Office of the Governor, Division of Administration, Office of Contractual Review has amended LAC 34.V. Chapter 1. This rule revokes Sections 121, 124 and Appendices A, B, D and E of the earlier rules and regulations of this office and also adds Section 134 and Appendix G. LR 11:1067 (November, 1985) Sections 121, 124 and Appendices A, B, D and E is amended and Section 134 and Appendix G are added to read as follows:

#### Title 34

### GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

#### Part V. Procurement of Professional, Personal, Consulting and Social Services

#### Chapter 1. Procurement of Professional, Personal, Con- sulting and Social Services

#### Subchapter A. General Provisions

#### §121. Contractual Review Process

A. Contracts arriving in the Office of Contractual Review will be date stamped and logged in. Contracts should be submitted prior to their effective dates and no contract shall be approved which has been submitted 60 days after its effective date, unless written justification is provided by the using agency and approval granted by the director of contractual review or his designee. All submittals will be required to have a cover letter attached thereto in conformity with Attachment D [See Appendix A].

B. If a contract does not appear to be out of the ordinary and appears to have the necessary attachments and inclusions, it will be routed as appropriate to the Division of Administration budget analyst for the submitting agency. A BA-22, or its equivalent, shall be submitted with every contract submitted to the Office of Contractual Review, which contains any expenditures or reduction in expenditures.

C. Contracts that are incomplete as to form may be returned to the submitting agency. If a contract is merely missing an attachment then the necessary attachment may be secured from the submitting agency.

#### D. Contracts Returned From Budget

##### 1. Not Recommended for Approval

If a contract is not recommended for approval, the Office of Contractual Review shall discuss the reason with the budget analyst. If the problem cannot be resolved, the contract shall be returned to the submitting agency with a letter explaining the problem.

##### 2. Recommended for Approval

If a contract is recommended for approval the review process shall continue.

#### E. Legal and Content Review

There are a number of different types of contracts, and content requirements may vary a little. All contracts shall contain the following:

1. Signatures of both the head of the using agency or his designee and the contractor. At least one submitted copy of each contract shall bear an actual, nonfacsimile signature of each party.

2. Contractor Name and Address (including Zipcode).

3. Scope of services that clearly and completely identifies the work to be performed and products to be delivered.

4. Beginning and termination dates for the contract. Normally, such contracts should be for a term no longer than one year, although the director of contractual review may approve contracts with terms up to three years. Contracts shall not include a clause permitting automatic renewal or extension of the original beyond a three-year period, unless authorized by the funding statute. Per R.S. 39:1496.1(c) performance-based energy efficiency contracts shall have a term not to exceed 10 years.

5. The maximum amount of compensation to be paid under the contract. This maximum must be inclusive of all payment, fees, travel expenses, etc. When applicable the amounts shall be stated by category and then given as a comprehensive total. The payment schedule shall be given also.

6. A statement giving the legislative auditor and/or the Office of the Governor, Division of Administration auditors authority to audit the financial records of the contractor relative to work done under the contract. A clause referencing audit requirements given in R.S. 24:517 is advisable for contractors who may be considered "quasi-public."

7. A clause providing that the contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the submitting agency thereto, provided, however, that claims for money due or to become due to the contractor from the using agency under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to both the using agency and the director of the Office of Contractual Review.

8. The Office of Contractual Review shall notify the using agency in writing when an assignment of proceeds notice has been received from a contractor.

9. A statement giving the contractor the responsibility for paying any taxes which may be due as a result of the contract. The taxes could include state or federal income taxes or payroll taxes.

10. Advance payments on all contracts except those for professional services are allowable if limited to less than or equal to 20 percent of the contract amount and if necessary to provide for the lowest cost delivery of service.

a. All such advances shall be approved by the director of the Office of Contractual Review. If federal funds are to be advanced, federal guidelines shall prevail on the conditions and amount of the advance. Specific state statutory authority may override the 20 percent limit for certain contracts.

b. When submitting for approval a contract including provisions for an advance, the using agency shall submit the following additional information at a minimum:

c. Certification by the using agency that the procurement of the services involved at the lowest cost requires the advance

and that no other source of funding is available.

d. Provisions in the contract specifying the amount and timing of the payments and safeguarding repayment of the advance.

F. Each contract over \$5000 submitted for approval shall be accompanied by a certification letter as described in R.S. 39:1497, signed by the using agency's representative (See Appendix B).

G. Proof of review and approval by other agencies shall accompany submitted contracts as follows; or contracts will be returned to the submitting agency without final approval:

1. Civil Service

All contracts must have Civil Service approval unless exempted by the Department of Civil Service.

2. Attorney General

Contracts for legal services that are not consulting work and that do involve or lead to litigation must be reviewed by the attorney general in accordance with R.S. 49:258. Approval of the attorney general can be evidenced by the signature on the contract documents or by a letter from the attorney general. Contracts with Louisiana district attorneys do not require this approval.

3. Legislative Auditor

Contracts for financial auditing of state agencies must have prior written approval of the legislative auditor.

4. If the contractor is a corporation not incorporated under the laws of the state of Louisiana, then the contractor must secure a certificate of authority pursuant to R.S. 12:301-302 from the secretary of the state of Louisiana and verification of such certificate must be made available to the Office of Contractual Review.

5. The Office of Telecommunications Management shall review and recommend any contract containing elements of telecommunication services before returning it to the Office of Contractual Review for completion of the analysis.

H. Consulting Services Contracts for \$50,000 or More

If a contract is for services defined as consulting in R.S. 39:1484(4) and is for an amount equal to or exceeding \$50,000, it must have been awarded pursuant to the requirements of R.S. 39:1503, unless exempt by §142. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503, (C) as to why the award was made must be submitted with the contract.

I. Data Processing Consulting Service contracts for more than \$100,000 shall be procured in accordance with Subchapter C of these regulations.

J. Social Service Contracts for \$150,000 or More During a 12-Month Period

If a contract is for services defined as social services in R.S. 39:1484 (24), it must have been awarded pursuant to the requirements of R.S. 39:1503 unless exempt by R.S. 1494.1. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503(c) as to why the award was made must be submitted with the contract.

K. When a contractor is a corporation, a formal, dated board resolution must be secured and attached to the contract indicating that the signatory is a corporate representative and authorized to sign said contract.

L. When it has been determined that a contract is complete, the contract shall be returned to the submitting agency with an approval letter attached and signed by the director of

contractual review.

M. A performance evaluation for every personal, professional, consulting or social service contract shall be done by the using agency in accordance with R.S. 39:1500. This performance evaluation shall be retained by the using agency for all small purchase contracts approved under delegated authority. For all other contracts this performance evaluation shall be submitted to the Office of Contractual Review within 120 days after the termination of the contract. An example evaluation form can be found in Attachment F [See Appendix A]. Using agencies should use their own formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 13:87 (February 1987), amended LR: 15: (February 1989).

### §124. Exempt Occupations

The following list of occupations shall be construed as falling within the definition of medical, nursing or allied health fields given in R.S. 39:1498.2. Personnel employed in these fields would therefore be exempt from the prohibition contained in R.S. 39:1498(4) which disallows personal, professional, consulting or social service contracts between the state of Louisiana and state employees:

Audiologist  
Dental Assistant  
Dentist  
Electroencephalograph Technician  
Hospital Chaplain  
Inhalation Therapist  
Medical Laboratory Technologist  
Accredited Medical Records Technician/Administrator  
Nurse Anesthetist  
Occupational Therapist  
Optometrist  
Osteopath  
Pharmacist  
Psychologist  
Physical Therapist  
Physician  
Podiatrist  
Practical Nurse  
Professional Dietitian  
Psychiatrist  
Radiologic Technologist  
Radioisotope Technologist  
Registered Nurse  
Respiratory Therapy Technician  
Respiratory Therapy Technologist  
Social Worker  
Speech Pathologists  
Ultrasonography Technologist  
Other specialists as may be included later by the director of the Office of Contractual Review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985), amended LR 15: (February 1989).

### §134. Cost Reimbursement Contracts

If a nongovernmental provider is expected to receive \$100,000 or more per year of state funds via one or more cost-reimbursement contracts, then those contracts shall contain at least one of the following requirements:

A. Source documentation verification (evidenced by invoices, cancelled checks, certified payroll sheets, etc.) shall be submitted to the state to justify each payment request; or

B. Utilizing internal auditors, the using agency shall perform frequent, unannounced contract compliance audits of the contractor. "Frequent" shall mean no less than once per contract or per 12 months if the contract is longer than 12 months and all disallowed expenditures shall be reimbursed to the using agency; or

C. The contract shall require the contractor to obtain a contract compliance audit of expenditures charged to the contract. This compliance audit shall be performed by a certified public accountant or the Louisiana Legislative Auditor's office. A contract compliance audit must include an examination of reimbursed expenditures to determine if they are in accord with contract terms, not reimbursed by any other source, and in accord with any guidelines set by the using agency or other relevant authority. This examination shall be conducted in accordance with generally accepted auditing and sampling procedures, including the *Government Auditing Standards* ("Yellow Book"). See Appendix G for sample opinion letter for this contract compliance audit.

Such an audit may be performed in conjunction with a financial audit, but results must be available to the using agency within 12 months after the fiscal year end of the contractor. It is the intention of this rule not to require audits at a different time of year if annual audits are currently being performed. Thus, a contract period may be covered by two separate audits.

For multi-year cost-reimbursement contracts, the provider may with the using agency's consent, elect to have a multi-year contract compliance audit done to cover the entire contract period.

If a single provider has multiple cost-reimbursement contracts subject to the requirements of §134, then the provider may elect to have an audit done using the single audit model. In these instances, a major state contract means any state contract for which expenditures during the year exceed the greater of \$100,000 or three percent of such total expenditures.

All disallowed expenditures shall be reimbursed to the using agency. Such disallowances shall normally be recouped by the using agency in current or future contracts with the provider. For cost-reimbursement contracts, any audit of the contract period issued pursuant to the Single Audit Act of 1984, P.L. 98-502, OMB Circular A-110, or other federal legislation and regulations, shall fulfill the audit requirements of this Section C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B) and 1521.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 15: (February 1989).

#### APPENDIX A. SAMPLE CONTRACT

Sample contract adaptable for use by state agencies. (This sample contract contains the minimum language required in a state contract. Additional items may be added as required by the individual agency's needs and applicable federal requirements.)

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

#### CONTRACT

Be it known, that on this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ , the \_\_\_\_\_ (Agency Name) \_\_\_\_\_ (hereinafter sometimes referred to as "state") and \_\_\_\_\_ (contractor's name and legal address including Zipcode) \_\_\_\_\_ (hereinafter sometimes referred to as "Contractor") do hereby enter into contract under the following terms and conditions.

1.

Contractor hereby agrees to furnish the following services:

(If the Scope of Services is more lengthy than will fit here, it may be attached separately as an addendum.)

2.

In consideration of the services described above, state hereby agrees to pay to contractor a maximum fee of \_\_\_\_\_. Payment will be made only on approval of \_\_\_\_\_. If progress and/or completion to the reasonable satisfaction of the agency is obtained, payments are scheduled as follows:

3.

This contract may be terminated by the state upon 30 days written notice.

(Other conditions for termination may be stated here also.)

4.

Upon completion of this contract, or if terminated earlier, all records, reports, worksheets or any other materials related to this contract shall become the property of the state.

5.

Contractor hereby agrees that the responsibility for payment of taxes from the funds thus received under this agreement and/or legislative appropriation shall be said contractor's obligation and identified under federal tax identification number \_\_\_\_\_.

6.

The contractor shall not assign any interest in this contract and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the state, provided however, that claims for money due or to become due to the contractor from the state may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the state.

7.

It is hereby agreed that the Legislative Auditor of the State of Louisiana and/or the Office of the Governor, Division of Administration auditors shall have the option of auditing all accounts of contractor which relate to this contract.

8.

This contract shall begin on \_\_\_\_\_ and shall terminate on \_\_\_\_\_.

THUS DONE AND SIGNED AT Baton Rouge, Louisiana on the day, month and year first written above.

\_\_\_\_\_  
CONTRACTOR

\_\_\_\_\_  
STATE AGENCY

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067, November 1985), amended LR 15: (February 1989).

APPENDIX B. SAMPLE CERTIFICATION

Sample Certification as required by R.S. 39:1497.  
Ms. Bonita B. Brown, Director  
Office of Contractual Review  
Division of Administration  
P. O. Box 94095  
Baton Rouge, Louisiana 70804-9095  
Dear Ms. Brown:

In reference to the attached contract we do certify the following:

1. Either no employee of our agency is both competent and available to perform the services called for by the proposed contract or the services called for are not the type readily susceptible of being performed by persons who are employed by the state on a continuing basis.

2. The services are not available as a product of a prior or existing professional, personal consulting or social service contract.

3. When applicable, the requirements for consulting or social service contracts, as provided for under R.S. 39:1503-1507, have been complied with.

4. The Department of \_\_\_\_\_ has developed and fully intends to implement a written plan providing for:

A. The assignment of specific Agency personnel to a monitoring and liaison function.

B. The periodic review of interim reports or other indicia of performance to date; and

C. The ultimate use of the final product of the service.

Sincerely,

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985), amended LR 15: (February 1989).

APPENDIX D. AGENCY TRANSMITTAL LETTER

Ms. Bonita B. Brown, Director  
Office of Contractual Review  
Division of Administration  
P. O. Box 94095  
Baton Rouge, Louisiana 70804-9095  
Ms. Brown:

The following contract(s) is/are being submitted to your office this date for review and approval in accordance with R.S. 39:1481 et seq. and the rules and regulations adopted pursuant thereto:

Submitting Agency                      Contractor                      Amount  
Upon approval of said contract(s) please return to:  
(List Return Address)

Your cooperation in this regard is greatly appreciated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985), amended LR 15: (February 1989).

APPENDIX E. QUARTERLY REPORT ON SMALL PURCHASE CONTRACTS

Mrs. Bonita B. Brown, Director  
Office of Contractual Review  
Division of Administration  
P.O. Box 94095  
Baton Rouge, Louisiana 70804-9095  
Ms. Brown:

During the quarter ending \_\_\_\_\_ the following contracts for \$5,000 or less were approved by the Department of \_\_\_\_\_

Contract Date	Contractor	Purpose or Service Rendered	Contract Amount
			Total

cc: Budget Analyst

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985), amended LR 15: (February 1989).

APPENDIX G. SAMPLE AUDITOR'S OPINION FOR CONTRACT COMPLIANCE AUDITS

We have audited the financial statements of the \_\_\_\_\_ Provider's Name \_\_\_\_\_, for the year ended June 30, 19XX, and have issued our report thereon dated September 21, 19XX. Our examination was made in accordance with generally accepted auditing standards and the *Government Auditing Standards* ("Yellow Book") issued by the U.S. General Accounting Office, and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The management of the \_\_\_\_\_ Provider's Name \_\_\_\_\_, is responsible for the Provider's compliance with laws and regulations. In connection with the audit referred to above, we selected and tested transactions and records from the state contract, number \_\_\_\_\_ . The purpose of our testing of transactions and records from that contract was to obtain reasonable assurance that the \_\_\_\_\_ Provider's Name \_\_\_\_\_ had, in all material respects, administered the contract in compliance with laws and regulations, noncompliance with which we believe could have a material effect on the allowability of contract expenditures.

Our testing of transactions and records disclosed instances of noncompliance with those laws and regulations. All instances of noncompliance that we found are identified in the accompanying schedule of findings and questioned costs.

In our opinion, except for those instances of noncompliance referred to in the preceding paragraph, for the year ended June 30, 19XX, the \_\_\_\_\_ Provider's Name \_\_\_\_\_, administered the state contract number \_\_\_\_\_ in compliance, in all material respects, with laws and regulations, noncompliance with which we believe could have a material effect on the allowability of contract expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 11:1067 (November 1985), amended LR 15: (February 1989).

Bonita B. Brown  
Director

**RULE**

**Division of Administration  
Office of Risk Management**

The Office of Risk Management has the responsibility in accordance with the provisions of R.S. 39:1527 et seq., to manage all state insurance except as specifically otherwise provided to the contrary, and in accordance with R.S. 39:1527 et seq., the Office of Risk Management adopted the following rules:

**Title 37  
INSURANCE**

**Part I. Risk Management**

**Subpart 2. Insurance Related Matters**

**Chapter 27. Auditing and Statistics**

**§2701. Auditing and Statistics**

A. The exposure data requested by the Office of Risk Management (ORM) are to be submitted in a timely manner and in the form specified. The exposures may include, but are not limited to: (1) payroll, (2) maritime payroll, (3) number of board and commission members (4) mileage of all licensed vehicles which are state-owned or leased, and all mileage on personal vehicles driven in the course and scope of state employment, (5) number of licensed vehicles, (6) acquisition or appraised value of property including but not limited to buildings, improvements and inventory (includes contents, all equipment including mobile equipment and watercraft 26-feet and under), and boiler and machinery, (7) medical malpractice exposures including but not limited to patient days, clinic visits, emergency room visits, number of residents/interns, and miscellaneous categories, (8) number of employees, and miscellaneous or special classes not falling within these definitions as required.

**Chapter 31. Reporting of Claims**

**§3101. Reporting of Property Damage Claims**

- A. - G. . . .
- H. Repeal

**§3103. Reporting of Boiler and Machinery Claims**

- A. - H. . . .
- I. Repeal

**§3105. Reporting of Comprehensive General Liability Claims**

- A. - H. . . .
- I. Repeal

**§3107. Reporting of Worker's Compensation and Maritime Claims**

- A. - H. . . .
- I. Repeal

**§3109. Reporting of State Automobile Liability and Physical Damage Claims**

- A. - I. . . .
- J. Repeal

**§3111. Reporting of Aviation Claims**

- A. - F. . . .
- G. Repeal

**§3113. Reporting of Wet Marine Claims**

- A. - G. . . .
- H. Repeal

**§3115. Reporting of Bond and Crime Claims**

- A. - E. . . .
- F. Repeal

**§3117. Reporting of Medical Malpractice Liability Claims**

A. Prior to July 1, 1988, the State of Louisiana provided medical malpractice coverage in accordance with the provision of R.S. 40:1299.39 which details coverage and liability provisions. Effective July 1, 1988, the State of Louisiana became self-insured for medical malpractice. Medical malpractice coverage is extended to state health care facilities and individuals acting in a professional capacity in providing health care services by or on behalf of the state, including medical, surgical, dental, or nursery treatment of patients.

B. Coverage excludes the following:

1. premises liability;
2. bodily injury to employees arising out of employment by the insured;
3. all obligations under workers' compensation or similar laws; and
4. bodily injury in handling or maintenance of automobiles, aircraft, watercraft, or transportation of mobile equipment by an auto owned, operated, rented, or loaned to any insured.

C. Claims are to be submitted in writing to the Office of Risk Management, Box 94095, Baton Rouge, LA 70804-9095.

D. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

E. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

F. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Medical Malpractice Claim Unit for further handling.

G. Any objects and/or products which may have caused, contributed to or which are suspected of causing an accident are to be retained and preserved as evidence.

H. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

**§3119. Reporting of Road and Bridge Hazard Claims (Department of Transportation and Development)**

A. The state of Louisiana provides road and bridge hazard liability coverage for bodily injury and property damage claims resulting from the establishment, design, construction, existence, ownership, maintenance, use, extension, improvement, repair, or regulation of any state bridge, tunnel, dam, street, road, highway, or expressway for which the agency could be held legally liable.

B. All road and bridge hazard claims are to be submitted in writing to the Office of Risk Management on an Accord CGL form. Accord CGL forms can be obtained from the Office of Risk Management's Road and Bridge Hazard Claims Unit.

C. Claims are to be submitted in writing to the Office of Risk Management, Box 94095, Baton Rouge, LA 70804-9095.

D. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

E. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

F. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

G. Any objects and/or products which may have caused,

contributed to or which are suspected of causing an accident are to be retained and preserved as evidence.

H. If a loss or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

I. It would be the responsibility of the District Office of the Department of Transportation and Development to verify the following:

1. that the alleged accident occurred on a state-maintained highway/road;
2. existence of the damage;
3. whether the state had knowledge of the defect prior to the alleged accident;
4. the existence of any contract which may exist between the state and any municipality, contractor or other party.

### §3121. Claims Unit Contacts

A. For further information on reporting a claim or requesting information regarding a specific claim, contact the Office of Risk Management in writing at Box 94095, Capitol Station, Baton Rouge, LA 70804-9095 or telephone the appropriate claims unit.

#### Contact the Following Telephone Number(s)

Unit	Contact the Following Telephone Number(s)
B. Claims	
Administrative	(504) 342-8433 or LINC 421-8433
C. Property	(504) 342-8442 or LINC 421-8442
1. Buildings and Improvements, Contents and equipment excluding Boiler and Machinery	
2. Boiler and Machinery	
3. Bonds and Crime	
D. Transportation	(504) 342-8463 or LINC 421-8466
1. Automobile Liability	
2. Automobile Comprehensive and Collision	
3. Aviation	
4. Wet Marine	
E. General Liability	(504) 342-8463 or LINC 421-8463
All Comprehensive General Liability	
F. Medical	
Malpractice	(504) 342-8441 or LINC 421-8441
G. Workers' Compensation	(504) 342-8458 or LINC 421-8458 (504) 342-8451 or LINC 421-8451 (504) 342-8438 or LINC 421-8438
1. Statutory and Employer's Liability	
2. Maritime Compensation	
H. Road and Bridge Hazards	(504) 342-8459 or LINC 421-8459

All Road and Bridge Hazards

### Chapter 32. Risk Analysis and Loss Prevention

#### §3201. Risk Analysis and Loss Prevention

B. 3. Inspection Program - A program to maintain a safe environment and control unsafe acts and/or conditions by regular and periodic facility equipment and roadway inspections.

9. Record Keeping - Records to establish a procedure for the uniform development and maintenance of loss prevention and control documents to be retained for one year. This will include inspection reports, accident investigation reports, minutes of safety meetings, training records, boiler and machinery maintenance records, roadway hazard inspection reports, and medical malpractice records.

J. Douglas Higley  
Director

## RULE

### Department of Health and Hospitals Board of Examiners in Dietetics and Nutrition

The Louisiana Board of Examiners in Dietetics and Nutrition, in order to comply with a ruling from the Commission on Dietetic Registration of the American Dietetic Association, amends Section 103 (B) of the existing rules and regulations to read:

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXIX. Registered Dietitians

#### Chapter 1. General Information

#### §103. Qualifications for Licensure

A. ...

B. Professional Experience

1. An applicant for licensure shall submit to the board evidence of having successfully completed a planned continuous supervised practice component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian or a licensed dietitian/nutritionist. The experience must be completed in the United States or its territories. Supervised dietetic practice approved by the American Dietetic Association will be accepted in lieu of the board-approved plan.

2. A board pre-approved planned program of professional experience may constitute that experience as defined in this Section. The guidelines for qualifying experience and verification prescribed by the board must be followed and may be obtained from the board.

AUTHORITY NOTE: R.S. 37:3081-3093; R.S. 36:259 (Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984); repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14: (July 1988), amended LR 15: (February 1989).

Suzanne L. Pevey  
Executive Secretary

## RULE

### Department of Health and Hospitals Board of Psychologists

The following rule is to clarify §303 and to add §303.E. to the Louisiana Administrative Code, Volume 3.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXIII. Psychologists

#### Chapter 3. Training and Credentials

#### §303. Doctoral Programs in Psychology

A. A graduate of a doctoral program that is listed by the American Association of State Psychology Boards and the National Register in *Designated Doctoral Programs in Psychology* is recognized as holding a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology.

B. A graduate of a doctoral program that is accredited by the American Psychological Association is recognized as holding a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology. The criteria for accreditation serve as a model for professional psychology training.

C. A graduate of a doctoral program that is neither listed in *Designated Doctoral Programs in Psychology* nor accredited by the American Psychological Association must meet criteria 1 through 11 below.

D. All graduates of all programs, regardless of designation status in A or B above, must meet criterion 10 and 11 below.

1. Training in professional psychology is doctoral training offered in a regionally accredited institution of higher education.

2. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

3. The psychology program must stand as a recognizable, coherent organizational entity within the institution.

4. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

5. The program must be an integrated, organized sequence of study.

6. There must be an identifiable psychology faculty and a psychologist responsible for the program.

7. The program must have an identifiable body of students who are matriculated in that program for a degree.

8. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology.

9. The program shall be an internal degree program (as opposed to an external degree program) unless it is either designated by the American Association of State Psychology Boards and the National Register or it is accredited by the American Psychological Association.

10. The doctoral program shall involve at least one continuous academic year of full-time residency on the campus of the institution at which the degree is granted.

11. The curriculum shall encompass a minimum of three academic years of full-time graduate study. In addition to instruction in scientific and professional ethics and standards, research design and methodology, and statistics and psychometrics, the core program shall require each student to demonstrate competence in each of the following substantive content areas. This typically will be met by including a minimum of three or more graduate semester hours (five or more graduate quarter hours) in each of the four substantive content areas. Graduates who cannot document competence in all substantive content areas (a. - d. below) may demonstrate competence by taking additional graduate course work or comprehensive examination not to exceed one substantive content area.

a. Biological bases of behavior: Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

b. Cognitive-affective bases of behavior: Learning, thinking, motivation, emotion.

c. Social bases of behavior: Social psychology, group processes, organizational and systems theory.

d. Individual differences: Personality theory, human development, abnormal psychology.

In addition, all professional doctoral programs in psychology will include course requirements in specialty areas.

E. Graduates of foreign programs will be evaluated according to the following:

1. Graduates of foreign programs must meet the "substantial equivalent" of criteria D. 1 - 11 above. "Substantial equivalent" does not apply to graduates from colleges, universities, or professional schools in the United States, Canada, or any jurisdiction under the American Association of State Psychology Boards. The board may "assess" a foreign applicant to recover expenses incurred in reviewing unusual credentials.

2. Applicants for licensure whose applications are based on graduation from foreign universities shall provide the board with such documents and evidence to establish that their formal education is equivalent to a doctoral degree in psychology granted by a United States university that is regionally accredited. The applicant shall provide the board with the following:

a. an original diploma or other certificate of graduation, which will be returned, and a photostatic copy of such a document, which shall be retained;

b. a transcript or comparable document of all course work completed;

c. a certified translation of all documents submitted in a language other than English;

d. satisfactory evidence of supervised experience;

e. evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the board may require an applicant to file a copy of the dissertation itself; and

f. a statement prepared by the applicant based on the documents referred to in this section, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.

Greg Gormanous, Ph.D.  
Chair

## RULE

### Department of Health and Hospitals Board of Psychologists

The following rule is to add Chapter 19, §1901 to the Louisiana Administrative Code, Volume 3.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXIII. Psychologists

#### Chapter 19. Public Information

##### §1903. Public Display of Board's Address

There shall at all times be prominently displayed in the place(s) of business of each licensee regulated under this law the official sign provided by the board containing the name, mailing address, and telephone number of the board. Any reproduction displayed in lieu of the above is unauthorized by the board.

The official sign will read as follows:

LOUISIANA STATE BOARD OF  
EXAMINERS OF PSYCHOLOGISTS

Be it known that  
The Louisiana State Board of Examiners of Psychologists  
receives questions regarding  
the practice of psychology.  
For assistance please contact

LOUISIANA STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS  
11853 Bricksome, Suite B  
Baton Rouge, Louisiana 70816  
504/293-2238

Greg Gormanous, Ph.D.  
Chair

**RULE**

**Department of Health and Hospitals  
Board of Psychologists**

The following rule adds Chapter 19, §1901 to the Louisiana Administrative Code, Volume 3.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part LXIII. Psychologists**

**Chapter 19. Public Information  
§1901. Public Display of License**

The license of the psychologist shall be publicly displayed in the office where services are offered. When a psychologist works in two or more settings, the license should be publicly displayed in the primary office location.

Greg Gormanous, Ph.D.  
Chair

**RULE**

**Department of Health and Hospitals  
Office of Public Health**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has adopted regulations to implement Act 626 of the 1988 Regular Session of the 1988 Louisiana Legislature, Parish Lead Poisoning Prevention and Treatment Programs, as follows:  
R.S. 40:1299.20 A. (2)

The lead poisoning control director of each parish shall be the health officer of that parish, who is the medical director of the parish health unit. In the absence of a medical director, the parish health unit public health nursing supervisor shall be the lead poisoning control director.  
R.S. 40:1299.21

*Lead Poisoning* in children under six years of age is defined as:

1. acute symptomatic illness consisting of lead colic with or without lead encephalopathy, or
2. chronic symptomatic illness consisting of the signs and symptoms of chronic plumbism, including, but not limited to

anemia, nephropathy, neuropathy, loss of developmental skills, recurrent lead colic and/or recurrent lead encephalopathy, or

3. a confirmed concentration of lead in whole blood of 25 micrograms per deciliter or greater, with or without a concomitant erythrocyte protoporphyrin level in whole blood of 35 micrograms per deciliter or greater.

*Previously reported* is defined as any case of lead poisoning which has been diagnosed by a physician, licensed to practice medicine in Louisiana, using the definition of lead poisoning given above, which has been reported to the state health officer at any time by the attending physician, the local health officer, the parish health unit public health nursing supervisor, the parish health unit sanitarian supervisor, a public health nurse or public health sanitarian, a hospital or other authorized agency or person.

Cases must be reported using the confidential disease case report form, number CDC 43.11 (Revised 2/82). Reports will be sent to the parish health unit or to the Epidemiology Section, Louisiana Office of Public Health, 325 Loyola Avenue, Room 615, Box 60630, New Orleans, Louisiana 70160. Forms may be obtained at any parish health unit or from the Epidemiology Section Office, telephone number (504) 568-5005 or LINC 621-5005.

Form number CDC 43.11 (Revised 2/82) is reproduced below:

**CONFIDENTIAL DISEASE CASE REPORT**

DISEASE		DATE OF REPORT	DATE OF ONSET	
PATIENT'S NAME		RACE/ETHNIC*	SEX	DATE OF BIRTH
ADDRESS	STREET NO. (R. F. D. if rural)		APT. NO.	
	CITY OR COUNTY			
NAME OF HEAD OF HOUSEHOLD				
REMARKS				
NAME OF REPORTING PHYSICIAN, HOSPITAL, OR OTHER AUTHORIZED PERSON				
OFFICE ADDRESS				
* CONFIDENTIAL REPORT OF SEXUALLY TRANSMITTED DISEASE				
*Wh = White, not of Hispanic origin; Bl = Black, not of Hispanic origin; Hisp = Hispanic; Pac Is/Asl = Pacific Islander or Asian; Am Ind/Al Na = American Indian or Alaskan Native.				
CDC 43.11 (r. 4.2430) Rev. 2/82 <input type="checkbox"/> Check here if additional cards are needed.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, R.S. 49:951 and R.S. 40:1299 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, LR (February 1989).

David L. Ramsey  
Secretary

**RULE**

**Department of Health and Hospitals  
Office of Public Health**

The Department of Health and Hospitals, Office of Public Health amended the Definitions and Standards, the General Requirements and Pasteurization requirements for frozen desserts as prescribed by Chapter VIII, Section 8:001, Section 8:013 (b) and Section 8:015 of the Sanitary Code of the State of Louisiana.



The current requirements will be changed as follows:

#### 8:001 DEFINITIONS AND STANDARDS OF IDENTITY NON-DAIRY FROZEN DESSERTS

(A) Non-Dairy Frozen Dessert is the food which is prepared by freezing, while stirring, a non-dairy frozen dessert mix composed of one or more of the optional characterizing ingredients specified in Paragraph (B) of this Section, sweetened with one or more of the optional sweetening ingredients specified in Paragraph (C) of this Section. The non-dairy product, with or without water added, may be seasoned with salt. One or more of the ingredients specified in Paragraph (D) may be used. Pasteurization is not required. The optional caseinates specified in Paragraph (D) (i) are deemed not to be dairy products.

(B) The optional flavoring ingredients referred to in Paragraph (A) are natural and artificial flavorings and characterizing food ingredients.

(C) The optional sweetening ingredients referred to in Paragraph (A) of this Section are: Sugar (sucrose), dextrose, invert sugar (paste or syrup), glucose syrup, dried glucose syrup, corn sweetener, dried corn sweetener, malt syrup, malt extract, dried malt syrup, dried malt extract, maltose syrup and dried maltose syrup.

(D) Other optional ingredients referred to in Paragraph (A) of this Section are:

(i) Casein prepared by precipitation with gums, ammonium caseinate, caseinate, calcium caseinate, potassium caseinate or sodium caseinate.

(ii) Hydrogenated and partially hydrogenated vegetable oil.

(iii) Dipotassium phosphate.

(iv) Coloring, including artificial coloring.

(v) Monoglycerides, diglycerides or polysorbates.

(vi) Thickening ingredients such as agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl, methyl cellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, propylene glycol alginate, pectin, psyllium seed husk, sodium carboxymethylcellulose.

(E) Such non-dairy frozen desserts are deemed "processed" when manufactured as a dry powdered mix.

(F) Dry Non-Dairy Frozen Dessert Mixes shall be reconstituted with potable tap water in a sanitary manner and shall be rapidly cooled to a temperature of 45°F or below within four hours of reconstitution.

(G) The product shall meet the bacterial standards prescribed in Section 8:016 of this code.

(H) The name of the food is Non-Dairy Frozen Dessert.

(I) The fact that the product offered for sale is a non-dairy frozen dessert shall be conspicuously displayed on or near the dispensing freezer in a manner and print that is easily readable by the consumer.

#### 8:013. GENERAL REQUIREMENTS

The processing, handling, and distribution of milk and milk products in the manufacture of frozen desserts shall conform to the minimum requirements for Grade A milk as prescribed in Chapter VII of the Louisiana State Sanitary Code. All milk and milk products shall be of quality approved by the state health officer. Counter freezer operations which freeze mixes and sell only at retail on the premises shall comply with the following requirements:

(a) Only mixes that have been processed and packaged in an approved plant shall be allowed;

(b) Counter freezers used for freezing mixes which contain milk solids, milk fat, or vegetable fat shall be located only in premises which meet the minimum requirements for eating and drinking establishments as prescribed in Chapter XXIII of this Code;

(c) The frozen dessert operator shall be a food handler other than the cashier of a grocery or convenience store.

8:015. PASTEURIZATION: All frozen dessert mixes except Non-Dairy Frozen Desserts shall be pasteurized. The term "pasteurized" means the process of heating every particle of the mix to at least 155°F, and holding at such temperature for at least 30 minutes in approved and properly operated equipment; provided, that nothing contained in this definition shall be construed as disbaring any other process demonstrated to be equally efficient and approved by the state health officer.

David L. Ramsey  
Secretary

### RULE

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

The Department of Health and Hospitals, Office of Public Health changes Chapter XXIII.A to read as follows:

#### CHAPTER XXIII TEMPORARY FOOD SERVICE

23A:001 DEFINITIONS: Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

FESTIVALS or FAIRS shall mean a gathering of persons for an event such as a bazaar, carnival, circus, public exhibition or other similar gathering for the purpose of celebration, competition, entertainment, distribution or sale of foods or goods, exhibition, religious activity, or other such purposes, which will operate for only a temporary period in any one location.

RECOGNIZED LOUISIANA FESTIVAL OR FAIR - For purposes of this regulation, the words "Recognized Louisiana Festival or Fair" shall mean those that are officially acknowledged, in writing, as recognized by a state, parish, or municipal governmental body or by the Louisiana Association of Fairs or Festivals.

MULTI-SERVICE ARTICLES shall mean reusable articles for the service of foods made of smooth, impervious material and approved by the state health officer.

SINGLE-SERVICE ARTICLES shall mean cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and small articles intended for one-time, one-person use and then discarded.

TEMPORARY FOOD SERVICE shall mean a food service that operates for a period of time of not more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

POTENTIALLY HAZARDOUS FOOD means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredi-

ents, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxicogenic microorganisms.

**ORGANIZER/PROMOTER/CHAIRMAN** means that person responsible for managing the festival or fair. In the event of his/her unavailability, the assistant shall be deemed the responsible person.

**INDIVIDUAL FOOD OPERATOR/RESPONSIBLE PERSON** means the person responsible for operating the individual food service concession.

**FOOD VENDOR/FOOD CONCESSIONAIRE** shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed at any time in a room in which food or drink is prepared or served.

**INTERPRETATION:** This chapter shall be interpreted and applied to promote its underlying purpose of protecting the public health.

#### PART 1. TEMPORARY FOOD SERVICE REGULATIONS

**23A:002 GENERAL:** The state health officer or his/her duly authorized representative may impose requirements in addition to those set forth below to protect against health hazards related to the operation of the temporary food service, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of the Code, in accordance with Administrative Procedures. Nothing in this Chapter shall be construed to abridge the constitutional right of the people to peaceably assemble.

##### 23A:003 PERMITS

A. A temporary food service permit is not required for those fairs or festivals expressly exempted from regulation by this Code by R.S. 40:4.1 thru R.S. 40:4.6 inclusive.

B. When an organizer, promoter, or chairman of an exempted fair or festival makes written request for Office of Public Health inspections and permits and pays applicable fees, he or she shall comply with 23A:003-1 of this Code.

C. All fairs and festivals not exempted by 23A:003A, shall not be allowed to operate until applying for, paying applicable fees, and receiving a valid permit to operate from the state health officer or his/her duly authorized representative.

23A:003-1. Written application for permit (LHS-31A), signed agreement, and supplemental application (obtainable from parish health unit) should be received by the state health officer or his/her duly authorized representative at least 30 days in advance of the proposed gathering.

A permit to operate shall be required of the festival, fair or other special event organizer or promoter and must be obtained from the local parish health unit. The following shall be included with the application for permit:

- A. name of special event;
- B. location of special event;
- C. permanent mailing address;
- D. telephone number;
- E. name of property owner;
- F. opening date;
- G. closing date;
- H. daily hours of operation;
- I. size of site (square feet);
- J. anticipated maximum attendance at any one time;
- K. name of event organizer or promoter;
- L. home address of organizer or promoter;

M. home phone number of organizer or promoter;  
N. business address and phone number of organizer or promoter;

O. list of each individual food operator/responsible person, including their home address, home phone number, business phone, and food items to be sold;

P. outline map showing the locations of all proposed and existing:

1. toilets;
2. lavatory facilities;
3. water supply sources (including storage tanks) and distribution system;
4. food service areas (including diagram and description of the types of booths, tents, etc. to be used for the preparation of or dispensing of any food or beverage products);
5. garbage and refuse storage and disposal areas;
6. special event command post;
7. location of sewage disposal;

Q. the following optional information is recommended to be included with the application for permit (on the outline map):

1. areas of assemblage;
2. camping areas (if any);
3. entrance and exits to public roadways;
4. emergency ingress and egress roads;
5. emergency medical command post;
6. local enforcement command post;
7. parking facilities;
8. written plan for dust control;
9. written plan for emergency situations (e.g. inclement weather, etc.)

A permit to operate shall also be required of each individual food operator/responsible person operating a temporary food service unit and must be obtained from the local parish health unit. Permits are not transferrable, shall be issued for each food and/or beverage stand and shall be posted in the temporary food service unit/booth.

**23A:004 ICE/WET STORAGE:** Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of this Code. The ice shall be drained and held in a way that protects it from contamination. **ICE SCOOPS MUST BE USED.** (i.e. ice used for food storage shall not be used for human consumption). The use of dry ice and/or frozen gel packs are recommended for cold storage. Storage of packaged food in contact with water or undrained ice is prohibited. Sandwiches shall not be stored in direct contact with ice.

**23A:004-1 EQUIPMENT:** Equipment and food contact surfaces must be of good construction, in good repair, clean, and located and installed in a way that prevents food contamination.

##### 23A:005 FOOD PROTECTION

**23A:005-1 SOURCE:** Food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws and regulations related to food and food labeling.

The use of canned food not prepared in a food processing establishment is prohibited.

The sale of potentially hazardous home prepared food is prohibited. Food prepared away from the site must be prepared in an approved facility, handled, transported, stored, and served in accordance with applicable provisions of the Sanitary Code as described in Chapter XXIII.

**23A:005-2 TEMPERATURE CONTROL:** All potentially

hazardous (and readily perishable) foods shall be maintained at a temperature of 45°F or below, or at a temperature of 140° F or above at all times, including during transportation if prepared off site and during storage. A thermometer should be provided in all perishable food storage facilities.

**23A:005-3 CROSS CONTAMINATION:** Cooked food shall be protected from contamination by raw foods or items coming in contact with raw foods. The re-use of containers made of paper, wood, wax or plastic coated cardboard is prohibited. Containers made of glass, metal, or hard plastic may be re-used only after they are properly washed, rinsed, and sanitized.

#### **23A:006 FOOD AND FOOD SERVICE SUPPLIES**

**23A:006-1 STORAGE:** Food offered for human consumption shall not be openly displayed, and must be adequately protected from dust, flies, and other vermin at all times. Additionally, food and food service supplies must be stored off the ground/floor.

**23A:006-2 DISPLAY AND SERVICE:** Food and food service supplies shall be protected from contamination by consumers and other contaminating agents during display and service.

Sugar, salt, pepper and other condiments must be served in approved containers (i.e. shakers, squeeze bottles, or self-dispensing pumps) or individual packages. The use of bulk or open containers is prohibited. Eating utensils and items such as straws and toothpicks, must be dispensed by the food vendor or individually wrapped or dispensed from self-dispensing containers.

All beverages must be dispensed/served from a closed container, with a spigot, or from the original container.

All milk dispensed must be served in individual containers or from approved bulk dispensers. Only pasteurized milk or cream, from approved sources, shall be used or served.

**23A:007 PERSONAL HYGIENE:** Each person working in a food booth must be in good health, free of any communicable disease, have no open sores, in clean clothing, and have their hair restrained (i.e. caps, sunvisors, etc.). Food handlers shall thoroughly wash their hands with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking or using the toilet. Smoking in food booths and food preparation areas is prohibited.

#### **23A:008 FOOD STAND/BOOTH CONSTRUCTION**

**23A:008-1 INDOOR BOOTHS** must be constructed with tables, counters, and/or walls on all sides to control patron access. Food service must be from the rear area of the booth or otherwise dispensed to prevent contamination by customers' coughing and sneezing.

**23A:008-2 OUTDOOR BOOTHS** must be constructed to include a roof made of wood, canvas, or other material that protects the interior of the booth from the weather and be enclosed by counters/walls to control patrons' access.

It is recommended that the booth be enclosed on three sides with the fourth, front side encompassing the service area, so constructed as to minimize the entrance of dust, flies and vermin; the use of screen, mosquito netting, or polyurethane for this purpose is acceptable; counter-service openings shall be minimal.

Additional protective covering must be provided to completely enclose outer openings in the event of rain, dust storms or other inclement weather.

**23A:008-3 FLOORS** shall be kept clean, in good repair and level, so as not to allow the pooling of water. It is recom-

mended that floors be constructed of concrete, asphalt, or similar material. Dirt or gravel, when graded to drain, may be used, however, clean removable pallets, duckboards, plywood, or other similar material is recommended.

**23A:008-4 BARBECUE PLACES:** Places where barbecue is cooked must be provided with a cover impenetrable by rain or barbecue pits must be provided with covers. All food storage and handling must be as per section 23A:006.

**23A:008-5 SEAFOOD BOILS:** Seafood boils are permissible as long as the boiling areas are provided with a cover impenetrable to rain or a covered boiling apparatus. Care must be given to avoid cross contamination and maintain proper temperature control.

**23A:008-6 EXCEPTION:** Pre-packaged, pre-wrapped and properly labeled (according to the provisions of Louisiana's Food, Drug and Cosmetic Law) foods may be offered for sale in open type food stands, providing such food is properly stored and handled as described in Chapter XXIII.

**23A:009 SANITIZING OF UTENSILS AND EQUIPMENT:** All utensils and equipment must be washed, rinsed, and sanitized at least daily, or when needed, in order to prevent contamination as described in Chapter XXIII. Soft service frozen dessert machines are permissible as long as facilities are provided on site for cleaning and sanitizing. Such machines must be broken down, cleaned, and sanitized daily.

All glasses, cups, spoons and other utensils which come in contact with the mouth or lips must be properly cleaned and sanitized after each use; single service utensils can be used only once.

**23A:010 WATER:** Enough potable water shall be available for food preparation, for cleaning and sanitizing utensils and equipment, and for hand washing. A heating facility capable of producing enough hot water for these purposes shall be required.

Water supply lines and appurtenances shall be of good construction, in good repair and properly maintained. Adequate protection, including vacuum breakers, shall be provided in order to protect the public water supply. Water faucets or drinking fountains shall be of approved type, conveniently accessible and well identified.

Potable (drinking) water requirements are contained in Chapter XII of this Code.

**23A:011 SEWAGE (TOILETS AND WASTE):** Approved facilities shall be provided and properly maintained for the disposal or collection, treatment, and disposal of all sewage and liquid waste, as provided in Chapter XIII of this Code.

No person shall discharge, or allow to be discharged, the contents or effluent from any water closet, sink, lavatory, bath tub, shower drain, kitchen fixture, laundry fixture, vault, privy, leaching pit, chemical toilet, or septic tank, directly or indirectly, into any street, gutter, ditch, water course, body of water, or onto the surface of the ground. Toilets shall be provided at the rate of one per 200 persons or fractional part thereof.

**23A:012 HAND WASHING:** When water under pressure is available, a convenient hand washing facility with hot and cold water, through a mixer faucet shall be provided for employee hand washing in the food preparation, food service, and equipment washing area. Soap and sanitary towels must be provided at the lavatory. Reusable towels for common use are prohibited. When water under pressure is not available at the serving or food dispensing booth, two buckets of water shall be provided for each concessionaire. One bucket containing potable water must

be provided to remove extraneous materials or excess food particles; a second bucket containing a sanitizing solution (100 ppm chlorine, or 25 ppm iodine, or 200 ppm quaternary ammonia) must be provided as a hand dip well.

**23A:013 REFUSE (GARBAGE AND TRASH):** Refuse means all combustible or non-combustible, putrescible or non-putrescible solid or liquid wastes. The storage, collection, transportation, and disposal of refuse shall be so conducted as to prevent odor, insect, rodent, and other nuisance conditions.

One 50-gallon refuse container shall be provided for each 100 persons at peak anticipated attendance. Additionally, each food vendor must have a covered container for booth use. All refuse shall be collected at least once each day of the assembly (or more often, if necessary), and handled, transported and disposed of in an approved manner, in order to insure that no nuisance is created.

Grease containers will be provided and ALL used grease must be deposited in these containers. IT MUST NOT BE Poured DOWN ANY DRAIN.

The grounds and immediate surrounding properties shall be cleaned of refuse as soon as possible following the assembly, within and not exceeding 24 hours.

**23A:014 MISCELLANEOUS**

**23A:014-1 GROUNDS:** Each fair, festival and/or temporary food service site shall be well drained and so arranged to provide sufficient space for people assembled, vehicles, sanitary facilities, and equipment.

All tents, cars, trailers, food stands and other appurtenances connected with said activity shall at all times be kept in a clean and sanitary condition; and the grounds on which located shall be kept and, when vacated, left in a clean and sanitary condition.

The grounds shall be maintained free from dust wherever possible, accumulations of refuse, and other health and safety hazards.

**23A:014-2 VECTOR CONTROL:** Insects, rodents and other vermin shall be controlled by proper sanitary practices, extermination, or other safe and effective control methods.

**23A:015 INSPECTIONS/VIOLATIONS/CLOSURE:** All food operations are subject to at least daily inspections by representatives of the Department of Health and Hospitals.

Critical violations (i.e. temperature control, food handling, food protection, sewage and water, etc.) noted at the time of inspection are expected to be corrected immediately. Non-critical violations must be corrected as soon as possible. Failure to make the necessary corrections or repeated violations will result in suspension of permit or seizure of food stuffs and/or further legal action.

David L. Ramsey  
Secretary

**RULE**

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

The Bureau of Medical Services Financing is adopting the following rule which was published as a Notice of Intent in the *Louisiana Register*, Vol. 14, No. 12, dated December 20, 1988.

A disregard of the first \$65 and one-half of the remaining amount of the gross monthly income derived from an income-producing activity, prescribed by the physician's plan of care, shall be deducted from the total gross monthly income to be applied toward the recipient's liability for payment of long term care facility services.

David L. Ramsey  
Secretary

**RULE**

**Department of Health and Hospitals  
Office Of The Secretary**

The Department of Health and Hospitals, Office of the Secretary, is adopting, effective April 1, 1989, the following rule to be contained in LAC Part 1, Chapter 21—Fee Schedule and Billing Policy for DHH Provided Services.

This rule will replace LAC Part III, Chapter 7 and LAC Part XI, Chapter 13, therefore, the department is repealing these two chapters.

**Chapter 21. Sliding Fee Policy And Schedule For Services/Treatment In DHH Offices And Facilities**

**§2101. Purpose, Scope and Eligibility**

A. The Department of Health and Hospitals (DHH) Sliding Fee Schedule will standardize the method by which DHH will charge for services/treatment through its facilities or programs, by using the federal poverty income guidelines as a basis for determining whether a person or family is financially eligible for assistance or service.

B. Any bona fide resident of the state of Louisiana shall be eligible for services or treatment by any facility owned and operated by the Department of Health and Hospitals of Louisiana. Those persons who are determined not to be indigent shall be billed in accordance with this policy for any treatment or services received. However, in no event shall emergency treatment be denied to anyone. Persons seeking treatment shall furnish all information requested by the facility or program office providing the service. Eligibility established in one office may be used for service/treatment in any facility or program throughout the department.

C. The DHH Sliding Fee Schedule will apply to all offices of DHH which provide services for which there is a charge to the patient/recipient/client except as expressly prohibited by federal or state statutes, rules or regulations.

D. This policy will apply, but not be limited to the following DHH programs and services:

1. inpatient and outpatient services provided by state general hospitals;
2. outpatient services in the Office of Public Health and the Office of Mental Health, Mental Retardation, and Prevention and Recovery from Alcohol and Drug Abuse;
3. inpatient programs operated by the Office of Mental Health, Mental Retardation, and Prevention and Recovery from Alcohol and Drug Abuse;
4. residential facilities and out-of-home care.

E. Nothing in this policy is intended to be in conflict with federal or state law, rule or policy pertaining to the provision of services to the indigent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 15: (February 1989).

### §2103. Definitions

The following definitions shall apply for the sliding fee schedule for patient billing:

#### A. Indigent

As used herein shall mean any client, patient, or recipient whose family unit size and gross income is equal or less than the federal poverty income guidelines for that size family unit.

#### B. Gross Income

As used herein means gross sum of income derived from salary, Social Security benefits, Veterans administration benefits, pension, rent, resources, royalty, commission, interest, self-employment or any other source which is applicable to the family unit. (This excludes earned income of minors).

#### C. Resources

As used herein means accounts in banks, credit unions, and/or saving and loans institutions, stocks, mutual funds, money certificates, and/or bonds.

#### D. Dependent

As used herein means all persons dependent on the household income as accepted by the Internal Revenue Service (IRS) for federal income tax purposes. (See Appendix A for IRS definition).

#### E. Family

For purposes of establishing fees under this policy, the basic family unit is defined as consisting of one or more adults and children, if any, related by blood, marriage, or adoption and living together as one economic unit.

#### F. Responsible Persons

As used herein means the client's parents or guardians if the client is under the age of 18, unless someone else claims the client as a dependent, in which case it is that person. If the client is over 18, he is responsible for his contribution based on his gross family income and allowed deductions, unless he is claimed as a dependent, in which case the claimant becomes responsible for the fee toward the cost of care based on the claimant's family income.

#### G. DHH Residential Facilities and Out-Of-Home Placements

State mental hospitals and schools for the mentally retarded or developmentally disabled, in-patient treatment facilities, and out-of-home placement programs operated or partially funded by the Office of Mental Health/Mental Retardation/Prevention and Recovery from Alcohol and Drug Abuse.

#### H. Third Party Payor

As used herein, shall mean any party other than the service recipient and/or family unit and the state who is or may be legally liable for payment of incurred liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 15: (February 1989).

### §2105. Regulations

A. Billing for services rendered shall be made to the client/recipient/patient or responsible party in accordance with this policy.

B. A person responsible for the payment of charges for

services rendered who refuses or fails to supply the information necessary for an accurate determination of the required rate of billing for services rendered shall be presumed to be able to pay the full charge for services rendered and shall be billed accordingly. Any person who is potentially eligible for medical assistance benefits from any federal or state program who cannot or refuses to provide evidence of application for and follow through with application for said benefits shall be presumed to be able to pay the full charge for services rendered and shall be billed accordingly, or in the case of voluntary, nonemergent services, may be refused DHH assistance, dependent upon individual program policies.

C. Eligibility will be good for one year. Periodic checks may be made with the responsible person to make charge adjustments as necessary. The responsible person shall be advised of his responsibility to report any change in the family unit income, employment, composition, etc.

D. If the responsible person refuses to assign insurance benefits to the treating facility to cover the charges for services/treatment received, the responsible person will be presumed to be able to pay full charges for the services/treatment and shall be billed accordingly.

E. Wherever applicable, billing for services rendered shall be sent monthly to the client or responsible person in accordance with the sliding fee schedule. When a recipient/client becomes delinquent in his account, the delinquency shall be handled in accordance with DHH Policy #4300-76, Collection Procedures for Ineligible Patient Bills.

F. All insurance companies or any other third party payor which the responsible person claims has issued a policy or contract covering the charges for treatment/services, or who is otherwise legally responsible for payment, shall be billed the full charge for services rendered. Billings shall be made directly to the insurer or other third party payor by the treating facility after securing execution of the necessary forms, (including an assignment of benefits to the treating facility) by the responsible person. The responsible person pays the difference between the amount the insurance pays and the initial liability if, and only if insurance pays less than the responsible person's initial liability. In the case where Medicare is the third party payor, charges cannot exceed the amount of coinsurance or deductible allowed by Medicare.

G. For liability cases only, upon receipt of a letter from an attorney or an insurance company or other third party payor requesting a patient's records, the attorney or company shall be sent, within 30 days from receipt, a bill for charges applicable to that patient. At the same time as the mailing of that bill, a copy of that patient's file pertaining to charges for treatment/services and their collection, as well as a copy of the requesting letter, shall be forwarded to the Division of Reimbursements, Central Collection Bureau, Box 3776, Baton Rouge, Louisiana 70821. Patient's records are not to be released until a properly executed consent by the patient, parent or guardian (as applicable) is received and the fee for copies of records is paid in advance, except to any office of the Department of Health and Hospitals for the purpose of facilitating the meeting of its responsibilities.

H. Whenever a service is requested, in addition to an eligibility card, one of the following shall be checked to verify identity:

1. Medicaid card;
2. a valid driver's license;
3. voter's registration card;

4. a recent utility bill;
5. birth certificate;
6. picture identification.

I. The secretary of DHH or his designee will be authorized to approve exceptions to the sliding fee schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 15: February 1989).

**§2107. Sliding Fee Schedule**

A. Each office shall develop internal management procedures for establishing liability for payment, and for billing. A copy of these procedures shall be housed in the Office of the Secretary, Planning Section.

B. Any individual or family unit who is "indigent" as defined herewith shall be eligible for treatment/services in any state facility or through program office at no cost to the family unit.

C. Any family unit whose gross monthly income exceeds published federal poverty income guidelines shall pay for treatment/service in accordance with the sliding fee schedule. (See Appendix B).

D. Family income (as declared) shall be determined from the previous three months. Such income may be verified as follows:

1. copy of last income tax return;
2. copy of last two check stubs;
3. copy of last retirement and/or Social Security check;
4. copy of Medicare award letter;
5. copy of award letter on unemployment benefits or last unemployment check.

That income shall then be annualized. (Resources will be added to the annual income and then the total divided by 12.) Department of Labor files should be checked where available.

E. The secretary of DHH shall have the authority to adjust the sliding fee schedule to the same extent that changes in the Federal Poverty Income Guidelines are published annually in the *Federal Register*.

F. When documented medical bills, incurred within the 12 months prior to treatment/service equals to or exceeds 20 percent of the annual gross family unit income, treatment/services shall be provided at no cost to the family unit. The period of eligibility begins at the date at which liability reached the 20 percent figure through the end of the calendar year. In no case shall charges exceed 20 percent of the annual gross family unit income. Except that such patients with third party payors or potential third party payors including Title 19 medically needy program spenddown shall be provided uncompensated medical services for only that portion of their bill for which no third party payor is or may be liable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 15: (February 1989).

**§2109. Regulations For Service and Facilities Other Than State General Hospitals**

**A. Long Term Inpatient Clients**

1. Facilities treating patients who receive Social Security funds shall arrange to have those funds (less a personal needs allowance) paid directly to the treating facility.

2. Upon receipt of the Social Security payment, the treat-

ing facility shall apply those payments to the bill. The excess of those Social Security payments over the charges for treatment shall be deposited into an account maintained by the facility/program on behalf of the patient/client. Upon discharge of the patient/client or upon his demand, the balance of funds remaining in that account shall be paid to the patient/client or the responsible person as provided by law.

3. If payment of Social Security funds directly to the treating facility/program is not made, billing shall be in accordance with this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 15: (February 1989).

**APPENDIX**

*Dependent*—(as defined by the Internal Revenue Service for 1987) A dependent is any person who meets ALL five of these tests:

1. income;
2. support;
3. married dependent;
4. citizenship or residence; and
5. relationship.

These tests are explained below.

**1. Income**

In general, the person must have received less than \$1,900 of gross income. Gross income does not include non-taxable income, such as welfare benefits or nontaxable social security benefits.

Income received by a permanently and totally disabled person for services performed at a sheltered workshop school is generally not included in gross income for purposes of the income test.

**Special Rules for Your Dependent Child**

Even if your child had income of \$1,900 or more, you can claim your child as a dependent if tests 2, 3, and 4 below are met, and;

- a. your child was under 19 at the end of 1987, or
- b. your child was enrolled as a full-time student at a school during any five months of 1987, or
- c. your child took a full-time, on-farm training course during any five months of 1987. (The course had to be given by a school or a state, county, or local government agency).

The school must have a regular teaching staff, a regular course of study, and a regularly enrolled body of students in attendance.

A school includes:

- i. elementary, junior, and senior high schools;
- ii. colleges and universities; and
- iii. technical, trade, and mechanical schools.

However, school does not include on-the-job training courses or correspondence schools.

**2. Support**

In general, you must have given over half of the dependent's support in 1987. The support can be from you or your spouse. Even if you did not give over half of the dependent's support, you will be treated as having given over half of the support if you meet the tests explained below for Children of Divorced or Separated Parents or Dependent Supported by Two or More Taxpayers.

In figuring total support, you must include money the dependent used for his or her own support, even if this money was not taxable (for example, gifts, savings, welfare benefits).

Support includes items such as food, a place to live, clothes, medical and dental care, recreation, and education. In figuring support, use the actual cost of these items. However, the cost of a place to live is figured at its fair rental value.

Do not include in support items such as income and social security taxes, premium for life insurance, or funeral expenses.

Capital items: You must include capital items such as a car or furniture in figuring support, but only if they were actually given to, or bought by, the dependent for his or her use or benefit. Do not include the cost of a capital item for the household or for use by persons other than the dependent.

If you cared for a foster child, see *Publication 501* for special rules that apply.

### Children of Divorced or Separated Parents

The parent who has custody of a child for most of the year (the custodial parent) can generally take the exemption for that child if the child's parents together paid more than half of the child's support. This general rule also applies to parents who did not live together at any time during the last six months of the year. But the parent who does not have custody, or who has the child for the shorter time (the noncustodial parent), may take the exemption if either a or b below applies.

a. The custodial parent signs Form 8332, Release of Claim to Exemption for Child of Divorced or Separated Parents, or similar statement, agreeing not to claim an exemption for the child in 1987, and the noncustodial parent attaches the form, or similar agreement, to his or her 1987 tax return, or

b. A decree of divorce or separate maintenance (or written agreement) that was in effect before 1985 states that the noncustodial parent can take the exemption and he or she gave at least \$600 for the child's support in 1987. The noncustodial parent must check the box on line 6d for pre-1985 agreements. (This rule does not apply if the decree or agreement was modified after 1984 to specify that the noncustodial parent cannot claim the exemption.)

Note: In figuring support, a parent who has remarried may count the support provided by the new spouse.

### Dependent Supported by Two or More Taxpayers

Sometime two or more taxpayers pay more than half of another person's support, but no one alone pays over half of the support. One of the taxpayers may claim the person as a dependent only if the tests for income, married dependent, citizenship or residence, and relationship are met.

In addition, the taxpayer who claims the dependent must:

a. have paid more than 10 percent of the dependent's support, and

b. attach to his or her income tax return a signed Form 2120, Multiple Support Declaration, from every other person who paid more than 10 percent of the support. This form states that the person who signs it will not claim an exemption in 1987 for the person he or she helped to support.

### 3. Married Dependent

The dependent did not file a joint return. However, if neither the dependent nor the dependent's spouse is required to file, but they file a joint return to get a refund of all tax withheld, you may claim him or her if the other four tests are met.

### 4. Citizenship or Residence

The dependent *must have been* a citizen or resident of the United States, a resident of Canada or Mexico, or an alien child adopted by and living the entire year with a U.S. citizen in a foreign country.

### 5. Relationship

The dependent met test a or b below.

a. Was related to you (or your spouse if you are filing a joint return) in one of the following ways:

Child	Stepbrother	Son-in-law
Stepchild	Stepsister	Daughter-in-law
Mother	Stepmother	or, if related
Father	Stepfather	by blood;
Grandparent	Mother-in-law	Uncle
Brother	Father-in-law	Aunt
Sister	Brother-in-law	Nephew
Grandchild	Sister-in-law	Niece

Note: Any relationships that have been established by marriage are not treated as ended by death or divorce.

b. Was any other person who lived in your home as a member of your household for the whole year. A person is not a member of your household if at any time during your tax year the relationship between you and that person violates local law.

The word child includes:

— Your son, daughter, stepson, stepdaughter, or adopted son or daughter.

— A child who lived in your home as a member of your family if placed with you by an authorized placement agency for legal adoption.

— A foster child (any child who lived in your home as a member of your family for the whole year).

### APPENDIX B

#### DHH SLIDING FEE SCHEDULE

No. In Percent Of Charges To Be Paid On Monthly Income Family

	0%	20%	40%	60%	80%	100%
1	0- 480	481- 605	606- 730	731- 855	856- 980	981
2	0- 645	646- 810	811- 975	976-1140	1141-1305	1306
3	0- 810	811-1015	1016-1220	1221-1425	1426-1630	1631
4	0- 970	971-1215	1216-1460	1461-1705	1706-1950	1951
5	0-1135	1136-1420	1421-1705	1706-1990	1991-2275	2276
6	0-1300	1301-1625	1626-1950	1951-2275	2276-2600	2601
7	0-1465	1466-1830	1831-2195	2196-2560	2561-2925	2926
8	0-1630	1631-2035	2036-2440	2441-2845	2846-3250	3251
9	0-1790	1791-2235	2236-2680	2681-3125	3126-3570	3571
10	0-1950	1951-2435	2436-2920	2921-3405	3406-3890	3891
11	0-2115	2116-2640	2641-3165	3166-3690	3691-4215	4216
12	0-2280	2281-2845	2846-3410	3411-3975	3976-4540	4541
13	0-2440	2441-3045	3046-3650	3651-4255	4256-4860	4861
14	0-2605	2606-3250	3251-3895	3896-4540	4541-5185	5186
15	0-2770	2771-3455	3456-4140	4141-4825	4826-5510	5511
16	0-2930	2931-3655	3656-4380	4381-5105	5106-5830	5831

David L. Ramsey  
Secretary

### RULE

#### Department of Public Safety and Corrections Office of State Fire Marshal

#### Title 55

#### PUBLIC SAFETY

#### Part V. Fire Protection

#### Chapter 13. Health Care Facilities; Hospitals

#### §1301. Emergency Generator for Health Care Facilities

A. In addition to the requirements of the Life Safety

Code as set forth in previous regulations, all hospitals, skilled nursing facilities or any other facility utilizing life support systems on a 24-hour day basis shall comply with the following:

1. An approved motor driven generator shall be provided to supply electric current to the emergency system. This generator shall be of sufficient power and kilowattage to insure the illumination of emergency lighting and other facilities;

2. If the source of fuel for the motor generator is gasoline, diesel, kerosene or other fuels that are supplied independent of the public utilities and in sufficient quantity to last 48 hours, a secondary source of fuel will not be necessary.

3. If the fuel be natural gas or other fuel supplied by the public utilities, piped to the power unit, then a secondary source of fuel shall be provided such as gasoline, kerosene, etc;

4. A sufficient amount of secondary fuel shall be maintained to insure the operation of the power plant for at least 48 hours.

B. If the emergency generation system requires a secondary source of fuel, as determined above, the system shall be installed in accordance with the standards of the appropriate edition for new construction as determined by L.A.C. 55:V.303 in the standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines (NFPA 37) or the Flammable and Combustible Liquid Code (NFPA 30).

Carrol L. Herring  
State Fire Marshal

#### **RULE**

### **Department of Public Safety and Corrections Office of State Fire Marshal**

L.A.C. 55:103 B is hereby amended to read as follows:

#### **Title 55 PUBLIC SAFETY Part V. Fire Protection**

### **Chapter 1. Preliminary Provisions**

#### **§103. General Provisions**

A. ...

B. With regard to buildings constructed or remodeled between September 1, 1986 and February 19, 1989, or whose construction was timely completed pursuant to plans submitted to the Office of State Fire Marshal prior to February 20, 1989, inspections will be made utilizing the requirements set forth in the 1985 edition of the Life Safety Code of the National Fire Protection Association and Section 506 Special Provision for High Rise Buildings of the Standard Building Code of the 1985 edition of the Southern Building Code Congress International, Incorporated.

L.A.C. 55:103 G is hereby adopted to read as follows:

G. All inspections of the buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after February 19, 1989, will be made utilizing the requirements set forth in the 1988 edition of the Life Safety Code of the National Fire Protection Association and Section 506 Special Provision for High Rise of the Standard Building Code of the 1985 edition of the Southern Building Code Congress International, Incorporated.

L.A.C. 55:303 A is hereby amended to read as follows:

### **Chapter 3. Buildings**

#### **§303. Plans and Specifications for New Buildings**

A. As of February 20, 1989 the plans and specifications for every structure built or remodeled in the state of Louisiana must be drawn in accordance with the requirements of the 1988 edition of the Life Safety Code of the National Fire Protection Association and for all High Rise Buildings, Section 506, Special Provisions for High Rise Buildings of the Standard Building Code of the 1985 edition of the Southern Standard Building Code Congress International, Incorporated.

Carrol L. Herring  
State Fire Marshal

#### **RULE**

### **Department of Social Services Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, adopts the following rule in the Child Support Enforcement Program.

The Child Support Enforcement Amendments of 1984 (P.L. 98-378) prevented states from recovering costs of providing services and charging an application fee, and specified a distinctive distribution methodology, for a period of five months following the termination of AFDC eligibility for a family. The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) abolished these provisions. This change was implemented October 1, 1988 with an emergency rule published in the October, 1988 *Louisiana Register*.

#### **RULE**

Effective October 1, 1988, an application fee will be charged to any former AFDC recipient who reapplies for support enforcement services more than 30 days after services are discontinued because of failure to cooperate. An application fee will also be charged to any former AFDC recipient who reapplies for Support Enforcement Services after services are discontinued at the recipient's request. Any child support collected for a former AFDC recipient will be distributed using the same methodology that is used for collections for Non-AFDC recipients.

May Nelson  
Secretary

#### **RULE**

### **Department of Social Services Office of Eligibility Determinations**

The Department of Health and Hospitals, Office of Eligibility Determinations has adopted the following rule in the Food Stamp Program.

This was published as an emergency rule in the November, 1988 *Louisiana Register*, Vol. 14, No. 11, as the federal regulations published in the *Federal Register*, Vol. 53, No. 161, Friday, August 19, 1988, pages 31641 - 31646 mandate an implementation date of October 18, 1988. The rule entitled "Food Stamp Program - Work Requirements" published in the *Louisiana Register*, Vol. 13, No. 7, July 20, 1987, page 394-395 is hereby amended. The rule entitled "Voluntary Quit in the Food Stamp Program" published in the *Louisiana Register*, Vol. 11, No. 1, January, 1985 pages 38-39 is also hereby amended.



Proposed Rule

Effective October 18, 1988, the following revisions will be made in work requirements:

I. Ending or Avoiding Employment and Training (E&T) or Voluntary Quit Sanctions

A. New Head of Household

If a household is disqualified because the head of household failed to comply with an employment and training (LaJET) requirement or voluntarily quits a job, and a new member joins this household, the worker shall:

1. Determine whether the new member would have been the head of household at the time of the non-compliance or Voluntary Quit

2. If the new member becomes the designated head of household:

a. The voluntary quit sanction shall be terminated.

b. The LaJET sanction shall terminate for the head of household but the member who failed to comply shall remain ineligible for the entire sanction period or until he complies with LaJET.

B. Comparable Hours or Salary

A head of household can avoid a voluntary quit penalty by accepting employment of comparable hours or salary.

Comparable employment may entail fewer hours or a lower net salary than the job which was quit. If an individual quits a job of twenty hours a week or more, secures new employment at comparable wages or hours, and is then laid off, or (through no fault of his own) loses his new job, the earlier quit will not form the basis for a disqualification.

II. Voluntary Quit Prior to Certification

If a voluntary quit which occurred prior to certification is discovered after certification, the disqualification period shall be for three months.

III. Voluntary Quit Occurring Near the End of Certification

In the following instances the household shall be denied recertification for a period of three months:

1. when the voluntary quit occurs in the last months of the certification period; or

2. when the worker determines voluntary quit so late in the certification period that a notice of adverse action would not become effective before the end of certification.

IV. Voluntary Quit Claims

If a household does not reapply by the end of the certification period a claim shall be established for three months for the benefits received by the household.

If there are fewer than three months from the first month after the quit occurred to the end of the certification period, a claim shall be established for the months that were left in the certification. The household shall be disqualified for any remaining months for which a claim is not established.

V. Notice of Adverse Action For Voluntary Quit

The worker shall provide a notice of adverse action which contains:

1. the specific act of non-compliance,

2. the period of ineligibility,

3. the action which the household may take to avoid or end the disqualification (comparable hours or salary), and

4. that the household may reapply at the end of the disqualification period.

David L. Ramsey  
Secretary

**RULE**

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended Article 3, Section II (D) (1) of its Plan Document of Benefits as follows:

“(1) at least 14 days prior to the planned date of admission; or”

James D. McElveen  
Executive Director

**RULE**

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Document of Benefits to clarify the Dental Surgical Benefits as follows:

In the Schedule of Benefits under Other Medical Benefits delete all language after the words “Dental Surgery” and add the words “per schedule” as follows:

Dental Surgery . . . . . per schedule

In Article 3, Section IV (A) add the words “for professional services” after the word “incurred” and before the word “for” as follows:

A. When disease, illness, accident or injury requires the covered person to undergo any oral surgical procedure listed in the Schedule of Dental Surgical Procedures as herein contained, and the procedure is performed by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) while this coverage is in force as to such person, the program will pay the reasonable expense actually incurred for professional services for such surgical procedure, including the usual pre-operative and post-operative care, not to exceed the maximum amount payable for the procedure as specified in such schedule. No dental surgical benefits, except those procedures listed in the Schedule of Dental Surgical Procedures, will be considered eligible under this provision.

James D. McElveen  
Executive Director

**RULE**

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its rules relative to Health Maintenance Organizations.

1. Any health maintenance organization (HMO) or other prepaid medical benefits plan seeking to solicit the membership of employees of the state, its agencies or political subdivisions shall be subject to the regulations and requirements as set forth below, unless:

a. "the HMO provides evidence of federal qualification under Section 1301 of P.L. 93-222 (Health Maintenance Organization Act of 1973, as amended), and unless

b. the HMO has activated the dual-choice mandate as provided for in Section 1310 of the Act."

2. For purposes of these regulations the term "HMO" is defined as any legal entity which has received a certificate of authority from the Louisiana commissioner of insurance to operate as a health maintenance organization in Louisiana.

3. The Board of Trustees of the State Employees Group Benefits Program specifically reserves the right to disapprove the application of any HMO if, in the opinion of the board, the approval of the application would not serve the best interests of state employees, retirees, and their dependents.

4. In the event the HMO seeks to solicit the membership of employees of the state, its agencies or political subdivisions who reside in a service area other than one previously approved by the Board of Trustees, a separate application for the additional service area shall be required.

#### GENERAL INFORMATION

The HMO shall furnish the following information:

1. proof that it has received a certificate of authority from the Louisiana commissioner of insurance to operate as an HMO in the state of Louisiana, together with a copy of its application to the commissioner for this certificate;

2. a copy of the form of each booklet or certificate of coverage to be issued to the members, and any changes or amendments as may be made from time to time;

3. an accurate comparison of benefits offered by the HMO and the State Employees Group Benefits Plan;

4. a statement describing the HMO's service area by zip code;

5. a participating HMO shall be required to notify the Board of Trustees of its intent to renew its agreement with the program not less than 120 days prior to July 1. The board may require actuarial justification of the HMO's renewal rate and benefit structure. In any event, the Board of Trustees shall advise the HMO of its intent to accept or reject those rates and benefits no less than 60 days prior to July 1.

The Board of Trustees of the State Employees Group Benefits Program shall not be held liable for claims for damages relating to any treatment rendered or arranged for by the HMO.

The HMO shall agree to hold the Board of Trustees of the State Employees Group Benefits Program harmless from all claims for damages relating to any act or omission by the HMO, including any claims relating to failure of the HMO to provide services as specified in its contract with the state of Louisiana due to financial hardship or insolvency.

The HMO shall agree to hold any plan member or dependent harmless from any liability or cost for health maintenance services rendered during enrollment in the HMO, except as may be specifically provided for in the group contract and individual certificates of coverage.

#### INITIAL ENROLLMENT AND EFFECTIVE DATE

1. The initial enrollment period shall be the month of April following the approval of the HMO by the board. The initial effective date shall be the July 1 next following the completion of

this enrollment period.

2. The state shall furnish the HMO with a list of agency personnel officers and their addresses to facilitate agency contact.

3. The state shall provide a letter of introduction by the executive director to the personnel officers encouraging their cooperation with the HMO in scheduling meetings and making the offer to eligible employees.

4. The state shall permit the HMO to use its enrollment form to enroll employees who are currently members of the State Employees Group Benefits Program.

5. The HMO shall use the State Employees Group Benefits Enrollment Document if the employee is not a member of the State Plan at the time he elects HMO membership.

6. All documents shall be processed at the State Employees Group Benefits office, including data entry into the billing and eligibility system.

7. During the time an HMO has access to state employees, all marketing material, including written communications, published advertisements, radio and television commercials, etc. shall be submitted to and approved by the State Employees Group Benefits Program prior to issue.

#### COMPUTER INTERFACING

1. The state shall provide the HMO with a monthly exception tape, detailing by agency: additions, deletions, and changes.

2. The HMO shall maintain all billing records by agency billing codes as established by the State Employees Group Benefits Program.

#### PREMIUM BILLING AND TRANSFER

1. The HMO shall bill membership fees in a regular monthly invoice, detailed by agency billing codes as established by the State Employees Group Benefits Program.

2. The state shall transfer the reconciled membership fees to the HMO by the fifteenth of each month for the previous month's billing. Remittance will be itemized by agency.

3. The state shall retain a monthly administrative fee for each individual contract, which fee shall be negotiated prior to the initial effective date of the agreement between the state and the HMO. Adjustment of the administrative fee will be made no more often than once a year and only on the annual re-enrollment date (July 1).

#### RATES

1. The HMO shall charge membership fees that are divisible by a number as shall be set forth by the Group Benefits Program.

2. Rates shall be guaranteed for no less than a 12-month period following initial effective date and thereafter shall be increased no more often than once a year and only on the annual re-enrollment date.

3. Notice of premium adjustments shall be given the state at least 120 days prior to the proposed effective date of such adjustment.

4. The HMO shall use a rate structure with classifications compatible with those used by the State Employees Group Benefits Program. The HMO shall provide justification, if required by the board, for board approval, of the rate differential between classes of contracts.

#### ELIGIBILITY

1. The HMO shall maintain identical eligibility regulations as the State Employees Group Benefits Program with the exception of sponsored adult dependents, who need not be eligible for

membership.

2. The HMO shall enroll new employees who choose membership during their initial period of eligibility for an effective date that is compatible with the eligibility requirements of the state program.

3. The HMO shall provide for continuation of membership for surviving spouses and dependents of deceased employees who are HMO members at the time of death. Such continuation provisions shall be identical to those of the Group Benefits Program. Such continuation shall be provided at the benefit level of the group contract and at a cost no greater than comparable monthly premiums charged by the HMO for like classes of group membership. The HMO shall also provide for continuation of coverage under other circumstances as may be required by the program's eligibility provisions or as may be required by state or federal regulations;

4. During initial enrollment and each subsequent annual re-enrollment, the HMO shall offer membership to eligible active employees and eligible retirees on an equal basis.

#### PRE-EXISTING CONDITIONS

1. The HMO shall impose no limits on coverage for pre-existing conditions for state employees electing membership during their initial period of eligibility.

2. If a state employee fails to elect HMO membership for himself or his dependents during his initial period of eligibility, the HMO, unless prohibited by federal law or regulation, shall impose limitations on coverage for pre-existing conditions as a requirement for membership, in accordance with the existing regulations of the State Employees Group Benefits Program.

#### TRANSFERS AND TERMINATIONS

1. The HMO shall hold an annual re-enrollment each April for an effective date of July 1 for employees electing to enter or leave HMO membership. This shall include both active and retired employees.

2. Transfer of coverage from the State Employees Group Benefits Program to the HMO or vice-versa shall be allowed only during the annual re-enrollment period, for an effective date of July 1. Transfer of coverage shall also be allowed as a consequence of the employee's being transferred into or out of the HMO service area, with an effective date of the first of the month following transfer.

3. The HMO shall provide benefits up to but not beyond date of discharge in the event a member or his dependents are hospital confined at the time his membership terminates.

4. The HMO shall allow individual conversions for a 30-day period following the end of the month during which an employee terminates his group membership. The conversion may be an individual HMO membership or fully-insured health contract, but shall be offered without regard to existing medical conditions and at the then-current rate for all other similar conversions. Termination of the group contract shall not constitute individual termination for purpose of conversion.

5. No individual membership shall be terminated by the HMO except for just cause.

6. Should the HMO discontinue services for all of its membership in general or for state employees and their dependents in specific, notification shall be given to the Board of Trustees of the HMO not less than 90 days prior to the discontinuance of services. All plan members participating in that HMO will be automatically transferred into the State Employees Group Benefits Program indemnity plan. There will be no pre-existing condition limitation unless the plan member or depen-

dents had a pre-existing condition limitation in the State Employees Group Benefits Program at the time of transfer to the HMO. The program shall not be responsible for costs for medical services incurred prior to the effective date of transfer. Should a plan member or dependent be confined in a hospital on the effective date of their transfer from the HMO to the state program, the HMO shall remain responsible for that confinement until the discharge.

7. The Board of Trustees specifically reserves the right to cancel any contract between the board and the HMO, with or without cause, with notification to be furnished the HMO not less than 60 days prior to cancellation.

#### NONDUPLICATION OF COVERAGE

1. If a husband and wife are both state employees and both are eligible for family coverage under the State Employees Group Benefits Program, both must elect membership in the HMO or the state program. Dual coverage shall not be allowed.

2. If a husband and wife are both state employees and have elected single coverage, each may choose membership in either the HMO or the state program.

3. Regardless of any provision of the State Employees Group Benefits Program contract to the contrary, the following applies to any state employee or dependent enrolled in an HMO:

a. The person shall neither be a member of the state program nor a qualified dependent covered under the state program.

b. No benefits will be payable under the state program with respect to charges for services and supplies furnished while person is enrolled in the HMO.

#### DISCLOSURE

1. The HMO shall issue to each employee a description of benefits to which he is entitled under the agreement between the HMO and the state of Louisiana.

2. The evidence of coverage shall contain a clear, concise and complete statement of:

a. the health care services and the insurance or other benefits, if any, to which the member is entitled;

b. any exclusions or limitations on the services as benefits to be provided, including any deductibles and/or copayment provisions;

c. where and in what manner information is available as how services, including emergency and out-of-area services, may be obtained;

d. the HMO's method for resolving enrollee complaints;

e. conditions of eligibility for employees and their dependents;

f. conditions under which an individual's membership may be terminated.

James D. McElveen  
Executive Director

#### RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees

Group Benefits Program has amended its Plan Document of Benefits to provide for the elimination of payments for the treatment of endogenous obesity or obesity associated with a serious or life-threatening disorder as follows:

Article 3, Section VIII (AA) delete all language in the paragraph following the word "obesity" as follows:

AA. Services, supplies, or treatment in connection with or related to obesity;

James D. McElveen  
Executive Director

## RULE

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

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program has amended its Plan Document of Benefits as follows:

Eliminate Article 3, Section V, entitled "Out-Patient Surgery."

James D. McElveen  
Executive Director

## RULE

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

The Louisiana Wildlife and Fisheries Commission hereby adopts the following rules and regulations to govern the use of Rockefeller Wildlife Refuge, Marsh Island Refuge, Atchafalaya Delta Wildlife Management Area, Pointe-au-Chien Wildlife Management Area, Salvador Wildlife Management Area, and Pass-a-Loutre Wildlife Management Area.

## Title 76

### WILDLIFE AND FISHERIES

#### Part III. State Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves and Commissions

##### §303. Rockefeller Wildlife Refuge

Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:340 (September 1978) and LR 9:691 (October 1983), repealed LR 15: (February 1989), repromulgated in §309 of this Chapter.

##### §309. Rockefeller Wildlife Refuge

A. Visitor Regulations

1. The visiting season on the Rockefeller Wildlife Refuge will extend from March 1 to December 1 throughout the refuge

except in those restricted areas designated to prohibit interference with research and management activities. Use of Humble Canal; Joseph Harbor Bayou; Headquarters Canal; East End Road and Locks; Union Producing Canal; Deep Lake; East End Boundary Canal; and Rollover Bayou shall be year round. In addition to this access, sport fishermen shall be permitted to enter the refuge from the Gulf side in Pigeon Bayou, Big Constance Bayou, Little Constance Bayou. Access through these bayous will be permitted only as far inland as the existing water control structures. The remainder of the refuge shall be restricted during the winter months and will be closed to all trespassing.

2. Use of the refuge will be allowed from official sunrise until official sunset. This includes access routes through the refuge.

3. Overnight camping is prohibited.

4. Hunting, pursuing, killing, molesting or intentionally disturbing any type of wildlife by the public is prohibited. This does not prohibit the Louisiana Department of Wildlife and Fisheries from carrying out harvest programs for certain types of wildlife as specified in the Deed of Donation and/or Memorandum of Agreement.

5. Trawling on the refuge is prohibited. Trotlines, jug lines, trammel and gill nets and traps are prohibited. All commercial fishing and use of any commercial fishing gear on the refuge is prohibited. Twenty-five pounds of shrimp (heads on) per boat or vehicle per day is allowed during the inside open shrimp season as established by the Louisiana Wildlife and Fisheries Commission. Ten pounds of shrimp (heads on) for bait purposes may be caught during the closed season. Shrimp may be harvested only by cast net on the refuge and only for sport fishing or home consumption use.

6. Crawfish may be harvested from the open portion of the refuge and 100 pounds per boat or vehicle is allowed per day. Set nets may be used but must be attended and removed from the refuge daily. No commercial harvest is allowed.

7. Crabs may be harvested from the open portion of the refuge and 12 dozen crabs are allowed per boat or vehicle per day.

8. Oysters may be harvested by tonging (properly licensed) or by hand collection from the natural reefs. One gallon per boat or vehicle per day is allowed and oysters must be opened at the reef and the shells returned to the reef. Taking of oysters on the reef is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the Louisiana Department of Wildlife and Fisheries.

9. The burning of the marsh by the public is prohibited. Water control structures shall not be tampered with or altered by anyone other than employees of the Louisiana Department of Wildlife and Fisheries.

10. Bringing firearms, bows and arrows, liquor and controlled dangerous substances (drugs) onto the refuge is prohibited. All boats and vehicles are subject to search by all authorized employees of the Louisiana Department of Wildlife and Fisheries at anytime.

11. Speed boat racing and water skiing is prohibited. All boat traffic shall honor no wake zones and shall keep wave wash to a minimum. Pulling boats over or around levees, dams or water control structures is prohibited.

12. No littering is allowed. Visitors must remove their litter or place litter in appropriate litter disposal sites. Damage to or removal of trees, shrubs and wild plants without prior approval is prohibited.

13. Commercial fishing gear or trawls shall not be permitted in possession while participating in sport fishing on refuge. Commercial fishing gear may be in possession for non-stop access directly across refuge or for safe harbor only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:340 (September 1978) and LR 9:691 (October 1983), repealed and repromulgated LR 15: (February 1989).

### **§310. Marsh Island Wildlife Refuge**

#### **A. Visitor Regulations**

1. Use of the refuge will be allowed from official sunrise to official sunset. This includes access routes through the refuge.

2. Overnight camping is prohibited.

3. Hunting, pursuing, killing, molesting or intentionally disturbing any type of wildlife by the public is prohibited. This does not prohibit the Louisiana Department of Wildlife and Fisheries from carrying out harvest programs for certain types of wildlife as specified in the Deed of Donation and/or Memorandum of Agreement.

4. Trawling on the refuge is prohibited. Trotlines, jug lines, trammel and gill nets and traps are prohibited. All commercial fishing and use of any commercial fishing gear on the refuge is prohibited. Twenty-five pounds of shrimp (heads on) per boat or vehicle per day is allowed during the inside open shrimp season as established by the Louisiana Wildlife and Fisheries Commission. Ten pounds of shrimp (heads on) for bait purposes may be caught during the closed season. Shrimp may be harvested only by cast net on the refuge and only for sport fishing or home consumption use.

5. Crawfish may be harvested from the open portion of the refuge and 100 pounds per boat or vehicle is allowed per day. Set nets may be used but must be attended and removed from the refuge daily. No commercial harvest is allowed.

6. Crabs may be harvested from the open portion of the refuge and 12 dozen crabs are allowed per boat or vehicle per day. No commercial harvest is allowed.

7. Oysters may be harvested only by tonging (properly licensed) or by hand collection from the natural reefs. One gallon per boat or vehicle per day is allowed and oysters must be opened at the reef and all shells returned to the reef. Taking of oysters on the refuge is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the Louisiana Department of Wildlife and Fisheries.

8. The burning of the marsh by the public is prohibited. Water control structures shall not be tampered with or altered by anyone other than employees of the Louisiana Department of Wildlife and Fisheries.

9. Bringing firearms, bows and arrows, liquor and controlled dangerous substances (drugs) onto the refuge is prohibited. All boats and vehicles are subject to search by all authorized employees of the Louisiana Department of Wildlife and Fisheries at anytime.

10. Speed boat racing and water skiing is prohibited. All boat traffic shall honor no wake zones and all boat traffic shall keep wave wash to a minimum. Pulling boats over or around levees, dams or water control structures is prohibited. The Louisiana Department of Wildlife and Fisheries may further restrict specified areas of the refuge from public access or use.

11. No littering is allowed. Visitors must remove their lit-

ter or place litter in appropriate litter disposal sites. Damage to or removal of trees, shrubs, and wild plants on the refuge without prior approval is prohibited.

12. Commercial fishing gear or trawls shall not be permitted in possession while participating in sport fishing on refuge. Commercial fishing gear may be in possession for non-stop access directly across refuge or for safe harbor only.

13. Enforcement officials shall have the duty and the right to restrict access to the Island, even for the purpose herein enumerated, whenever the circumstances exist that such access may impair the primary purpose of the island as a wildlife refuge and sanctuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15: (February 1989).

### **§311. Atchafalaya Delta Wildlife Management Area**

#### **A. Visitor Regulations**

1. Commercial and recreation fishing and recreational hunting are permitted. No nighttime hunting activity is allowed on Atchafalaya Delta Wildlife Management Area.

2. Basic resident and non-resident hunting licenses will serve as season permits on Atchafalaya Delta Wildlife Management Area. If daily permits are required, they may be obtained from permit stations located on or near Atchafalaya Delta Wildlife Management Area. Hunters must check out daily one-half hour after the end of legal shooting hours.

3. All hunting seasons are set by the Louisiana Wildlife and Fisheries Commission and seasons may be altered or closed anytime by the department in emergency situations (floods, disease outbreaks or other critical circumstances).

4. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in boats under motor power on Atchafalaya Delta Wildlife Management Area. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas. Firearms and bows and arrows are not permitted on Atchafalaya Delta Wildlife Management Area during closed seasons. Bows and broadhead arrows are not permitted on Atchafalaya Delta Wildlife Management Area EXCEPT during regular archery season or EXCEPT as permitted for bowfishing. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists. Loaded firearms are not permitted near check stations, camping areas, or headquarters facility. Rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB cannot be carried onto Atchafalaya Delta Wildlife Management Area. Target shooting and other forms of practice shooting are prohibited on Atchafalaya Delta Wildlife Management Area.

5. Construction of and hunting from permanent blinds on Atchafalaya Delta Wildlife Management Area is prohibited. Any permanent stand or permanent blind will be destroyed. A permanent blind or stand is defined as any structure and/or material, including vegetation, used for concealment while hunting, that is not completely dismantled or removed from the wildlife management area daily. All waterfowl hunters must dismantle blinds and remove decoys within 30 minutes after close of shooting hours. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department.

6. Except for bird hunting, duck hunting, and rabbit hunting, when allowed, having or using dogs on Atchafalaya Delta Wildlife Management Area is prohibited. Only recognizable breeds of bird dogs and retrievers are permitted for migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on Atchafalaya Delta Wildlife Management Area during experimental rabbit seasons.

7. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited.

8. The use of airboats, aircraft, hover craft, all terrain vehicles and all terrain cycles and motorcycles are prohibited, except as specifically authorized by department personnel.

9. Disorderly conduct or hunting under the influence of alcoholic beverages, chemicals and other similar substances is prohibited. Bringing controlled dangerous substances (drugs) onto the management area is prohibited. All boats and vehicles are subject to search by authorized employees of the Louisiana Department of Wildlife and Fisheries at anytime.

10. Trapping is allowed only by written agreement with the Louisiana Department of Wildlife and Fisheries.

11. Burning of the marshes is prohibited. Water control structures are not to be tampered with or altered by anyone other than employees of the Louisiana Department of Wildlife and Fisheries at anytime.

12. No littering allowed; dumping garbage or trash only in designated locations.

13. Camping on Atchafalaya Delta Wildlife Management Area, including houseboats, and tents are permitted only in designated areas and for a period not to exceed 16 consecutive days. Camp boats may be moored in specially designated areas throughout the waterfowl season. At all other times of the year mooring period limited to a period not to exceed 16 consecutive days. Permits are required for overnight mooring of houseboats on Atchafalaya Delta Wildlife Management Area. Permits may be obtained from the headquarters facility. No refuse or garbage may be dumped from these boats while vessel is on Atchafalaya Delta Wildlife Management Area. Firearms may not be kept loaded or discharged in a camping area. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation. Damage to or removal of trees, shrubs and wild plants on Atchafalaya Delta Management Area without prior approval is prohibited.

14. Oysters may be harvested by tonging (properly licensed) or by hand collection from natural reefs (with the exception of existing leases). One gallon per boat or vehicle per day is allowed and oysters must be opened at the reef and shells returned to the reef. Taking of oysters on the reef is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the Louisiana Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 set seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15: (February 1989).

### **§312. Pointe-au-Chien Wildlife Management Area**

#### **A. Visitor Regulations**

1. Morning hunting only on all game (closed 12 noon).

All nighttime activities prohibited (including frogging) from 30 minutes after official sunset to one and one-half hours before sunrise.

2. Basic resident and non-resident hunting licenses will serve as season permits on Pointe-au-Chien Wildlife Management Area. If daily permits are required, they may be obtained from permit stations located on or near Pointe-au-Chien Wildlife Management Area. Hunters must check out daily one-half hour after the end of legal shooting hours.

3. All hunting seasons are set by the Louisiana Wildlife and Fisheries Commission and seasons may be altered or closed anytime by the department in emergency situations (floods, disease outbreaks or other critical circumstances).

4. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms, are not allowed in boats on Pointe-au-Chien Wildlife Management Area. Firearms may not be carried on any area before or after permitted hours. Bows and arrows are not permitted on Pointe-au-Chien Wildlife Management Area except during regular archery season or except as permitted for bowfishing. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists. Loaded firearms are not permitted near check stations or headquarters facility. Target shooting and other forms of practice shooting are prohibited on Pointe-au-Chien Wildlife Management Area.

5. Construction of and hunting from permanent blinds on Pointe-au-Chien is prohibited. Any permanent stand or permanent blind will be destroyed. A permanent blind or stand is defined as any structure and/or material, including vegetation, used for concealment while hunting, that is not completely dismantled or removed from the wildlife management area daily. All waterfowl hunters must dismantle blinds and remove decoys within 30 minutes after close of shooting hours. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department.

6. Except for bird hunting, duck hunting, and rabbit hunting, when allowed, having or using dogs on Pointe-au-Chien Wildlife Management Area is prohibited. Only recognizable breeds of bird dogs and retrievers are permitted for migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on Pointe-au-Chien Wildlife Management Area during experimental rabbit seasons.

7. Commercial fishing is prohibited; except in Cut Off Canal and Wonder Lake.

#### **8. Recreational Fishing**

a) Shrimp may be taken by the use of cast nets only. During the inside open shrimp season 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season 10 pounds per boat per day, heads on may be taken for bait.

b) Oysters may be taken from natural reefs and opened at the site. A maximum of one gallon per boat is permitted and all shell must be thrown back onto the reef. Possession of unshucked oysters is not permitted. Taking of oysters on the reef is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the Louisiana Department of Wildlife and Fisheries.

c) Fish may be taken by rod and reel or hand lines for recreational purposes only.

d) Crabs may be taken through the use of hand lines or

nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day.

e) Crawfish may be harvested in unrestricted portions of the game management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight.

f) The harvest of all fish, shrimp, oysters, crabs and crawfish are for recreational purposes only and any commercial use is prohibited.

9. Boats powered by internal combustion engines having horsepower ratings above 25 H.P are prohibited in interior ditches. Public is permitted to travel through the wildlife management area for access purposes only, in areas known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue.

10. Pulling boats over levees, dams, or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited.

11. The use of airboats, aircraft, hover craft, all-terrain vehicles and all-terrain cycles and motorcycles are prohibited except as specifically authorized by department personnel.

12. Disorderly conduct or hunting under the influence of alcoholic beverages, chemicals and other similar substances is prohibited. Bringing controlled dangerous substances (drugs) onto the management area is prohibited. All boats and vehicles are subject to search by authorized employees of the Louisiana Department of Wildlife and Fisheries at anytime.

13. Trapping is allowed only by written agreement with the Louisiana Department of Wildlife and Fisheries.

14. Burning of the marshes is prohibited. Water control structures are not to be tampered with or altered by anyone other than employees of the Louisiana Department of Wildlife and Fisheries at anytime. Damage to or removal of trees, shrubs and wild plants on Pointe-au-Chien Wildlife Management Area without prior approval is prohibited.

15. No littering allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 set seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15: (February 1989).

### §313. Salvador Wildlife Management Area

#### A. Visitor Regulations

1. Morning hunting only on all game (closed 12 noon). All nighttime activities prohibited (including frogging) from 30 minutes after official sunset to one and one-half hours before official sunrise.

2. Basic resident and non-resident licenses will serve as season permit on Salvador Wildlife Management Area. If daily permits are required, they may be obtained from permit stations located on or near Salvador Wildlife Management Area. Hunters must check out daily one-half hour after the end of legal shooting hours.

3. All hunting seasons are set by the Louisiana Wildlife and Fisheries Commission and seasons may be altered or closed anytime by the Louisiana Department of Wildlife and Fisheries in emergency situations (floods, disease outbreaks or other critical circumstances).

4. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms, are not allowed in boats on Salvador Wildlife Management Area. Firearms may

not be carried on any area before or after permitted hours. Bows and arrows are not permitted on Salvador Wildlife Management Area except during regular archery season or except as permitted for bowfishing. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists. Loaded firearms are not permitted near check stations or headquarters facility. Target shooting and forms of practice shooting are prohibited on Salvador Wildlife Management Area.

5. Construction of and hunting from permanent tree stands or permanent blinds on Salvador Wildlife Management Area is prohibited. Any permanent stand or permanent blind will be destroyed. A permanent blind or stand is defined as any structure and/or material, including vegetation, used for concealment while hunting, that is not completely dismantled or removed from the wildlife management area daily. All waterfowl hunters must dismantle blind and remove decoys within 30 minutes after close of shooting hours on each respective area. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department.

6. Except for bird hunting, duck hunting, and rabbit hunting, when allowed, having or using dogs on Salvador Wildlife Management Area is prohibited. Only recognizable breeds of bird dogs and retrievers are permitted for migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on Salvador Wildlife Management Area during experimental rabbit seasons.

7. Commercial fishing is prohibited.

8. Recreational fishing

a. Shrimp may be taken by the use of cast nets only. During the inside open shrimp season 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season 10 pounds per boat per day, heads on may be taken for bait.

b. Oysters may be taken from natural reefs and opened at the site. A maximum of one gallon per boat is permitted and all shell must be thrown back onto the reef. Possession of unshucked oysters is not permitted. Taking of oysters on the reef is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the Louisiana Department of Wildlife and Fisheries.

c. Fish may be taken by rod and reel or hand lines for recreational purposes only.

d. Crabs may be taken through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day.

e. Crawfish may be harvested in unrestricted portions of the game management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight.

f. The harvest of all fish, shrimp, oysters, crabs and crawfish are for recreational purposes only and all commercial use is prohibited.

9. Boats powered by internal combustion engines having horsepower ratings above 25 H.P are permitted only in oil company access canals; Louisiana Cypress Canal, the Netherlands pond including the West Canal; Lakes - "Baie Des Chactas" and "Baie du Cabanage", and the Rathborne Access ditch. Operation of the above described internal combustion engines in interior ditches are prohibited.

10. Pulling boats over levees, dams, or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited.

11. The use of airboats, aircraft, hover craft, all-terrain vehicles, all-terrain cycles and motorcycles are prohibited; except as specifically authorized by department personnel.

12. Disorderly conduct or hunting under the influence of alcoholic beverages, chemicals and other similar substances is prohibited. Bringing controlled dangerous substances (drugs) onto the management area is prohibited. All boats and vehicles are subject to search by authorized employees of the Louisiana Department of Wildlife and Fisheries at anytime.

13. Trapping is allowed only by written agreement with the Louisiana Department of Wildlife and Fisheries.

14. Burning of the marshes is prohibited. Water control structures are not to be tampered with or altered by anyone other than employees of the Louisiana Department of Wildlife and Fisheries at anytime. Damage to or removal of trees, shrubs and wild plants on Salvador Wildlife Management Area without prior approval is prohibited.

15. No littering allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15: (February 1989).

### §314. Pass-a-Loutre Wildlife Management Area

#### A. Visitor Regulations

1. Commercial and sport fishing and recreational hunting are permitted. No nighttime hunting is allowed.

2. Basic resident and non-resident hunting licenses will serve as season permits on Pass-a-Loutre Wildlife Management Area. If daily permits are required, they may be obtained from permit stations located on or near Pass-a-Loutre Wildlife Management Area. Hunters must check out daily one-half hour after the end of legal shooting hours.

3. All hunting seasons are set by the Louisiana Wildlife and Fisheries Commission and seasons may be altered or closed anytime by the department in emergency situations (floods, disease outbreaks or other critical circumstances).

4. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in boats while under motor power on Pass-a-Loutre Wildlife Management Area. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas. Firearms and bows and arrows are not permitted on Pass-a-Loutre Wildlife Management Area during closed seasons. Bows and broadhead arrows are not permitted on Pass-a-Loutre Wildlife Management Area EXCEPT during regular archery season or EXCEPT as permitted for bowfishing. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists. Loaded firearms are not permitted near check stations, camping areas, or headquarters facility. Rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB cannot be carried onto Pass-a-Loutre Wildlife Management Area. Target shooting and other forms of practice shooting are prohibited on Pass-a-Loutre Wildlife Management Area.

5. Construction of and hunting from permanent blinds on Pass-a-Loutre Wildlife Management Area is prohibited. Any permanent stand or permanent blind will be destroyed. A perma-

nent blind or stand is defined as any structure and/or material, including vegetation, used for concealment while hunting, that is not completely dismantled or removed from the wildlife management area daily. All waterfowl hunters must dismantle blinds and remove decoys within 30 minutes after close of shooting hours. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department.

6. Except for bird hunting, duck hunting, and rabbit hunting, when allowed, having or using dogs on Pass-a-Loutre Wildlife Management Area is prohibited. Only recognizable breeds of bird dogs and retrievers are permitted for migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on Pass-a-Loutre Wildlife Management Area during experimental rabbit seasons.

7. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited.

8. The use of airboats, aircraft, hover craft, all-terrain vehicles and all-terrain cycles and motorcycles are prohibited, except as specifically authorized by department personnel.

9. Disorderly conduct or hunting under the influence of alcoholic beverages, chemicals and other similar substances is prohibited. Bringing controlled dangerous substances (drugs) onto the management area is prohibited. All boats and vehicles are subject to search by authorized employees of the Louisiana Department of Wildlife and Fisheries at anytime.

10. Trapping is allowed only by written agreement with the Louisiana Department of Wildlife and Fisheries.

11. Burning of the marshes is prohibited. Water control structures are not to be tampered with or altered by anyone other than employees of the Louisiana Department of Wildlife and Fisheries at anytime.

12. No littering allowed; dumping garbage or trash only in designated locations.

13. Camping on Pass-a-Loutre Wildlife Management Area, including houseboats, and tents are permitted only in designated areas and for a period not to exceed 16 consecutive days. Camp boats may be moored in specially designated areas throughout the waterfowl season. At all other times of the year mooring period limited to a period not to exceed 16 consecutive days. Permits are required for overnight mooring of houseboats on Pass-a-Loutre Wildlife Management Area. Permits may be obtained from the headquarters facility. No refuse or garbage may be dumped from these boats while vessel is on Pass-a-Loutre Wildlife Management Area. Firearms may not be kept loaded or discharged in a camping area. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation. Damage to or removal of trees, shrubs and wild plants on Pass-a-Loutre Management Area without prior approval is prohibited.

14. Oysters may be harvested by tonging (properly licensed) or by hand collection from natural reefs (with the exception of existing leases). One gallon per boat or vehicle per day is allowed and oysters must be opened at the reef and shells returned to the reef. Taking of oysters on the reef is dependent upon Department of Health and Hospitals' approval and may be closed at any time by the Louisiana Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with



R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15: (February 1989).

Virginia Van Sickle  
Secretary

## RULE

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

The Louisiana Department of Wildlife and Fisheries established rules and regulations governing the Louisiana Waterfowl Conservation Stamp and Print Program. These rules and regulations are as follows:

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part V. Wild Quadrupeds and Wild Birds

#### Chapter 3. Wild Birds

#### §309. Louisiana Waterfowl Conservation Stamp 1989 Art Competition Rules and Procedures

##### A. Background

In 1988, the Louisiana State Legislature authorized the Louisiana Waterfowl Conservation Stamp program to generate revenues for conservation and enhancement of waterfowl, protection and acquisition of valuable wetland habitats, and other worthy projects that benefit Louisiana's ducks and geese. Income is derived from the sale of state duck stamps to hunters aged 16 and over, who are required to have a stamp for waterfowl hunting in Louisiana, as well as from the sale of limited edition art reproductions of the design. Stamps and prints are sold to collectors nationwide via normal retail sales outlets. The state will receive royalties from the sale of prints and revenue from the sale of duck stamps.

##### B. Purpose

The primary purpose of the Louisiana waterfowl conservation stamp program is to produce revenue for needed waterfowl conservation and enhancement projects.

##### C. Objectives

1. Obtain the highest quality work of art that will most accurately and eminently portray waterfowl species and will have broad appeal to art collectors.

2. Provide a nationwide opportunity for waterfowl hunters, viewers, and art collectors to contribute financial support for waterfowl conservation and enhancement programs in Louisiana.

##### D. General Guidelines

1. By tradition, most waterfowl conservation stamp art is highly realistic in style, exhibiting extensive detail in anatomy, plumage, and the natural setting. Although artists are free to submit any composition that they desire, highly stylized or unusual designs may be viewed as too incongruous by series collectors or may limit the breadth of appeal among print buyers.

2. A key aspect of duck stamp art is the strength of the composition and dominance of the featured bird(s). Because the final image will be 6 1/2" x 9" on the print and only 1 3/8" x 2" on the stamp, lighting, spatial arrangement and colors should provide a clean, attractive composition at both scales.

##### E. Specific Requirements

1. The subject of the 1989 Louisiana Waterfowl Conservation Stamp and Print will be the Blue-winged Teal.

2. The design must be a full-color, realistic rendering of Blue-winged Teal. The setting must be identifiable as Louisiana and appropriate to the natural habitat of the species.

3. The image must be horizontal, 13" x 18" and bear no signature or other marks that would identify the artist.

4. The design must be original, never have been published, and not have been entered in competition for any federal or state waterfowl stamp program.

5. There is no restriction on media or substrate, but the department will not be responsible for damage or deterioration of pastels or other sensitive, unstable materials.

6. Each artist may enter only one design in the 1989 stamp competition. A winning artist may not compete for two successive years following his selection year.

7. Works must be matted in white to outside dimensions of 18 1/2" x 23" and should be loosely covered with acetate or other protective overleaf, but must not be framed or covered with glass.

8. A card on the back of each entry must list the artist's name, mailing address and phone number. A brief summary of the artist's background and credit should be enclosed.

9. All entries must be shipped in sturdy reusable containers bearing a legible return address, at the expense of the sender. Return shipping will be to the point of origin, unless requested otherwise, at the department's expense. The department will be held harmless for loss or damage during shipment.

10. All entries must be available for inclusion in public exhibits for one year from the close of competition. Entries not judged to be in the top selections may be returned sooner. The department reserves the right to photograph all entries for purposes of documentation, promotion, and education. The winning entry will be retained by the department.

##### F. Judging Criteria and Selection Procedures

The winning design will be selected by a panel of five judges who have expertise in waterfowl biology, artistic methods and expression. Judges will be selected by the Louisiana Department of Wildlife and Fisheries and the Louisiana Art Council. Judging will be done in three stages as follows: (1) the panel will screen and evaluate all entries and will select the top 30 entries, (2) the panel will reevaluate these 30 selected entries in detail to select three designs which will become finalists and (3) the finalists will be required to submit a detailed production and marketing plan (see §313) to be evaluated along with the design to determine the winning entry. The art production and marketing plans will be evaluated by the department using the assistance of independent production and marketing experts. Preliminary judging will be completed on or about December 1, 1988. If the Louisiana Legislature amends Act 632, which created the Louisiana Waterfowl Conservation Stamp and Print Program, to place the responsibility for the reproduction, distribution and marketing of the stamps and prints with the department instead of the artist, the panel of five judges will select the winning art design. The artist of the winning design will then be required to enter into a contract with the publisher selected by the department. All art works will be scored on the following criteria:

1. accuracy of the form, size, proportion, posture, and colors of the bird(s);

2. level and accuracy of detail in plumage, eyes, feet, bill, etc;

3. appropriateness, accuracy, and detail in depiction of the bird's habitat;
4. attractiveness and creativity of the composition, regarding spatial balance, lighting, and harmony of subject and background;
5. visual appeal and suitability for reproduction at both the print and stamp scales.

G. Eligibility

This art competition is open to all artists who are 18 years of age or older and domiciled in Louisiana except employees of the Louisiana Department of Wildlife and Fisheries and members of their immediate families. An artist is considered to be domiciled in Louisiana if he has resided within the state for a period of 12 months immediately preceding submission of his art work, provided that such person has shown his intent to remain in this state as demonstrated by compliance with all of the following, as applicable:

1. if registered to vote, he is registered to vote in Louisiana;
2. if licensed to drive a motor vehicle, he is in possession of a Louisiana driver's license;
3. if owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle;
4. if earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.

H. Entry Procedures and Deadlines

1. Entries must be prepared and shipped according to the specific requirements listed above. All entries must be RECEIVED by 4:30 p.m. on November 14, 1988 at the Louisiana Department of Wildlife and Fisheries, 2000 Quail Drive, Baton Rouge, LA 70808, ATTN: Louisiana Waterfowl Conservation Stamp Program.

2. Entries will not be considered complete without a signed and notarized Artist Agreement (§311) and a \$50 Entrance Fee received by the deadline.

3. Entries may be hand-delivered, sent via U. S. Mail, or by express parcel service. Senders are advised to obtain adequate shipping insurance on their entries.

I. Additional Information

For more information on the Louisiana Waterfowl Conservation Stamp program and the art competition, contact the following office: Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, ATTN: Dave Morrison or Robert Helm, (504) 765-2347 or (504) 765-2358.

**§311. 1989 Louisiana Waterfowl Conservation Stamp Artist Agreement**

A. I hereby agree to the following terms and conditions if my original design is selected for the 1989 Louisiana Waterfowl Conservation Stamp and Art Print.

1. If my original art work is selected as one of the top designs in the final judging, I agree to submit a complete and detailed production and marketing plan for the prints and stamps to the Louisiana Department of Wildlife and Fisheries within 45 days after notification. The department's guidelines for the production and marketing plan are attached. The top finalists will then be evaluated again, and an overall winning entry selected.

2. Upon selection of my original design and associated production and marketing plan as the winning entry, the original work of art and any and all reproduction rights to the design become the property of the Louisiana Department of Wildlife and Fisheries. The department will use the design to produce the

1989 Louisiana Waterfowl Conservation Stamp, limited edition art prints, commemorative medallions, and any reproductions it deems necessary and appropriate for purposes of documentation, promotion, and education.

3. If the Louisiana Legislature amends Act 632, which created the Louisiana Waterfowl Conservation Stamp and Print Program, to place the responsibility for the reproduction, distribution and marketing of the stamps and prints with the department instead of the artist, I agree to enter into a contract with the publisher selected by the department within 15 days after notification.

4. I hereby affirm that my original design of my own creation, has not been copied in whole or part from any published works of art, has not been previously entered in any federal or state waterfowl conservation stamp competition, and has not been published. I understand that all compensation may be forfeited if these conditions are not met.

5. I affirm that I am an artist legally domiciled in the state of Louisiana.

6. I have enclosed a non-refundable entrance fee of \$50 paid by cashier's check, certified check or money order made payable to: Louisiana Department of Wildlife and Fisheries.

B. I have read and agree to the terms and conditions of this Artist Agreement.

Artist's Signature \_\_\_\_\_ Date \_\_\_\_\_  
Mailing Address \_\_\_\_\_ Telephone \_\_\_\_\_

C. Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ nineteen hundred and \_\_\_\_\_ .

\_\_\_\_\_  
Notary Public

**§313. Guidelines for Production and Marketing Plan – 1989 Louisiana Waterfowl Conservation Stamp and Art Print Program**

All prospective contractors are required to carefully review the following minimum requirements for design, production, marketing, and project administration for the 1989 Louisiana Waterfowl Conservation Stamp and Art Print Program.

A. Publishers Responsibilities

1. Design Arrangements. Bidders responding must agree to produce and market the design selected by the department for the 1989 stamp and print. Upon selection of the design, the original artwork and all reproduction rights will become the property of the Louisiana Department of Wildlife and Fisheries. The contractor shall supply the department with two print size photos or stamp prints suitable for copyright application within 60 days after the contract is awarded. Within 15 days of contract award, the successful bidder is required to contract with the winning artist for services and compensation specified below and must file a copy of the contract with the department:

- a. participate in the quality control process of stamp, art print, and medallion production to ensure accurate design reproduction, sharpness, and color balance;
- b. participate in trade shows, promotional tours in Louisiana, and other appropriate appearances;
- c. sign the original work of art and the required number of stamps, and sign and number all limited edition prints; and
- d. produce hand-rendered, full-color remarques on the executive edition prints and any other prints authorized by the Louisiana Department of Wildlife and Fisheries.

The state reserves the right to intervene in any disputes between the artist and contractor. All payments and compensation to the artist for this project are the responsibility of the contractor and shall be as follows:

- i. \$3 per art print for the first 5000 sold;
- ii. \$4 per art print number for the second 5000 sold;
- iii. \$5 per art print in excess of 10,000;
- iv. \$40 per color remarque (Executive and Artist Proof Edition);
- v. \$0.25 per signed stamp.

2. Contract. The successful bidder will be required to enter into a contract with the department for a period not to exceed three years with an option to renew. Details established in these guidelines are for the 1989-90 Conservation Stamp and Print Program. However all bids should include proposals for the term of the contract. Specific details concerning advertising, marketing, etc., proposed for the second and third year may differ from that proposed for the first year. Contractors must submit proposals to the department no later than December 16, 1988.

3. Production of Stamps. A copy of the keyline and a kromalin proof of the stamp design will be delivered to the department for review. On or before June 1, 1989, the contractor will be required to deliver to the department without charge a minimum of 339,970 stamps, produced, printed, and packaged according to the following specifications:

a. Stock should be 70# White English finish (matte) or an equivalent quality stock specified by the department. Printing ink should be four-color process on the front side and PMS 421 (gray) on the back side. Printing should be high quality—133 line press or better.

b. Stamp size will be 1 3/8" × 2". Perforations will be pinhole with 14 pinholes per inch, on all four sides of the stamps.

c. Printing will be two sides, head to head. Four full size final press sheets will be provided to the department as soon as available. Press sheets will not be gummed, numbered, or perforated.

d. A minimum of 79,980 stamps will be produced in 2666 sheets of 30 stamps each. Each sheet is to be serially numbered from 0001 to 2666 in each corner of the selvage area, to form plate blocks. Each stamp is to be consecutively numbered from 000001 to 79980 with numbers printed on the back in black ink. This stamp shall be printed with a price of \$5.

e. A minimum of 39,990 stamps will be produced in 1333 sheets of 30 stamps each. Each sheet is to be serially numbered from 2667 to 4000 in each corner of the selvage area, to form plate blocks. Each stamp is to be consecutively numbered from 79981 to 119971 with numbers printed on the back in black ink. This stamp shall be printed with a price of \$7.50.

f. A minimum of 20,000 stamps will be produced in manifold sets with address cards for license vendors. Each manifold set will contain a sheet of five stamps with perforated address stubs. Each book shall contain two manifold sets or 10 stamps per book. The size, indicated price and quality of these stamps must be the same as those produced in sheets for collectors (item e. above), and they must be numbered consecutively with stamps produced in sheets. Each manifold set will include a cover sheet.

g. A minimum of 200,000 stamps will be produced in manifold sets with address cards for license vendors. Each manifold set will contain a sheet of five stamps with perforated address stub. Each book shall contain two manifold sets or 10

stamps per book. The size and quality of these stamps must be the same as those produced in sheets for collectors (item d. above), and they must be numbered consecutively with stamps produced in sheets. Each manifold set will include a cover sheet colored differently than item f.

h. Costs of producing stamp manifold sets, over and above the costs of printing the stamps, shall be borne by the state, through a deduction from the contractor's final royalty payment to the state. The proposal shall include the name of the subcontract printer and the cost to the department for these manifold sets.

i. Any overage or misprinted stamps must be destroyed by shredding. An affidavit by the printer as to disposition of stamps shall be provided to the department.

j. Sheets of 30 stamps will be packaged or boxed in 100s, slip-sheeted to prevent sticking, with the lowest sheet number at the top of the package. All packages will be marked to show the sheet numbers and stamp numbers. All shipping and insurance charges are the responsibility of the contractor. Shipping must be by a qualified shipper to ensure against loss or delays in delivery.

k. The printing process may be monitored by a representative of the department. Delivery of the printing plates is to be made by the printer directly to the department upon completion of press run and acceptance of stamps by the department.

#### 4. Sale of Stamps

a. Except as provided, it is the intention of the Louisiana Department of Wildlife and Fisheries to have exclusive rights for the sale of all stamps, and no more stamps than are specified in the negotiated contract shall be printed except upon written order from the department.

b. The Louisiana Department of Wildlife and Fisheries will reserve resident and non-resident stamps specifically for the purpose of accompanying the limited edition prints. The contractor must state in the proposal the quantity of stamps desired.

c. A resident and non-resident stamp will be sold by the contractor with all art prints and also sold separately to collectors. Stamps will be purchased from the department by the contractor for the sum of \$5 for a resident stamp and \$7.50 for a non-resident stamp payable in accordance with the terms of the negotiated contract. The contractor will dispense both stamps with the print. However, payment for the stamps will not be required in advance but it will be allowable to include stamp payments with royalties paid to the department.

#### 5. Production of Prints

a. The contractor will have exclusive rights to reproduce the design submitted, as allowed by the contract, and to market prints only in the following editions and priced as indicated:

i. Regular Edition — numbered, signed by artist;

Maximum Retail Price:	\$135
Minimum Royalty to department per print sold:	\$35

ii. Medallion Edition — numbered, signed by artist, with gold-plated medallion;

Maximum Retail Price:	\$300
Minimum Royalty to department per print sold:	\$65

iii. Executive Edition — numbered, signed by artist, artist remarque, with gold-plated medallion; artist shall include schedule for delivery of remarqued edition

Maximum Retail Price:	\$450
Minimum Royalty to department per print sold:	\$75.00

iv. Conservation Edition — numbered separately, signed by artist, labeled as "Conservation Edition". This edition will be

provided at no cost to the department for promotional purposes.

v. Artist Proof — edition size, pricing scale and royalty to the department must be included on the proposal.

b. The department shall receive from the publisher an irrevocable bond in the amount of \$500,000 to insure royalty payments for the three-year period of the contract. This bond will be required at the time the contract is awarded.

c. The edition sizes (Regular, Medallion, and Executive Editions) may be pre-set or time limited. On or about November 1, 1989, after the deadline for receipt of distributor orders, all unsold prints shall be destroyed and a letter shall be sent to the department certifying the total number of prints sold in each print edition. However, at least 200 prints should be retained as replacements in the regular edition and not less than 50 prints for the medallion issue. These prints will be returned to the state by mid-1990. The publisher will be responsible for replacing these prints for a reasonable time. Upon request the contractor will provide distributors and dealers a copy of that letter. If the contractor elects to propose a pre-set edition, edition size shall be stated in the proposal. The department will retain all other reproduction rights. Any other proposed editions or use of the image on products to be sold to the public must be specified in the proposal.

d. The overall size of the print must be at least 12 inches by 14 inches with an image size of at least 6 1/2 inches by 9 inches.

e. The contractor will purchase a resident and non-resident stamp from the department to accompany each print. The lowest numbered prints will be provided to Louisiana dealers. The contractor will provide the department with a registry of purchasers of the 1989 stamps and prints.

6. Advertising and Marketing. The success of the stamp and print program depends on a broad, effective network of distributors and dealers to maintain and increase sales. The contractor should provide in his plan the following:

cooperative advertising and dealer incentives,  
distributor-dealer marketing plan,  
pricing and volume discounts, and  
marketing aids for dealers (e.g., counter display cards, ads.).

Although the department has no desire to exercise control over distributors or urge divulgence of their competitive strategies, the department is interested in the effort the contractor proposes to make to promote the program as distributors.

a. Advertising

The contractor will be responsible for conducting an aggressive nation-wide advertising and marketing campaign for the prints and stamps. An advertising schedule shall be included as part of the marketing proposal. All costs associated with the campaign will be the responsibility of the contractor. The contractor will establish a common release date for the first release of advertising material by all distributors. The campaign should include:

i. Direct Nationwide Magazine Advertising — The contractor will advertise prints and stamps nationally and regionally in magazines to include, but not limited to: Ducks Unlimited, Wildfowl, Southern Outdoors, Fin and Feather (Full Circulation), Wildlife Art News, Collectors Mart, Stamp Collector, and Stamp Work. An advertising schedule, including magazine issue, size of ads, and costs must be included with the proposal. The schedule will be a part of the negotiated contract. The ads will be professionally designed and proof of advertising must be submitted as part of the contractor's monthly reports to the department.

ii. Direct Local Newspaper Advertising — The contractor

will advertise locally in Louisiana newspapers. An advertising schedule, including anticipated size of ads, name of newspaper and frequency of advertising should be included with the proposal. The schedule will be a part of the negotiated contract. Publications will include, but not be limited to: Times Picayune, Morning-Advocate, State Times, Shreveport Journal, Alexandria Town Talk, Lake Charles Press, Lafayette Daily Advertiser, Monroe News Star World. These advertisements will identify dealers and ads will be aimed at educating collectors and directing them to their local source of prints.

b. Marketing Plan

The contractor will develop and describe a detailed marketing plan in the proposal that includes at least the following elements:

i. List of Proposed Distributors — the proposal should list all national and Louisiana distributors expected to market prints and stamps, as well as describe the criteria for qualification as a distributor.

ii. The Publisher-Distributor Agreement — provisions of this agreement should ensure that the distributors:

- (a). make timely payments
- (b). advertise and provide verification
- (c). provide dealer incentives

(d). make all payments due the department payable directly to the contractor. Any non-payment by distributors shall not release the contractor from the liability of royalty payments.

iii. Price Distribution for Products — the proposal should include a schedule of retail, wholesale, and distributor prices for each edition of prints, posters, or other products to be sold to the public.

iv. Distributor Discounts and Incentives — the proposal should describe any volume discounts and advertising credits to distributors that would escalate according to the number of prints ordered. In addition, the proposal should describe a cooperative program with participating Louisiana dealers that would provide them with national advertising at no cost. Such a program would encourage greater dealer participation in marketing the Louisiana waterfowl conservation stamp and print.

v. Mailing and Press Releases — the contractor will produce press releases for national media and conduct periodic mailings to distributors to provide promotional support, transmit news on the status of sales, and inform dealers of the purpose of the program, the nature of the design subject, and artist's background.

vi. Artist Appearances and Trade Shows — the proposal should list a schedule of artist appearances, in Louisiana and elsewhere, as well as any trade shows where the design and program will be promoted.

vii. Other Marketing Methods — the proposal should describe any innovative or expanded marketing approaches (e.g. telemarketing, catalog sales) that will be used to promote sales and the program.

c. Marketing Aids

The contractor will produce marketing aids, available to distributors at cost and, as specified, to the department at no charge, including:

i. Press proofs — full-size color prints (stamped "Sample Not for Sale") with facsimile of stamp; 30 for the department.

ii. Full-color mailers — to be 8 1/2" x 11" in size with information about the print, department program, and artist; minimum of 125,000 total, 500 for the department. Department approval required.

- iii. Black and white glossy photos — for use in advertising campaigns and press releases.
- iv. Posters
  - (a). 1500 posters, 18" × 24", specifically designed for hunting license vendors, to be distributed by the department. Department approval required.
  - (b). Quality art posters of the same size designed to promote the print and stamp program; 100 to the department. Posters may be given to distributors and dealers free of charge for promotional purposes. The state will receive a royalty on each poster sold after the first 2,000.
  - v. Artist information fliers.

7. Administration

- a. The contractor is required to submit monthly progress reports to the department, including a summary of marketing activity and outlook for sales, reports of any problems encountered with the program, subcontractors, or distributors, and documentation such as ad tear sheets, fliers, and inventory records.
- b. The contractor must be able to cover all expenses up front for advertising, printing, and other financial obligations and meet the proposed time table for the negotiated contract. Any anticipated support from the department must be detailed in the proposal and agreed to in negotiations.
- c. The department expects to receive a royalty on each print sold on the sale of any art posters and supplemental products.
- d. The contractor will be required to provide the department with an accounting of all production and disposition of products.
- e. If full payment is not made, the contractor shall be required to remit the payment to the department together with penalty at a rate of 18 percent per annum from the date due through the date of the final payment.
- f. All payments will be remitted to the department no later than April 1, 1990. A proposed schedule of payments must be included in the proposal.

B. Project Schedule

The following is a proposed time schedule for this contract including due dates of deliverables.

	DATE
Announcement of art contest . . . . .	.09/14/88
Art work submitted by . . . . .	.11/14/88
Selection of winner . . . . .	.11/17/88
Contract awarded . . . . .	.01/15/89
Delivery of press proofs . . . . .	.04/01/89
Delivery of keyline and kromalin proof of stamp design to Department . . . . .	.04/01/89
Beginning of advertising campaign . . . . .	.04/01/89
Delivery of final stamp press sheets . . . . .	.05/01/89
Printing of art prints . . . . .	.05/01/89
Delivery of all stamps and printing plates . . . . .	.06/01/89
Delivery of Conservation Edition prints . . . . .	.08/15/89
Distribution of all Executive Edition prints . . . . .	*
End of sale of art prints . . . . .	.09/30/89
Begin distribution of all Regular and Medallion prints . . . . .	.11/15/89
Return of original artwork and delivery of printing plates . . . . .	.02/01/90
Submission of audit and final report . . . . .	.04/01/90
Final payments to Department . . . . .	.04/01/90
Submission of progress reports . . . . .	monthly

\*Negotiable but no later than January 30, 1990

**§315. Proposal Content and Format**

Proposals should be complete without being unnecessarily costly or lengthy. Failure to provide necessary information could result in rejection of the proposal; supplemental information will not necessarily be requested. The format and content should closely reflect the following outline:

A. A letter of transmittal containing the complete name and address of the contractor; name, mailing address, and telephone number of the contact for the proposal; a statement of corporate commitment to the project; names of subcontractors; and a statement confirming that the proposal will remain valid for at least 90 days.

B. A title page showing:

1989 Louisiana Waterfowl Conservation Stamp and Art Print Program  
(Contractor's Name)  
(Date)

C. Table of Contents

D. Summary

Proposer's understanding of the Waterfowl Conservation Stamp Program and a statement explaining why his proposal should be selected.

E. Methodology

A detailed description of the proposer's approach to accomplishing the tasks described in the guidelines. At a minimum, the description should include:

1. Stamp production information, including processes, materials and specifications of the stamp, and proposed delivery dates of the camera-ready design, kromalin proofs and completed stamps.
2. Print production information, including processes, materials and specifications of the print, packaging and handling methods, and proposed delivery dates of all editions.
3. Description, specifications and production information on any supplemental products to be sold, such as pins, posters, Christmas cards, etc.
4. Advertising information, including the proposed outlets and time schedule for advertising, examples of advertisements and promotional materials to be used, and marketing programs to be developed specifically for this contract.
5. Marketing Plan, including list of distributors, distributor agreement, pricing structure, volume and advertising discounts, mailings and press releases, artist appearances and trade shows, and special marketing efforts in Louisiana.
6. Marketing aids available to distributors, including exhibits of fliers, counter display cards, press proofs, posters and ads.
7. Proposed project schedule, as in Time Schedule in Guidelines and dates for deliverables to the department.

F. Personnel and Organization

1. Organizational chart of all persons, joint contractors, and subcontractors involved in the project, showing lines of authority and categories of responsibilities.
2. Resumés of the contractor's key personnel, reflecting their experience in similar projects, duties in regard to this project, and commitments to other projects during the performance period of this project.
3. Summaries of subcontractor's capabilities, experience in similar projects, and their expected commitment of time and facilities to this project.
4. Summary of the contractor's corporate experience and performance record, including samples of previous work, partici-

pation and role in other stamp/print programs (e.g. publisher, distribution, dealer), references, and other materials relevant to evaluating the contractor's ability to perform.

5. The department reserves the right to contact and interview persons or firms involved in production and marketing of the stamps and prints.

6. A current corporate financial report, statement on proposed financing for this program, if applicable, and proposed source and methods of accounting and independent audit.

**G. Budget**

1. Summary of all anticipated costs and a complete description of expenses considered as administration, overhead and indirect costs. Any distributor discounts or incentives should be clearly identified. If the publisher will also act as a distributor, a separate accounting of anticipated distributor costs must be submitted.

2. Summary of all income, including gross income from projected sales, cost recovery from distributors on promotional aids, and any other income or subsidies.

3. Projected revenues to the artist, the department and others, describing how revenues are calculated, forms of payment and critical assumptions.

4. Schedule of payments and circumstances affecting the schedule.

Virginia Van Sickle  
Secretary

# Notices of Intent

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Management and Finance  
Central Registry**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 3:3660, R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985), notice is hereby given that the Department of Agriculture and Forestry, Central Registry, intends to adopt the following amendments:

All inquiries should be sent to Richard Allen, Assistant Commissioner, Office of Management and Finance, Department of Agriculture and Forestry, Box 44306, Capitol Station, Baton Rouge, LA 70804.

**Title 7  
AGRICULTURE AND ANIMALS  
Part XXXVII. Security Devices**

**Chapter 181. Central Registry**

**§18117. Farm Products List and Codes**

A. In accordance with R.S. 3:3655 (B) and Section 1324 of the Food Security Act of 1985, Public Law 99-198 as amended, and regulations issued thereunder as applicable, only those products listed below shall be deemed farm products by the Central Registry.

CODE	PRODUCT	CODE	PRODUCT
1005	Broccoli		
1010	Cabbage	1200	Peanuts
1020	Cantaloupes	1210	Peas
1030	Cauliflower	1220	Pecans
1040	Corn	1230	Peppers
1050	Cotton	1240	Rice
1060	Cucumbers	1250	Rye Grass Seed
1070	Cushaw	1260	Sorghum Grain
1075	Eggplant		
1080	Flowers, Shrubs and Ornamentals	1270	Soybeans
		1280	Squash
1090	Garlic	1290	Strawberries
1100	Grapes	1300	Sugarcane
1110	Grass	1310	Sunflower Seed
1120	Greens	1320	Sweet Potatoes (Yams)
		1330	Sweet Sorghum
1130	Hay		
1145	Irish Potatoes		
1150	Mushrooms	1340	Tomatoes
1160	Oats	1350	Watermelons
1165	Okra		
1170	Onions	1360	Wheat
1180	Oranges		
1190	Peaches	3010	Alligators
		3020	Catfish
		3030	Cattle
		3040	Chickens
		3045	Crabs
		3050	Crawfish
		3060	Goats
		3070	Hogs
		3080	Honeybees
2010	Cheese	3090	Horses
2020	Eggs	3100	Mink
2030	Honey	3110	Oysters
2040	Milk	3120	Quail
		3130	Prawns
		3140	Sheep (Lamb)
		3150	Shrimp
		3160	Turkeys
		4000	Timber

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654 and R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

Bob Odom  
Commissioner

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Central Registry**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections will increase \$80 in FY '88-89, \$400 in FY '89-90 and \$720 in FY 90-91 as a result of adding eggplant, okra, irish potatoes and crabs to the list of approved farm products.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Individuals wishing to secure production loans for eggplant, okra, irish potatoes and crabs by registering with the Central Registry will be able to do so.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Richard Allen  
Asst. Commissioner

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Department of Economic Development  
Used Motor Vehicle and Parts Commission**

The Used Motor Vehicle and Parts Commission, in accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, advertises its intent to adopt these proposed amendments, after determining, pursuant to R.S. 49:953 (E), that this action will not result in any increase in the expenditure of state funds.

These amendments change the time of day at which regular monthly meetings will begin, implement minor administrative and organizational changes, and correct and clarify certain errors and ambiguities contained in the original rules.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part V. Automotive Industry  
Subpart 2. Used Motor Vehicle and Parts Commission  
Chapter 27. Used Motor Vehicle and Parts Commission  
§2701. Meetings of the Commission**

A. The commission shall meet at its office in Baton Rouge, Louisiana on the third Thursday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 2 p.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law, R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by LR 15: (April 1989).

**§2703. Quorum of the Commission**

Six members of the commission shall constitute a quorum for the transaction of official business. Fewer than a quorum may adjourn the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by LR 15: (April 1989).

**Chapter 29. Used Motor Vehicle Dealer**

**§2903. License for Dealer**

Dealer license will be issued in the legal name of the individual, proprietorship, partnership or corporation as identified on the application for dealer license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by LR 15: (April 1989).

**§2905. Qualifications and Eligibility for Licensure**

A. The commission, in determining the qualifications and eligibility of an applicant for a dealer's license, will base its determinations upon the following factors:

1. ...

2. All dealers are required to furnish and keep in force the minimum required liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state.

3. ...

B. A dealer's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the dealership and assigned a dealer number, which shall be posted in a conspicuous place in the dealer's place or places of business. The dealer's license number will be prefixed with UD, followed by a four-digit number and then the current year of license (UD-0000-89).

C. The valid dealer's license permits the dealer to transfer and assign titles, purchase and sell used motor vehicles without paying Louisiana general sales tax.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with RS. 32:772 F(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by LR 15: (April 1989).

**Chapter 31. License for Salesman**

**§3101. Qualifications and Eligibility for Licensure**

A. The commission, in determining the qualifications and eligibility of an applicant for a salesman license, will base its determinations upon the following factors:

1. ...

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ. It is not intended that the dealer pay for licenses for its salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesman licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. A salesman's license shall consist of an identification card bearing the name, address, name of employer, date, signa-

ture of the executive director, salesman's license number prefixed with SM, followed by a four-digit number, then the current year of license (SM-0000-89). The card shall be carried upon his person at all times when acting as a salesman at licensee location.

C. Upon termination of employment, the salesman license will be returned by the dealer to the office of the Used Motor Vehicle and Parts Commission within 10 days.

D. A salesman may not hold more than one salesman's license at any one time or be employed by or sell for, any dealer other than the dealer and at the address designated on the salesman's license, with the exception that the licensed dealer has more than one location. The licensed dealer and licensed salesman may sell on each location properly licensed as additional locations, provided the additional locations are in the same name as the principal location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by LR 15: (April 1989).

### **Chapter 35. Buyer Identification Card**

#### **§3501. Buyer Identification Card Required**

Sales at a salvage pool or salvage disposal sale shall be opened only to persons possessing a buyer's identification card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by LR 15: (April 1989).

#### **§3503. Qualifications and Eligibility for Buyer Identification Card.**

A. ...

1. ...

2. Completion of official Used Motor Vehicle and Parts Commission application forms. Payment of Louisiana state general sales tax is due on all vehicles purchased at a salvage pool or salvage disposal sale and such payment must be reflected.

B. The buyer's identification card shall include the name, driver's license number signature of the applicant; and number prefixed with BI, followed by a four-digit number, then the current year (BI-0000-89). Cards obtained for the buyers will be \$25 each for Louisiana residents and \$200 each for out-of-state residents.

C. The buyer's identification card shall be carried upon the cardholder's person and same displayed to owner, manager, or person in charge of any salvage pool or salvage disposal sale. Physical description and signature of cardholder must be compared with cardholder's driver's license for valid identification by owner, manager, or person in charge of any salvage pool or salvage disposal sale. It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid buyer's identification card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by LR 15: (April 1989).

### **Chapter 37. Changes to be Reported to Commission**

#### **§3701. Changes to be Reported to Commission**

A. - C. ...

D. Any change which renders no longer accurate any information contained in an application for dealer or automotive dismantler license filed with the commission shall be amended within 30 days after the occurrence of the change on the form prescribed by the commission, accompanied by the appropriate fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by LR 15: (April 1989).

### **Chapter 41. Condition of Sale of a Motor Vehicle**

#### **§4103. Condition of Sale Contracts and Warranty Disclaimers**

A. - B. ...

C. Sale of extended warranties will be expressly covered in Chapter 47 upon promulgation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772F (3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by LR 15: (April 1989).

### **Chapter 45. Complaints**

#### **§4501. Complaints**

All forms of complaints made to the commission must be made on the complaint form provided by the commission. A consumer action panel will hear complaints on a condition of sale, implied and written warranties and service complaints on those warranties, if complaints cannot be satisfied in any other manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776A (3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended by LR 15: (April 1989).

Interested persons may submit written comments concerning these proposed amendments to Linda Stroud, Business Services Manager, Louisiana Used Motor Vehicle and Parts Commission, 10925 Perkins Road, Suite A, Baton Rouge, LA 70810.

Rodley J. Henry  
Executive Director

### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: Amendment LAC 46: V. Used Motor Vehicle and Parts Commission**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that \$224.64 is necessary to cover the cost of printing and postage for the increased number of buyer's licenses issued in FY 88-89. The costs for FY 89-90 and 90-91 will be \$137.67 each. The expenses for personnel and equipment will be absorbed within the current source of funding and fees generated from the increased number of licensees.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**



There will be an increase in revenues due to the fee charged for each license issued. Of the 576 increased licenses, 86 were out-of-state buyers. 488 licenses @ \$25 = \$12,200 and 88 licenses @ \$200 = \$17,200 for a total of \$29,400 for FY 88-89. FY 89-90 indicates a decrease in number of buyer's licenses to be issued. The revenues for FY 89-90 are calculated at 353 increased licenses at \$25 each for a total of \$8,825. The \$200 license fee is not calculated since there is a decrease of 242 out-of-state buyers. The same amount of \$8,825 is estimated for FY 90-91.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be an increase in the number of individuals bidding at salvage pools. This agency is unable to determine an effect of costs or impact of revenues since we have no knowledge of fees collected by salvage pools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Due to the increased number of bidders at salvage pools, this would allow more competition to dealers who are in the business of selling used automobiles.

Rodley J. Henry  
Executive Director

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Amend Maximum Class Size Requirements-K-3

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 an amendment to Bulletin 741, Standard 2.038.01 to lower BESE requirements for maximum class size in Grades K-3 from 29 to 26.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., April 10, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Standard 2.038.01**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that approximately \$50 would be needed to reprint the pages in Bulletin 741 and to disseminate this information to local school systems. The funding level for grades K-3 was increased in order to lower the ratio to 20:1 at a cost to the state of \$16.1 million. If LEA's hire additional people, additional parish supplements will have to be paid.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collection at the state level. The revenue collection at the local level will vary depending on the number of teachers hired by the particular LEA. Total revenue collections at the local level will be increased by a maximum of \$16.1 million, the amount appropriated to lower the ratio to 20:1.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The 20:1 pupil/teacher ratio should allow for more teaching positions to be needed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be increased job opportunities for teachers.

Graig A. Luscombe  
Assistant Superintendent

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Amendment to Bulletin 746

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 the following amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, page 68:

Amend "E" to read:

E. Assistant superintendents for all instructional programs are required to meet the same standards as superintendents.

Add "F" to read:

F. Assistant superintendents for noninstructional areas\* shall be certified as a school superintendent or meet the following requirements:

1. A minimum of five years of demonstrated successful administrative experience at a managerial level in education and/or related fields either in the public or private sector.

2. Possess an earned master's degree from a regionally accredited institution of higher education in either education administration, business administration, public administration or a related area of study, including but not limited to accounting, finance, banking, insurance, and law.

The responsibilities assumed by this category of administrators must be related to noninstructional programs and the experiences obtained while at that level may not be used for meeting the certification requirements for superintendent.

\* Noninstructional areas include finance, management, facilities planning, and ancillary programs.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., April 10, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Amend Bulletin 746: La. Standards for State  
Certification of School Personnel**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that it will cost approximately \$50 to print and disseminate the revised page(s) in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposed change has no effect on revenue collection.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

Individuals outside of education are now eligible for employment at the assistant superintendent level. No additional cost, paperwork, or documentation will be necessary as a result of this change.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-  
MENT (Summary)**

This change allows local school boards more flexibility in hiring individuals for these positions since certification as a teacher is no longer a prerequisite for employment as an assistant superintendent for non-instructional areas. Because of the expanded pool of eligible candidates for these positions the competition for these positions will increase.

Graig A. Luscombe  
Assistant Superintendent

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Water Resources**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality gives notice that rulemaking procedures have been initiated to amend the Louisiana Water Pollution Control Regulations, specifically to add new language under LAC 33:IX.708 Exploration for and Production of Oil and Natural Gas.

This rule is proposed under the authority of the Environmental Quality Act within the powers of the secretary to establish regulations necessary to protect the environment [R.S. 30:2011.D.(1)]. The discharge of produced waters from oil and gas production facilities is of particular concern to this agency because of their potential impact on the commercial and sport fisheries, fishery nursery ground, wildlife habitat, fur industry, flood protection and erosion control benefits of the wetlands, and recreation and aesthetics. The conservative and prudent approach is to begin to control these discharges through the regulatory process. This proposed rule is intended as a reasonable first step to identify toxic and radioactive characteristics of produced water discharges. The collection of the radioactivity and toxicity

data will enable the Office of Water Resources staff to make a better determination as to the potential impact of these discharges on the wetlands and associated fisheries. The estuarine-dependent commercial fishing lands for 1987 have been conservatively estimated at 1.6 billion pounds, valued at \$284 million. The estuarine-related sports fishing value has been estimated at \$540 million. If sites contaminated with radioactive material are required to implement remedial and/or cleanup procedures the cost will equal, if not exceed, those costs required for hazardous waste cleanup. The predicted total cost of \$3,150,000 (maximum cost) that will be incurred by the affected oil and gas industries as a result of the requirements of this proposed regulation are warranted in order to determine what controls this agency needs to institute in order to protect the environment.

The proposed amendments will become effective February 20, 1989, under emergency rule procedures. This notice initiates the standard promulgation procedures for these proposed amendments which are expected to be final and effective April 20, 1989. The produced water discharge must be tested and the radioactivity and toxicity results reported to DEQ by August 20, 1989 and February 20, 1990, respectively.

A public hearing will be held at 2 p.m. on March 3, 1989, in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 N. Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendment.

All interested persons are also invited to submit written comments on the proposed amendments. Such comments should be submitted no later than March 17, 1989, to Lynn Wellman, Department of Environmental Quality, Box 44091, Baton Rouge, LA 70804-4091. He may be contacted at the address above, or telephone (504) 342-6363. A copy of the proposed amendments may be obtained from the Louisiana Department of Environmental Quality at the address provided. In addition, copies of the proposed amendments are also available for inspection at the following locations from 8 a.m. until 4:30 p.m. on normal working days.

State Land and Natural Resources Building, Room 923, Ninth Floor, 625 North Fourth Street, Baton Rouge, LA 70804-4091.

Capital Regional Office, Water Pollution Control Division, 11720 Airline Highway, Baton Rouge, LA 70817-1720.

Northeast Regional Office, Water Pollution Control Division, 804 N. 31st Street, Monroe, LA 71211-8475.

Acadiana Regional Office, Water Pollution Control Division, 100 Eppler Road, Lafayette, LA 70505-0100.

Southwest Regional Office, Water Pollution Control Division, 1150 Ryan Street, Lake Charles, LA 70601-3047.

Southeast Regional Office, Water Pollution Control Division, 3945 North I-10 Service Road/West, Metairie, LA 70002-3945.

Bayou Lafourche Regional Office, Water Pollution Control Division, 302 Baratavia, Lockport, LA 70374-0302.

Northwest Regional Office, Water Pollution Control Division, 1525 Fairfield, Room 11, Shreveport, LA 71130.

Kisatchie Central Regional Office, Water Pollution Control Division, Highway 167 North, Tioga, LA 71477-278.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality Regulations**

**Chapter 7. Effluent Standards**

**§708. Exploration for and Production of Oil and Natural Gas**

A. A radioactivity measurement, acute toxicity test, and chronic toxicity test shall be conducted using test methods approved by the Administrative Authority on representative samples of all existing produced water discharges which flow to the surface waters of the state. The results of the radioactivity analysis and the average daily discharge rate (barrels per day) shall be submitted to this office by August 20, 1989. The results of the toxicity analyses and the average daily discharge rate (barrels per day) shall be submitted to this office by February 20, 1990.

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 in LR 15: (April, 1989).

Paul H. Templet, Ph. D.  
Secretary

**Fiscal and Economic Impact Statement**  
**For Administrative Rules**

**Rule Title: Oil and Natural Gas Exploration/Production**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Environmental Quality will not incur an increase or a decrease in costs to implement the proposed rule.

There is no anticipated increase or decrease in costs to other state agencies or local governmental units to implement the proposed action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this proposed rule will not affect revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule requires that each produced water discharge be tested and the radioactivity and toxicity results reported to DEQ by August 20, 1989, and February 20, 1990, respectively. There are approximately 700 produced water discharges from oil and gas production facilities statewide that will have to be tested. The average cost per site to sample and analyze the discharge as required by the proposed rule is \$4500. The maximum total cost to the oil and gas industry as a result of this proposed rule is estimated to be \$3,150,000. This testing will enable DEQ to more accurately assess the consequences of produced water discharges and enable this agency to properly and fairly address its responsibility to protect the environment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Promulgation of this proposed rule will not affect in-state competition or employment within the oil and gas industry because the rule will be consistently applied to all produced water discharges. The effect on inter-state competition cannot be precisely determined, but should prove to be insignificant. Other states, including Texas, presently require some testing of these discharges; and the Environmental Protection Agency is expected in the near future to require testing similar to the testing proposed by this rule. There may be a short-term increase in competition among the testing laboratories that will be analyzing the samples as required by this proposed regulation.

Paul H. Templet, Ph. D.  
Secretary

David W. Hood  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Office of the Governor**  
**Architects Selection Board**

Pursuant to the provisions of R.S. 38:2310 et seq. as amended, the Louisiana Architects Selection Board, hereinafter referred to as board, has promulgated such rules and procedures as it deemed necessary to carry out the provisions of the said statutes. These rules are established by the board, and are subject to change by said board, in accordance with the Administrative Procedure Act.

**Title 4**  
**ADMINISTRATION**  
**Part VII. Governor's Office**

**Chapter 1. Architects Selection Board**  
**Subchapter A. Organization**

**§103. Authority**

The Architects Selection Board shall be organized in accordance with the provisions of R.S. 38:2310 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), re-promulgated LR 10:453 (June 1984), amended LR 15: (April 1989).

**§107. Members**

A. The board shall be composed of members, serving terms in accordance with the provisions of the authority set forth in Article II.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), re-promulgated LR 10:453 (June 1984), amended LR 15: (April 1989).

**§109. Officers**

A. The officers of this board shall be a chairman and a vice chairman elected by the board at the first regular meeting following each January 1 and July 1. The board member who

serves as chairman and the board member who serves as vice chairman shall be from different, overlapping terms of service to the board. In the event, for whatever reason, the offices of both chairman and vice chairman of the board become vacant, a special board meeting shall be called within 30 days of the second vacancy to fill both vacancies for the remainder of the unexpired term of each respective office.

B. 1-6. ...

C. The duties of the vice chairman shall be as follows:

1-3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15: (April 1989).

### §111. Meetings

A. A regular meeting of the board shall be held on the last Friday of January and July, unless such meeting is waived by the chairman as unnecessary.

B-C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15: (April 1989).

### §125. Application

A. Any applicant (proprietorship, partnership, corporation or joint venture of any of these) meeting the requirements of Title 38 of the Louisiana Revised Statutes of 1950, R.S. 38:2310 et seq., may submit application for selection consideration for a particular project upon which official advertisement has been published. The applicant shall submit data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information which the board may request.

B-E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15: (April 1989).

### §127. Selection

A. ...

B. The selection procedure shall be as follows:

1-5. ...

6. In the event that during the selection of a designer for a particular project the first ballot is unanimous for the first place choice, the selection shall be awarded to that firm, and a second ballot will not be required.

7-10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 1:181 (April 1975), amended LR 4:495 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15: (April 1989).

### §133. Information

Any person may obtain information concerning the board, its rules, regulations and procedures from the board's secretary at the Office of Facility Planning and Control, Division of Administration, Box 94095, Capitol Station, Baton Rouge, LA 70804. Requests for information may be made verbally or in writing. There may be a nominal fee charged to defray the cost of information furnished. Said fee shall be set by Facility Planning and Control, with the approval of the board.

Persons interested in making comments relative to these rule changes may do so in writing to the director of Facility Planning and Control, Box 94095, Baton Rouge, LA 70804-9095.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), amended LR 15: (April 1989).

Roger Magendie  
Director

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Architects Selection Board

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation cost or savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits related to these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Roger Magendie  
Director

John R. Rombach  
Legislative Fiscal Officer

### NOTICE OF INTENT

#### Office of the Governor Office of Elderly Affairs

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs intends to amend the FY 1988 - FY 1991 Louisiana State Plan on Aging. The purpose of the amendment is to make changes required by the Older Americans Act Amendments of 1987, (the Act) and 45 CFR 1321, published in the *Federal Register*, Vol. 53, No. 169, dated Wednesday, August 31, 1988 (the regulations).

This State Plan on Aging amendment incorporates assur-

ances specified in Sections 305 and 307 of the Act and Section 1321.17 of the regulations; and substantive revisions which arise from the Act. A new Section 1325, entitled "Priority Services and Targeting Requirements", has been added to include the latter as identified below:

1. The amendment specifies a minimum percentage of Title III-B funds which each area agency will expend, in the absence of a state agency waiver, for access services, in-home services and legal assistance. [307(a)(22)]

2. The amendment identifies the number of low-income minority older individuals residing in Louisiana during FY 1988; and describes the methods used to satisfy the service needs of such minority older individuals. [307(a)(23)]

3. The amendment describes the methods used in FY 1988 to satisfy the service needs of older individuals who reside in rural areas. [307(a)(29)]

4. The amendment includes proposed methods of carrying out preference for providing services to older individuals with the greatest economic or social needs with particular attention to low-income minority individuals. [305(a)(2)(E)]

The declaration of emergency adopting this State Plan on Aging amendment as an emergency rule effective October 1, 1988 appears in this issue of the *Louisiana Register*.

Public Hearing. A public hearing on the proposed State Plan on Aging amendment will be held on Thursday, March 9, 1989 in the State Police Auditorium, 7901 Independence Boulevard, Baton Rouge, LA. The hearing will convene at 1 p.m. All interested parties are encouraged to attend the public hearing and to submit their views concerning the proposed amendment, both orally and in writing.

Written comments concerning the proposed State Plan amendment should be forwarded to Betty Johnson, Elderly Affairs Planning Manager, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge LA 70898-0374. Written comments must be received in the Office of Elderly Affairs by 5 p.m. Friday, March 10, 1989.

Vicky Hunt  
Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: State Plan on Aging Revision**

- 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 this amendment to the State Plan on Aging.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This proposed amendment will not affect revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
This amendment to the State Plan on Aging establishes services priority for frail, homebound or isolated elderly.  
The amendment specifies a minimum percentage of Older Americans Act Title III-B funds which each area agency will be required to expend, in the absence of a state

agency waiver, for access services, in-home services and legal assistance. Each area agency will be required to expend at least 25% of available Title III-B funds for access services beginning with FY 1990, increasing to 30% in FY 1991. The area agencies will be required to expend at least 10% of available Title III-B funds for in-home services beginning with FY 1990, increasing to 15% in FY 1991. Each area agency will be required to expend a minimum of 3.0% of available Title III-B funds for Legal Assistance for elderly not residing in long-term care facilities in FY 1990, increasing to 5.0% in FY 1991. Maintenance of effort will be required for all priority services after FY 1991.

Beginning in FY 1990, GOEA will use procurement contracts to operate a statewide Ombudsman Legal Assistance Programs designed to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

The amendment also includes: 1) the number of low-income minority older individuals residing in Louisiana during FY 1988 and the methods used to satisfy the service needs of such minority older individuals; 2) the methods used in FY 1988 to satisfy the service needs of older individuals who reside in rural areas; and 3) proposed methods of carrying out preference for providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of this rule change on competition and employment is not known at this time.

Vicky Hunt  
Director

David W. Hood  
Legislative Fiscal Analyst

**NOTICE OF INTENT**

**Office of the Governor  
Office of Women's Services**

The Office of Women's Services proposes to amend the following guidelines for allocation of marriage license surcharge fees from the Programs for Victims of Family Violence Fund.

**Title 4  
ADMINISTRATION  
Part VII. Governor's Office**

**Chapter 17. Women's Services  
Subchapter C. Programs for Victims of Family Violence Fund**

**§1737. Guidelines for Application of Additional Marriage License Fees**

- A. - D. ...
- E. Application Process
1. Notification of the availability of funds for family violence programs for fiscal year 1989-90 will be given through the Office of Women's Services.
2. Application packets will be sent to all existing family violence program providers, and all persons/organizations who have made past inquiries regarding funding. Interested potential applicants may request application packets from the Office of

Women's Services, Box 94095, Baton Rouge, LA 70804-9095.

3. The application packet will be mailed within five working days of receipt of request.

4. The application must be received by the Office of Women's Services by June 1, 1989.

5. All applications will be evaluated and prioritized according to the stated criteria for evaluation. During the evaluation process, applicants may be contacted by the Office of Women's Services to review and negotiate the application and proposed budget.

6. Applicants will be notified by the Office of Women's Services as to the final decision within 60 days of receipt of the application.

7. The contracts will be signed, and distribution of funds will begin within 45 days of final approval of the contract.

F. - G. ...

Interested persons may submit written comments on the proposed amendment until 4:30 p.m., March 20, 1989 to Glenda Parks, Executive Director, Office of Women's Services, Box 94095, Baton Rouge, LA 70804-9095.

Glenda Parks  
Executive Director

### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: Women's Services Programs for Victims of Family Violence**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change simply changes the dates for notification of availability of funds for family violence programs and the due date for applications. There is no economic impact as a result of the proposed rule.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change would have no effect on revenue collections of state or local governmental units.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)**

The proposed rule would have no economic effect on persons or non-governmental groups.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)**

The proposed rule would have no effect on competition and employment.

Glenda Parks  
Executive Director

David W. Hood  
Legislative Fiscal Analyst

## **NOTICE OF INTENT**

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

In accordance with the Administrative Procedure Act, as amended, the Vital Records Registry of the Office of Public Health, Department of Health and Hospitals intends to amend the procedure and evidence requirements related to Acknowledgements of Paternity or Judgments of Filiation as provided for in the Louisiana Civil Code under Articles 203 and 209 by supplanting §11501 of Chapter 115 of Title 48 of the Louisiana Administrative Code in its entirety with the following. The promulgation of rules is authorized by R.S. 40:33C. and 40:59, 60.

#### **Title 48**

#### **PUBLIC HEALTH - GENERAL Part V. Preventive Health Services Subpart 45. Vital Records**

#### **Chapter 115. Acknowledgements**

#### **§11501. Acknowledgement of Paternity**

##### **A. Introduction**

1. All documents submitted to accomplish changes on a birth certificate as a result of Acknowledgements of Paternity or Judgments of Filiation shall be either the original or certified, true copies of the original instruments bearing an official seal. All documents submitted shall be retained by the state registrar.

2. Certificates of Live Birth, new or altered as a consequence of an Act of Acknowledgement or Judgment of Filiation, shall be distinctly marked "Acknowledgement" or "Filiation Judgment" in the confidential section and shall include the evidentiary basis for the action, the date of the action, and the full signature of the State Registrar or his designee.

3. A birth certificate which bears a father's surname and data shall only be altered when there has been a successful disavowal of paternity by the father or heirs in accordance with Codal Articles 187 and 190 within the time specified by Codal Article 189. When such a disavowal can not be obtained, it is suggested that an adoption be considered.

##### **B. Voluntary Acknowledgement of Paternity - Minors**

1. In circumstances wherein the birth certificate of a child on file in the Vital Records Registry does not reflect the name of a father, the certificate may be altered by an authentic Act of Acknowledgement in compliance with the provisions of Louisiana Civil Code, Article 203.

2. The state registrar of Vital Records shall recognize formal and authentic Acts of Acknowledgement executed before the notary public, by the father and the mother jointly in the presence of two competent witnesses; when the mother is unable to appear before a notary public, the registrar shall recognize a formal and authentic Act of Acknowledgement executed by the father before a notary public and two competent witnesses which has been endorsed by the mother in the presence of two competent witnesses signifying that the mother concurs. An acknowledgement by the child's mother or father alone, while authorized pursuant to Article 203, shall have no effect on the birth record. In other words, the child's mother or father, acting alone, may not cause a father's name or data to be added onto a birth record.

3. The Act of Acknowledgement shall set forth the acknowledging father's address and full name, city and state of birth, age at the time of the child's birth, and the father's race. In

the event that the above information relating to the child's father is not a part of the authentic act itself, that information may be otherwise provided in writing by the acknowledging parent(s) or an attorney acting on his or their behalf.

4. The surname of the child that the parents desire appear on the birth certificate shall be specifically included in the Acknowledgement of Paternity. The surname may be either the maiden name of the mother, the surname of the biological father or a hyphenated combination of the two surnames in the order specified by the parents.

5. After a birth record has been filed and registered in the Vital Records Registry and upon presentation of an Act of Acknowledgement and parental information, the state registrar or his designee shall prepare a new Certificate of Live Birth for the child incorporating the specified birth facts. The biological father shall sign the new certificate. The date of the informant's signature shall be left blank on the Certificate of Live Birth. The mother's signature shall be obtained if the father is not available. If neither are available, the state registrar is authorized to sign for the parents.

6. Except in instances of "in-hospital" acknowledgements, when the attendant's name is not legible on the original Certificate of Live Birth, it shall be the responsibility of the parents to obtain a written, signed statement from the attendant attesting to his attendance at the birth. When such a signed statement cannot be obtained from the attendant, the statement may be obtained from the administrator of the medical institution where the birth occurred or his designee on the letterhead of that institution. The name of the attendant shall be typed on the Certificate of Live Birth along with the date of the attendant's signature as it appeared on the original birth document.

7. No alterations of birth data other than the child's surname, and the data relative to the biological father may occur based on an Act of Acknowledgement.

8. The fee specified for an Acknowledgement (See R.S. 40:40 [8]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for any copies of the revised Certificate of Live Birth desired by the parents.

C. Obtaining a "New" Certificate of Live Birth on an "Old" Acknowledgement of Paternity for those Persons Who have not reached the Age of Majority

1. The mother or father of a child who was acknowledged prior to the effective date of this rule may formally request that a new Certificate of Live Birth be issued. Provided that the acknowledgement documents on file are in proper order as specified in "A.1." above and the information regarding the attendant is provided, a new certificate may be issued. Any deviation from the surname of the child as it appears on the Certificate of Live Birth already on file shall be in accordance with the naming process outlined above and shall require an affidavit in which the mother and biological father concur in the revised surname.

2. The fee specified for a Certificate of Live Birth "correction" (See R.S. 40:40 [10]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for any copies of the revised Certificate of Live Birth desired by the parents. Fees previously paid shall not be credited against the correction fees.

D. Judgment of Paternity or Filiation Concerning a Minor

1. A Certificate of Live Birth which does not have a father's name and data on file with Vital Records Registry may be altered by a judgment of paternity or filiation issued by a court of competent jurisdiction. Only the surname of the child may be

altered and/or the facts relative to the father may be added as a result of the judgment. A certified copy of the paternity or the filiation judgment, along with a certified copy of the petition shall be submitted to the state registrar.

2. The fee specified for an Acknowledgement (See R.S. 40:40 [8]) shall be applicable for this transaction as shall the statutory issuance fee (See R.S. 40:40 [11]) for any copies of the revised Certificate of Live Birth desired by the parents.

E. Acknowledgement of Paternity on Persons who have Reached the Age of Majority

1. If at the time of Acknowledgement of Paternity, or Judgment of Paternity or Filiation the registrant shall have reached the age of majority, the state registrar shall require an affidavit(s) to be obtained from the district attorney(s) of the place(s) of residence and domicile of the said person for the past five years, wherein the district attorney(s) shall state objections, if any exist, to the name change aspects, prior to the preparation of the altered or new Certificate of Live Birth. If there is no objection, the state registrar may proceed to alter the birth record or issue the "new" certificate, whichever is appropriate. If there is an objection, the state registrar may not proceed with the alteration or new certificate until the district attorneys' objections, if any, have been resolved.

AUTHORITY NOTE: Promulgated in accordance with La. Civil Code Art. 203; R.S. 40:32, R.S. 40:33, R.S. 40:46, and R.S. 40:59-60.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1978), amended LR 15:

Interested persons may submit written comments at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160.

David L. Ramsey  
Secretary

## **Fiscal and Economic Impact Statement For Administrative Rules**

### **Rule Title: Acknowledgments/Paternity**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no implementation costs to either state or local governments.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be a nominal increase in revenues (estimated at less than \$500/year) based on "correction" of birth certificates at the request of parents who previously acknowledged illegitimate children and desire to have "new certificates" replace the "old" altered certificates.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Persons requesting corrections on birth certificates will pay a correction fee of \$10. It is anticipated that the number of such fees collected on an annual basis will be less than 50.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment.

Joseph D. Kimbrell  
Deputy Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

### NOTICE OF INTENT

#### Department of Labor Office of Employment Security Board of Review

The Department of Labor, Board of Review, intends to adopt proposed rules for appealed claims of the Louisiana Board of Review.

Interested persons may comment on the proposed Rules for Appealed Claims of the Louisiana Board of Review by writing Karen Raby, Acting Director, Louisiana Board of Review, Box 94094, Baton Rouge, LA 70804-9094.

#### Title 40 LABOR AND EMPLOYMENT Part IV. Employment Security Subpart 1. Board of Review

#### Chapter 1. Appealed Claims for Board of Review

#### §101. Office and Officers of the Board of Review

A. The office of the Louisiana Board of Review, hereinafter referred to as the board, shall be domiciled in the Louisiana Office of Employment Security Administrative Office Building in Baton Rouge, Louisiana.

B. The board shall elect a chairman, vice-chairman and secretary, from its membership, all of whom shall serve at the pleasure of the majority of the board. The chairman shall not be denied any right of membership.

#### §103. Time and Place of Meeting of the Board

All meetings of the board shall be called by the chairman or by a majority of the board. The chairman shall notify the members of the board of any meeting in writing at least three days in advance, unless such notice is waived by the members. All meetings shall be held at the office of the board, or at any place within the state designated in the call.

#### §105. Quorum

Except as otherwise expressly provided in these rules, two members of the board shall constitute a quorum, until January 1, 1989, at which time three members will constitute a quorum, as per Act No. 924 of the Regular Session of Louisiana Legislature. In the absence of the chairman, the vice-chairman shall act as chairman.

#### §107. Computation of Time - Saturdays, Sundays and Holidays

Whenever these rules prescribe a time for the performance of any act, Saturdays, Sundays and legal holidays (half-holiday is considered a legal holiday) in the state of Louisiana shall count as any other days, except that when the time prescribed for the performance of an act expired on a Saturday, Sunday or a legal holiday in Louisiana, such time shall extend to and include the next succeeding day that is not a Saturday, Sunday or such legal holiday, provided that, when the time for per-

forming any act is prescribed by Statute, nothing in these rules shall be deemed to be a limitation or extension of the statutory time fixed.

#### §109. Appeals to the Administrative Law Judge (Appeals Tribunal)

The party appealing from the agency's initial determination shall file, at an office or itinerant point of the Louisiana Office of Employment Security, a notice of appeal (Form LBR-1), setting forth information required therein within fifteen days after date notification was given or was mailed to his last known address.

It is hereby further provided that any letter written by claimant or employer to the Louisiana Office of Employment Security or the board disputing the determination or appeal decision may be accepted in lieu of a formal form of appeal, Form LBR-1, provided said letter is received by any office of the Louisiana Office of Employment Security or by the board within 15 days after notification, was given or was mailed to his last known address.

#### §111. Notice of Hearing

A notice of hearing (Form LBR-2 or Form LBR-2T) shall be mailed to all parties (as defined in Rule No. 507) to the appeal at least 10 days prior to the date of the hearing, specifying the place and time of the hearing.

#### §113. Postponements, Continuances, Reopenings and Rehearings

A hearing may be postponed or continued by the administrative law judge for good cause, either upon his own motion or upon the request of a party. A party's request for postponement or continuance shall be made in writing to the administrative law judge whose name and address appear on the notice of hearing.

If a claimant or employer fails to appear at a scheduled hearing (of which he received timely notice), the administrative law judge, at his discretion, may continue the hearing to a later date or reopen it. Where good cause is shown by either party, the administrative law judge shall continue the hearing to a later date or reopen it. A request for such continuance or reopening shall be made in writing, mailed or delivered to the office where the appeal was filed, or to the administrative law judge whose name and address appear on the notice of hearing, within seven days after the decision of the administrative law judge was mailed to such party.

Where a party shows to the satisfaction of the administrative law judge that he did not receive timely notice of the hearing, the administrative law judge shall grant a rehearing.

Notice of the time and place of a postponed, continued, or reopened hearing, or of a rehearing, shall be given to the parties or their representatives.

Any request by a party for postponement, continuance, reopening, or rehearing, received after the decision of the administrative law judge was mailed to such party, shall not be treated as an appeal of the decision to the Board of Review. The administrative law judge shall respond to all such requests, and inform the appellant of further appeal rights to the board. A copy of that request and the administrative law judge's response shall be incorporated in the file. If the case is appealed to the Board of Review, they shall render a decision on the merits of the case or remand it to the administrative law judge for either a full hearing and decision or additional information.

If the appellant fails to appear at the scheduled time for the hearing, or fails to respond to a scheduled time for the telephone hearing, or within fifteen minutes thereafter, the adminis-



trative law judge shall proceed with the hearing and render a decision on the basis of the record.

The term "party" or "parties" as used in these rules shall mean the claimant or the employer only.

**§115. Conduct of Hearing Before Administrative Law Judge**

The administrative law judge shall preside over the hearing. All testimony shall be given under oath or affirmation. The administrative law judge shall have the right to question and cross-examine all witnesses. Each party to the appeal, or their representatives, shall have the right to question their own witnesses and to cross-examine the opposing parties and witnesses.

Only testimony pertinent to the issue involved in the appeal shall be admitted by the administrative law judge.

Technical rules of evidence need not be complied with so long as all parties are given an opportunity to fully present their case.

Hearsay testimony is admissible, but may only be considered by the administrative law judge in making his decision to substantiate or corroborate other direct evidence.

**§117. Authority to Separate Witnesses (Placing Witnesses under the Rule)**

Either party or the administrative law judge may require that a witness be excluded from the hearing room. Witnesses who are excluded from the hearing shall be instructed not to discuss the case with anyone except the attorney or representative of the party on whose behalf they have been called. This shall not apply to the parties to the appeal or their attorney or representative.

**§119. Additional Testimony**

The administrative law judge may take such additional testimony as he deems necessary for a fair determination of the issues upon notice to all parties to the appeal as provided in §111.

**§121. Stipulation of Facts**

Parties to an appeal, with consent of the administrative law judge, may jointly stipulate the facts, in advance, in writing, or at the hearing. The administrative law judge may decide the appeal on the basis of the stipulation or, if he deems necessary, he may hold a hearing and take further testimony after giving notice as provided in §111.

**§123. Decision of Administrative Law Judge**

The administrative law judge shall render a decision as soon as reasonably possible on all issues involved. This decision will be in writing and will contain a statement of the facts found, the reasons therefor, and the conclusion reached. Copies of the administrative law judge's decision will be mailed to the parties to the proceeding, as defined in §113.

**§125. Appeals to Board**

A. Any party aggrieved by the decision of the administrative law judge may, within the time and the manner specified in §109, file an application for appeal to the board.

B. Upon receipt thereof, the board may, on the basis of the evidence previously submitted to the administrative law judge, affirm, modify, or reverse the findings and conclusions of the administrative law judge.

C. If the board deems it necessary to take additional evidence or decides to hear oral argument, a hearing shall be fixed and all parties shall be notified thereof as provided in §111.

D. The board may, at its discretion, remand the case to the administrative law judge for the taking of such additional evidence as the board may direct. Notice thereof shall be given

as provided in §111.

E. Either party may submit written briefs to the board for its consideration at any time before the case is taken under advisement.

**§127. Notification of Appeal**

All applications for appeals shall be acknowledged and the opposing party shall be duly notified.

**§129. Decision of the Board**

The board shall, as soon as possible, announce its decision, including its findings of fact and conclusions in support thereof, or it may adopt the decision of the administrative law judge as its own.

The decision shall be in writing and shall be signed by the members of the board who considered the appeal. If the decision is not unanimous, the decision of the majority shall control. Dissenting opinions may be filed setting forth the reason for dissent. Copies of the board's decision will be mailed to the parties as defined in §113.

**§131. Issuance of Subpoenas**

Requests for subpoenas must be submitted in writing. They shall contain the name and address of the witness and a statement of what is intended to be proven by his or her testimony. Such request must be received by the administrative law judge or board at least 72 hours prior to the time for which the hearing is scheduled. If a request is timely made but service is not perfected or cannot be perfected in time for the appearance of the witness, this shall be grounds for a postponement.

**§133. Representation before the Administrative Law Judge and Board**

Any individual may appear for himself, and/or may be represented by counsel or other duly authorized agent, in any proceeding before the administrative law judge or board. Any partnership may be represented by any of its members or a duly authorized representative. Any corporation or association may be represented by an officer or a duly authorized representative.

**§135. Disqualification of Representative**

The administrative law judge or the board may refuse to allow any person to represent others in any proceeding before them whom they find guilty of contumacy or unethical conduct, or who intentionally and repeatedly fails to observe the pertinent provisions of the Louisiana Employment Security Law, LSA-R.S. 23:1471, et seq.

**§137. Availability of Rules**

Copies of these rules shall be made available at all area offices of the Louisiana Office of Employment Security and may be inspected by any interested party. Copies of these rules may be requested from the board by parties having need thereof.

Bernard J. Francis, Sr.  
Administrator

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Rules of Appealed Claims in  
the Louisiana Board of Review**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The estimated administrative costs are \$20 for copying.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The department does not anticipate any effect on revenue collections of state or local governmental units due to rule changes. The funding affected is federal funding.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The department does not estimate any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Bernard J. Francis, Sr.  
Administrator

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Labor  
Office of Employment Security**

The Department of Labor, Office of Employment Security, intends to adopt proposed Regulations for the Administration of the Employment Security Law.

These regulations explain the administration of the Employment Security Law to implement state and federal legislation concerning administrative hearings, employer contributions and agency procedure and practices regarding unemployment compensation. Copies of these proposed rules may be viewed at 1001 N. 23rd St., Legal Unit, Baton Rouge LA.

Interested persons may comment on the proposed regulations by writing to or contacting Bernard J. Francis, Sr., Assistant Secretary, Department of Labor, Box 94094, Baton Rouge, LA 70804-9094.

Bernard J. Francis, Sr.  
Administrator

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Regulations for the Administration of  
the Employment Security Law**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only implementation costs involved are for copying and dissemination of the rules, which costs can be absorbed into the existing budget of the Department. (Approximately \$30)

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department does not anticipate any effect on revenue

collections of State or Local Governmental Units due to rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The Department does not estimate any costs and/or economic benefits to directly affected persons or Non-Governmental groups.

Regulation 421 will affect some employers involved in interstate claims. It will assist in more accurate accounting of these claims.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Bernard J. Francis, Sr.  
Administrator

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Revenue and Taxation  
Office of the Secretary**

The Department of Revenue and Taxation advertises its intent to adopt a regulation numbered LAC 61:1.4901 for LSA R.S. 47:1561.1, concerning the personal liability corporate officers and directors for income taxes withheld from wages of employees and sales and use taxes collected from customers and not remitted.

Interested persons may submit written comments on the proposed regulation to the following address: Richard E. Macmurdo, Executive Office of the Secretary, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821.

**Title 6  
REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue and Taxation**

**Chapter 49. Tax Collection**

**§4901. Alternative Remedies for the Collection of Taxes**

A. R. S. 47:1561.1 provides an alternative means of enforcing collection of income taxes withheld from wages of employees and sales and use taxes collected from customers, should a corporation fail to file returns or fail to remit such taxes, by holding certain officers or directors of the corporation personally responsible. Three criteria must be met before a corporate officer or director can be held personally liable:

1. The corporation must have failed to remit the collected taxes.
2. The officer or director must have direct control over or supervision of such taxes or must be charged with the responsibility for filing returns and remitting the taxes.
3. The officer or director must have willfully failed to remit or account for such taxes.

**B. Failure to Remit by Corporation**

1. A corporation must have actually withheld income taxes from the wages of its employees or must have actually collected sales or use taxes from customers or consumers and failed to account for or remit these taxes to the secretary before a

claim can be made against an officer or director. Officers or directors cannot be held personally responsible for sales and use tax amounts determined by audit to be due but not actually collected by the corporation.

#### 2. Taxes Actually Withheld or Collected

a. If a corporation pays net wages to its employees, it will be deemed to have withheld any income taxes required to be withheld.

b. If a corporation pays wages in property other than money, it will be deemed to have withheld income taxes on such payment.

c. Where a corporation makes sales on credit or on open account and the sales tax is shown on the invoice, some payment on the invoice must be received before the tax will be deemed to have been collected.

i. Any payment on open account will be applied to the oldest invoice first, unless otherwise indicated.

ii. Any partial payment on an invoice will be applied to the sales tax first, unless otherwise indicated.

3. Reasonable efforts must be made to collect the designated taxes from the corporation before proceeding against an officer or director. It will be assumed that collection from the corporation cannot be made if the corporation has filed bankruptcy, has discontinued business and has no unencumbered assets, or has been liquidated.

4. Payments made by a corporation on its tax account will be applied toward any non-trust fund taxes first, unless the taxpayer designates in writing how a particular payment is to be applied at the time the payment is made, or the facts and circumstances indicate otherwise. For example, if a corporation owes, for a particular period, both sales taxes which have been collected and use taxes on purchases, any partial payment will be applied first to the use taxes owed by the corporation.

#### C. Responsible Officers or Directors

1. Definition. A responsible officer or director is one who has the duty to perform or the power to direct the act of collecting, accounting for, and paying over trust fund monies. He or she must be an officer or director of the corporation which failed to remit the taxes and must have sufficient control over funds to direct disbursement of such funds.

2. Designation of responsible officer or director. The law provides that a corporation by resolution of the board of directors may designate an officer or director having direct control or supervision of withheld or collected taxes or charged with the responsibility of filing returns and remitting such taxes, and such resolution shall be filed with the Secretary of State. If such a designation has been filed the named officer or director shall be considered responsible. If no designation has been filed, all facts and circumstances must be considered. No one factor will determine whether the officer or director is responsible. In all cases, there will be at least one corporate officer with the responsibility for collection and payment of taxes. Some factors to be considered are:

a. what the individual's duties were as outlined by the corporate bylaws;

b. whether the individual had the authority to sign company checks;

c. whether the individual signed the tax returns of the company;

d. whether the individual paid or directed payment to creditors other than the state of Louisiana;

e. whether the individual was a principal stockholder;

f. whether the individual hired and discharged employees;

g. whether the individual controlled the financial affairs of the company in general; or,

h. whether an officer or director was designated as responsible for filing returns and remitting taxes even though no resolution was filed with the Secretary of State. An officer or director to whom such responsibility has been delegated cannot avoid his responsibility by delegating it to a subordinate employee.

3. Multiple responsible persons. There may be instances when more than one officer or director has responsibility for taxes. If such a determination is made, the secretary may assess all responsible officers and directors and may proceed to recover the entire amount from any one officer or director or partial payments from any combination thereof. The total amount of tax collected must not exceed the corporation's total liability. For example, if the corporation pays the liability after an assessment is made against a responsible officer, a corresponding credit should be given to that officer.

#### D. Willfulness

1. The term "willful" means intentional, deliberate, voluntary, and knowing, as distinguished from accidental. Willfulness is construed to be the attitude of a person who, having free will or choice, either intentionally disregards the law or is plainly indifferent to the requirements of the law. Willfulness includes a "reckless disregard for obvious or known risks" or a "failure to investigate or correct mismanagement."

2. If an officer or director permits withheld or collected taxes to be used to pay operating expenses of the business, whether by direction or tacit approval, he has willfully failed to account for or remit such taxes.

3. The determination of willfulness does not require a finding of bad motives, such as intent to defraud.

#### E. Alternative Remedies for Collection of Taxes

Any of the methods of collection provided by R.S. 47:1561 may be used to collect taxes from responsible officers or directors.

#### F. Prescription and Waivers

The prescription period of the tax in question will also apply to any assessment under R.S. 47:1561.1. A waiver of prescription executed by the corporation will not be valid for assessments against officers or directors. Separate waivers must be obtained.

Arnold A. Broussard  
Secretary

### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Alternative Remedies for the Collection of Taxes - Personal Liability**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs involved in the adoption of this rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be minimal increase in revenue collections with the adoption of this rule. It is mainly a collection and enforcement tool.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Corporate officers or directors held personally liable for withheld employee income taxes and collected sales taxes could face substantial expense under these provisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule should enhance competition through fair and equitable tax administration.

Ralph Slaughter  
Assistant Secretary, Group I

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Revenue and Taxation  
Office of the Secretary**

The Department of Revenue and Taxation advertises its intent to amend LAC 61:I.4359, relative to the penalty for failing to maintain proper books and records as required under the sales tax law.

Interested persons may submit written comments on the proposed regulation to the following address: Richard E. Macmurdo, Executive Office of the Secretary, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821.

**Title 61  
REVENUE AND TAXATION  
Part I. Taxes collected and administered by  
the Secretary of Revenue and Taxation**

**Chapter 43. Sales and Use Tax  
§4359. Dealers Required to Keep Records**

A. Every person required to collect or remit the tax imposed under this Chapter shall keep a permanent record of all transactions in sufficient detail to be of value in determining the correct tax liability under this Chapter. The records to be kept shall include all sales invoices, purchase orders, merchandise records, inventory records, credit memorandums, debit memorandums, bills of lading, shipping records, and all other records pertaining to any and all purchases, sales, or use of tangible personal property whether or not the person believes them to be taxable under this Chapter. Full detail must be kept of all property leased or rented from or to others and all services performed for or by others. They must also keep all summaries' recapitulations, totals, journal entries, ledger accounts, accounts receivable records, accounts payable records, statements, tax returns, and other documents listing, summarizing, or pertaining to such sales, purchases, inventories, shipments, or other transactions dealing with tangible personal property.

B. Where such records are voluminous, they must be kept in chronological order or in some other systematic order compatible with the taxpayer's regular bookkeeping system which will enable the secretary to verify the accuracy of information contained in tax returns.

C. Records kept on punched cards, magnetic tape, magnetic (floppy) diskettes or other mechanical or electronic record keeping equipment are permissible provided the taxpayer makes available all necessary codes, program specifications, and equip-

ment to enable the secretary to audit such records, or provides the secretary with written transcripts of these parts of the records which the secretary wishes to examine.

If it is mutually agreed, the dealer may furnish the secretary with data in a machine readable form, such as on floppy disk or magnetic tape, in addition to the source documents necessary to verify the data in order to facilitate the examination.

D. The books and records must contain complete information pertaining to both taxable and non-taxable items which are the subject of taxes imposed herein, and must be retained until the taxes to which they relate have prescribed according to R.S. 47:1579. If a notice of assessment has been issued by the secretary, the records for the period covered by the notice must be retained until such time as the issues involved in the assessment have been completely disposed of. Records required by this Section must be available at all times during the regular business hours of the day for inspection by the secretary or his duly authorized agents.

E. Any person who fails to keep records required herein or who refuses to make the records available for inspection by the secretary or who keeps records which are insufficient for use by the secretary in determining the correct tax liability makes himself liable for a fine of up to \$500 for each reporting period or imprisonment for up to 60 days, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:309.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 10:107 (February 1987), amended LR 15:

Arnold A. Broussard  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Failure to Maintain Proper Books and  
Records**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost involved in the adoption of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be minimal increase in revenue collections with the adoption of this rule. It is mainly a collection and enforcement tool.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Taxpayers found to be in violation could face substantially more expense under this amended rule because the fine itself is increased and because the fine will now be applied against each reporting period during which the taxpayer is found to be in violation, rather than applied only once against the violation as a whole. For most sales and use taxpayers, the reporting period is monthly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule should enhance competition through fair and equitable tax administration.

Ralph Slaughter  
Assistant Secretary, Group I

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of State Office of the Secretary of State Corporations and Business

In accordance with the provisions of the Administrative Procedure Act, R.S. 40:950 et seq., notice is hereby given that the office of the Secretary of State proposes the following schedule of penalties and collection procedure to be applied to foreign corporations transacting business in this state without a certificate of authority as required by R.S. 12:301. The schedule of penalties and collection procedure of such penalties is made pursuant to the authority of Act 513 of the 1988 Louisiana Legislature, enacted as R.S. 12:314.1.

### Title 19 CORPORATIONS AND BUSINESS Part VII. Secretary of State

A. The Secretary of State shall investigate any foreign corporation transacting business in this state without a certificate of authority in violation of R.S. 12:301. The Secretary of State shall enforce the collection of a civil penalty after due process from such foreign corporations in accordance with the following schedule:

1. Foreign corporations having transacted business within this state without a certificate of authority for a period of time of one year or less shall be assessed a civil penalty of \$500.

2. Foreign corporations having transacted business within this state without a certificate of authority for a period of time in excess of one year shall be assessed a civil penalty of \$1,000.

B. The Secretary of State shall require a foreign corporation which has transacted business within this state without a certificate of authority to pay an amount equal to all fees and taxes which would have been imposed by law upon such foreign corporation for the year or parts thereof during which it transacted business in this state without a certificate of authority. Such payment of past due fees and taxes shall be made in addition to any penalty assessed under Subsection A, and must be paid by such foreign corporations prior to the issuance of a certificate of authority to transact business within the state.

C. The Secretary of State shall enforce the collection of the penalties scheduled in Subsection A according to the following procedure.

1. The Secretary of State shall investigate any foreign corporation transacting business in this state, and upon receipt of substantiate evidence that such a foreign corporation has transacted business in this state without a certificate of authority in violation of R.S. 12:301, notice of non-compliance with R.S. 12:301 shall be given by the Secretary of State to the non-complying foreign corporation.

2. The notice of non-compliance with R.S. 12:301 will set forth the appropriate penalty for non-compliance as determined by the investigation of the Secretary of State. Any foreign corporation being able to show that the notice of non-compliance was sent in error, or that the penalty assessed under Subsection A is in error may submit a letter to the office of the Secretary of State explaining that the notice of non-compliance was in error or that the penalty assessed was in error. The foreign corporation shall submit substantiate evidence showing that it has never transacted business within this state without a certificate of authority, or that the Secretary of State has assessed the improper grade of penalty under Subsection A. The evidence so submitted shall accompany the letter giving the Secretary of

State notice of error. The notice of error and evidence supporting the notice of error shall be delivered to the office of the Secretary of State within 10 working days of receipt of the notice of non-compliance.

3. Upon receipt of notice of error along with supporting evidence, the Secretary of State shall reinvestigate the foreign corporation. If it is found upon reinvestigation that the foreign corporation has never transacted business within this state without a certificate of authority or that the Secretary of State has assessed the improper grade of penalty under Subsection A, the office of the Secretary of State shall notify the foreign corporation that the penalty has been either withdrawn or reassessed as the case may be. If upon reinvestigation it is found that the foreign corporation has transacted business without a certificate of authority in this state, or that the grade of penalty was correctly assessed, the Secretary of State shall re-notify the foreign corporation of its non-compliance and of the penalty assessment.

4. If the penalty imposed by the Secretary of State pursuant to the authority of R.S. 12:314.1 is not paid within 30 days of notice of non-compliance, notice of reassessment, or re-notice of non-compliance as the case may be, the attorney general shall institute proceedings against the foreign corporation to collect the penalty assessed under Subsection A.

Interested parties may submit their views in writing to Stephen Hawkland, Office of the Secretary of State, Box 94125, Baton Rouge, LA 70804-9125.

Fox McKeithen  
Secretary of State

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Penalty Schedule for Foreign Corporations Acting Without a Certificate of Authority

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Collection of penalties will require the addition of three employees, two Corporate Compliance Investigators to be paid \$1,400 per month each and one Corporate Research Specialist to be paid \$1,068 per month. Salaries and benefits for FY 88-89 will be \$32,491, travel expenses will be \$9,041 and other operating expenses will be \$2,100. These expenses are based upon seven months activity in FY 88-89. Other start up costs will be \$2,591 for the acquisition of one typewriter, three desks, three chairs, and one file. Total expenditures will be \$46,223 for FY 88-89. For FY 89-90 expenditures will be \$76,590 based on 12 months activity.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

According to the Department of State, approximately 150 complaints are received annually from the public concerning foreign corporations acting without a certificate of authority. Assuming that the \$1,000 penalty is imposed upon each of these corporations, an increase of \$150,000 would accrue annually to anticipated revenue. Even if it is assumed that some of these corporations will be assessed only a \$500 penalty the \$150,000 should still be reached as it is expected that many other such foreign corporations will be discovered through the research of the staff. Revenue collections are expected to exceed expenditures by at least \$80,000 each full fiscal year.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO

**DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The cost to foreign corporations acting without a certificate of authority will be a penalty of either \$500 or \$1,000 as the case may be. In addition, such foreign corporations will be required to pay all past due fees and taxes before being issued a certificate of authority.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The penalty assessment on offending foreign corporations will have no effect on competition and employment.

Fox McKeithen  
Secretary of State

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Social Services  
Board of Examiners of Licensed Professional  
Vocational Rehabilitation Counselors**

Notice is hereby given that the Louisiana Licensed Professional Counselors Board of Examiners, in accordance with the Administrative Procedure Act R.S. 49:950, et seq., intends to adopt rules and regulations implementing Act 555 of the 1988 Legislature. R.S. 37:3441-3552 and R.S. 36:478 (I) are contained in the rules and regulations.

A public hearing on the rules and regulations will be held on March 9, 1989 at 10 a.m. in Conference Room I, East Baton Rouge Parish Library, 7711 Goodwood Boulevard, Baton Rouge, Louisiana. Interested persons will be afforded the opportunity to state their views at the hearing.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part LXXXVI. Vocational Rehabilitation Counselors**

**Chapter I. General Provisions**

**§101. Statutory Authority**

The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners was created and empowered by Act 555 of the 1988 Legislature to provide regulation of the practice of vocational rehabilitation counseling and provide for the regulation of the use of the title "Licensed Professional Vocational Rehabilitation Counselor" (R.S. 37: 3441), which will be known as L.R.C. Therefore, the Professional Vocational Rehabilitation Counselors Board of Examiners establishes the rules and regulations herein pursuant to the authority granted to, and imposed upon said board under the provisions of the Louisiana Revised Statute, Title 37, Chapter 53, R.S. 37:3441-3452, and R.S. 36-478(I).

**§103. Description of Organization**

The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Social Services, and consists of five members, who shall be residents in the state of Louisiana. Board members are appointed by the governor as specified in Section 3444 within 60 days after the effective date of Chapter 13 of Title 37 to serve the following terms: one member for a term of two years, two members for a term of three

years, and two members for a term of four years. Thereafter, each term shall be for four years and each of these appointments shall be submitted to the Senate for confirmation. Board members consist of three licensed professional vocational rehabilitation counselors, and two individuals from the public at large. No board member shall serve more than two full consecutive terms.

Appointments to the board are made from a list of qualified candidates submitted by the Executive Committee of the Louisiana Association for Rehabilitation Professionals. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 53 of Title 37 (R.S. 37:3446-3452, and R.S. 36:478(I)).

**§105. Vacancies**

A vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the Executive Board of the Louisiana Association of Rehabilitation Professionals. Unexpired terms shall be filled by appointment by the governor, within 30 days, from a list of qualified candidates prescribed in Section 3444 of R.S. 37:3441-3452.

**§107. Reimbursement**

Each board member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board business.

**Chapter 3. Board Meetings, Procedures, Records, Powers and Duties**

**§301. Officers**

The board shall hold a meeting within 60 days after October 1, 1988, and semiannually thereafter, and elect from its membership a chairman, vice-chairman, and secretary. The chairman shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 53 of Title 37 (R.S. 37:3441-3452, and R.S. 36:478(I)) and the board. The chairman is authorized by the board to make day-to-day decisions regarding board activities to facilitate the responsiveness and effectiveness of the board. The vice-chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In the event the office of chairman becomes vacant, the vice-chairman shall serve as chairman until a successor is named. In the absence of the chairman and vice-chairman, the secretary will preside until the chairman or vice-chairman is present. The secretary shall keep the minutes of board meetings and send said minutes to board members and clerical secretary of the board before each regular meeting of the board.

**§305. Board Staff**

The board shall hire a clerical secretary, who shall not be a member of the board, within the limits of funds received by the board pursuant to R.S. 37:3446. In place of a full-time secretary, the board may hire two part-time staff. The clerical secretary will keep the records and files of the board and communicate with the candidates for licensure and others concerning board activities under the direction of the chairman of the board.

**§307. Meetings**

The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board within the state of Louisiana, after reasonable notice. The board shall hold a meeting within 60 days after October 1, 1988, and semiannually thereafter. The chairperson may call meetings after consultation with the board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given seven days before the meeting. The board

may examine, deny, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year.

### §309. Quorum

Three members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of business and may examine, approve, and renew the license of applicants.

### §311. Procedures

The board shall adopt such rules, regulations, and examination procedures as it may deem necessary to effect the provisions of Act 555 (Chapter 53, R.S. 37:3441-3452 and R.S. 36:478(I)). The board shall be empowered to accept grants from foundations and institutions to carry on its functions. The board shall submit an annual report to the governor containing the financial and professional actions of the board during the past year. The board shall adopt a seal which shall be affixed to all licenses issued by the board. The board hereby adopts *Robert's Rules of Order Revised* as the basis of parliamentary decisions by the board except as otherwise provided by board rules.

### §313. Code of Ethics

The board has adopted the Code of Ethics of the National Association of Rehabilitation Professionals in the Private Sector as specified in R.S. 37:3445 and may adopt any revisions or additions deemed appropriate or necessary by the board.

### §315. Records of Proceedings

The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and a register of licensed professional counselors which shall be made available to the public.

## Chapter 5. License and Practice of Vocational Rehabilitation Counseling

### §501. License of Title and Practice

As stated in R.S. 37:3450(A), no person shall assume or use the title or designation "Licensed Professional Vocational Rehabilitation Counselor" or engage in the practice of vocational rehabilitation counseling unless he has in his possession a valid license issued by the board under the authority of this Chapter.

### §503. Definitions

For purposes of this rule, the following definitions will apply:

A. *Board* - means the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners.

B. *Licensed professional vocational rehabilitation counselor* - means any person who holds himself out to the public for a fee or other personal gain by any title or description of services incorporating the words "licensed professional vocational rehabilitation counselor" or any similar term, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organization, or the general public, and who implies that he is licensed to practice vocational rehabilitation counseling.

C. *Practice of vocational rehabilitation counseling* - means rendering or offering to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures or the vocational rehabilitation counseling profession which include but are not limited to:

1. *Rehabilitation counseling* - which means assisting an individual or group, through the counseling relationship, to define vocational goals, and to plan actions reflecting his or their

interests, abilities, aptitudes, and needs, as these are related to rehabilitation concerns, educational progress, and occupations and careers.

2. *Referral activities* - which means the evaluating of data to identify problems and to determine the advisability of referral to other specialists.

3. *Vocational rehabilitation services* - which includes but is not limited to vocational assessment, vocational counseling, education and training services including on-the-job training, self employment plans and job placement.

4. Referral activities and vocational rehabilitation services shall not include neuropsychological testing.

D. *Rehabilitation counseling services* - means those acts and behaviors coming within the practice of rehabilitation counseling as defined in R.S. 37:3443.

## Chapter 7. Requirements for Licensure and Renewal of License

### §701. General Provisions

The board shall license to practice all persons who present satisfactory evidence of qualifications as specified in these rules and regulations of the board. Such licensure shall be signed by the chairman and vice-chairman of the board under the seal of the board. No license shall be denied any applicant solely based upon the applicant's age, race, religion, creed, national origin, sex or physical impairment.

### §703. Requirements

The board shall issue a license to each applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:3447 and who furnishes satisfactory evidence to the board that he:

A. is at least 21 years of age;

B. is of good moral character;

C. is not in violation of any of the provisions of R.S. 31:3441-3452 and the rules and regulations adopted herein;

D. has declared special competencies and demonstrated professional competence by successfully passing the examination offered by the Commission on Rehabilitation Counselor Certification;

E. has received a Master's degree in Rehabilitation Counseling or related field and two years of experience under the supervision of a licensed vocational rehabilitation counselor or a Bachelor's degree in Vocational Rehabilitation or related field and five years of work experience, working under the supervision of a licensed vocational rehabilitation counselor.

### §705. Renewal

A licensed professional vocational rehabilitation counselor shall renew his license by paying the renewal fee every year in the month of June and by meeting the requirement that 25 clock hours of continuing education be obtained prior to each renewal date every year in an area of professional rehabilitation counseling as approved by CRC, NCC, or by the board. The chairman shall issue a document renewing the license for a term of one year. The license of any vocational rehabilitation counselor who fails to have his license renewed during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement.

**Chapter 9. Fees**

**§901. General**

A. The board shall collect the following fees stated in Section 3446:

- 1. Application, license and seal . . . . . \$100
- 2. Renewal of license . . . . . \$ 50
- 3. Reissuance for lost or destroyed license . \$ 50

B. No part of any fee shall be refundable under any conditions other than failure of the board to hold examinations on the date originally announced. All fees for licensing must be paid to the board by certified check or money order.

**§903. Deposit and Use of Fees and Funds**

All fees collected and all gifts or grants shall be deposited and credited to the account of the board in a licensed financial institution of the board's choosing. The funds of the board may be used for printing, travel expenses of the board, and for other necessary expenses as are essential to carrying out of the provisions of R.S. 37:3441-3452. Expenses shall be paid under the written direction of the chairman of the board in accordance with procedures established by the Division of Administration. Any surplus at the end of the fiscal year shall be retained by the board for future expenditures.

**Chapter 11. License**

**§1101. Denial, Revocation, or Suspension of License**

A. The board, by affirmative vote of at least four of its five members, shall withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37: 3441-3452 or otherwise discipline a licensed professional vocational rehabilitation counselor upon proof that the applicant or licensed professional vocational rehabilitation counselor:

- 1. has been convicted in a court of competent jurisdiction of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof;
- 2. has violated the code of ethics of the National Association of Rehabilitation Professionals in the Private Sector;
- 3. is abusing drugs or alcohol to an extent or in a manner dangerous to any other person or the public, or to an extent that said use impairs his ability to perform the work of a licensed rehabilitation counselor;
- 4. has impersonated another person holding a professional vocational rehabilitation counselor license or allowed another person to use his license;
- 5. has used fraud or deception in applying for a license or in taking an examination provided for in this Chapter;
- 6. has allowed his name or license issued by the board to be used in connection with any person who performs vocational rehabilitation counseling services outside of the area of their training, experience, or competence;
- 7. is legally adjudicated mentally incompetent, the record of such adjudication being conclusive evidence thereof;
- 8. has willfully or negligently violated any of the provisions of R.S. 37:3441-3452 or these rules and regulations.

B. Notice of denial, revocation, suspension, or disciplinary action shall be sent to the applicant or licensee by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the person's last known address, but the nonappearance of the person shall not prevent such a hearing. For the purpose of such a hearing, the board may subpoena persons, books, and papers, on its own behalf or on behalf of the applicant or licensee who may appear

by counsel or personally in his own behalf.

C. On the basis of any hearing or upon default of applicant or licensee, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision of the board denying, revoking, or suspending the license shall become final 30 days after being mailed or served unless within said period the applicant or licensee appeals the decision as provided by the Administrative Procedure Act. No such appeal while pending appropriate court action shall supersede such denial, revocation, or suspension. All proceedings and evidence presented at hearings before the board may be admissible during appellate proceedings.

D. Every order and judgment of the board shall take effect immediately on its promulgation unless the board in such order or judgment fixes a probationary period for applicant or licensee. Such order and judgment shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgments in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

E. The board is authorized to suspend the license of a licensed professional vocational rehabilitation counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

**Chapter 13. Exclusions**

**§1301. Scope**

The following persons and their activities are exempted from the licensing requirements of R.S. 37:3441-3452 and these rules.

**§1303. Exemptions**

A. A certified school counselor who meets the standards prescribed by the State Department of Education and the Board of Elementary and Secondary Education, while practicing school counseling within the scope of his employment by a board of education or by a private school.

B. Any nonresident temporarily employed in this state to render vocational rehabilitation counseling services for not more than 30 days a year, who meets the requirements for licensure in R.S. 37:3447 or who holds a valid license or certificate issued under the authority of the laws of another state or national certifying agency.

C. Any persons employed or supervised by a licensed professional vocational rehabilitation counselor, while carrying out specific tasks under the licensee's supervision. The supervisee shall not represent himself to the public as a licensed professional rehabilitation counselor.

D. Any student in an accredited educational institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a professional rehabilitation counselor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.



E. Any individual using the official title of the position and activities for which that person is employed by federal or state agency, any agency of a parish, municipality, or their political subdivision, any private non-profit agency, accredited clinic, non-profit hospital, or for-profit hospital provided that such persons are performing these activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization by which they are employed. Such persons shall not render rehabilitation counseling services to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization by which they are employed.

F. Any persons licensed, certified, or registered under any other provision of state law, or under the rules of the Louisiana Supreme Court practicing those arts, utilizing counseling, and utilizing those titles that are allowed and within the standards and ethics of their profession or within new areas of practice that represent appropriate extensions of their profession.

G. Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination.

**Chapter 15. License Without Examination**  
**§1501. License Without Examination**

As prescribed in R.S. 37:3448, for a period of one year from the effective date of Act 555, July 14, 1988, the board shall waive both written and oral examination and shall issue a license as a licensed professional vocational rehabilitation counselor to each applicant who files an application upon a form and in such a manner as the board prescribes, accompanied by such fees required by R.S. 37:3446, and who furnishes satisfactory evidence to the board that he:

1. is at least 21 years old;
2. is of good moral character;
3. is not in violation of any of the provisions of R.S. 37:3441-3452 and the rules and regulations adopted hereunder.
4. has received one of the following:
  - a. a Master's degree in Rehabilitation Counseling or related field and two years experience in a vocational rehabilitation setting;
  - b. a Bachelor's degree in Rehabilitation Counseling or related field and five years experience in a vocational rehabilitation setting.
  - c. Certified rehabilitation counselor, certified insurance rehabilitation specialist and ten years of vocational rehabilitation experience.

**§1503. Completion of Licensure Process**

Applicants who apply for a license upon a form prescribed by the board before the termination of the license without examination period R.S. 37:3448, are granted a term of six months to furnish the board with all information and documents required for said license under R.S. 37:3448.

Comments on this proposed rule may be submitted to: Larry S. Stokes, Chair, 4500 Clearview Parkway, Suite 200, Metairie, LA 70006.

Larry S. Stokes  
 Chairman

**Fiscal and Economic Impact Statement**  
**For Administrative Rules**  
**Rule Title: Board Bylaws**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board operates at no cost to the state, by collecting fees from granting licenses to qualified Rehabilitation Counselors. Implementation cost for first year will be \$16,000; second year \$14,000; third year \$14,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board estimates collection of \$24,000 for first year; \$14,000 for second year; and \$14,000 for the third year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The only individuals affected by cost will be those licensed. Fees charged:

Application and License	\$100
Renewal License per year	50
Re-issuance of lost or destroyed license	50

There are no other costs and/or economic benefits which directly affect other persons or non-government groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could be a marginal effect on competition in the private sector. Exempt agencies and individuals are listed in §3452 (1) thru (7) of Act 555-1988. All public employees are exempt from the Act.

Larry S. Stokes  
 Chair

David W. Hood  
 Legislative Fiscal Analyst

**NOTICE OF INTENT**

**Department of Social Services**  
**Office of Community Services**  
**Children's Trust Fund**

The Louisiana Children's Trust Fund has completed preparation of the Plan for Preventing Child Abuse in Louisiana 1989-1991.

Pursuant to R.S. 46:2406, the proposed plan has been submitted to the Joint Committee on Health and Welfare of the Louisiana legislature for approval prior to adoption by the Louisiana Children's Trust Fund Board. The plan becomes effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

A copy of the plan is available for review by the public at the Louisiana Children's Trust Fund office, 1755 Florida St., Baton Rouge, LA 70802. Interested parties may call the office at 504/342-2297 to make arrangements to review the plan.

Larry J. Hebert, M.D.  
 Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Children's Trust Fund Board Comprehensive  
State Plan for Child Abuse Prevention**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Children's Trust Fund anticipates no cost to the state for the plan approval process. Once approved, there will be printing and distribution costs of approximately \$9,500 for which federal challenge grant funds will be used.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The plan approval process will not affect revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

Upon approval of the plan for preventing child abuse all future grant awards and other activities of the Louisiana Children's Trust Fund will be based upon the plan. It will be necessary for all budget requests submitted by any non-profit agency to the Legislature for funding programs related to child abuse prevention to conform to the Plan. The number of those requests is unknown. Additional paperwork will be narrative explanation of conformance with the plan.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-  
MENT (Summary)**

Implementation of this rule will not significantly impact competition and employment in the public and private sectors although CTF contracts will be awarded based upon the plan as adopted.

Brenda Kelley  
Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Social Services  
Office of Eligibility Determinations**

The Department of Social Services, Office of Eligibility Determinations, proposes to adopt the following rule in the Aid to Families with Dependent Children Program.

Implementation of this policy is optional under Federal Regulations 233.20(a)(3)(iv)(F). The OED is electing to implement this policy as it is expected to favorably impact the AFDC error rate. Recipients do not, as a rule, report receipt of gifts as they do not consider gifts to be income. Thus, gifts are not usually budgeted. When Quality Control later determines a gift was, in fact, received an AFDC error occurs.

**Proposed Rule**

Monetary gifts, such as birthday, Christmas and graduation gifts, up to \$30 per recipient per calendar quarter will not be counted as income in determining AFDC eligibility or benefit amount.

Interested persons may submit written comments to the following address: Howard L. Prejean, Deputy Assistant Secretary, Office of Eligibility Determinations, Box 94065, Baton

Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held March 7, 1989, in the Conference Room, Third Floor, 755 Riverside, Baton Rouge, Louisiana beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: AFDC Gifts**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated cost is \$50 in FY 88-89 ( \$25 Federal and \$25 State).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

There is no cost and/or economic benefits.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-  
MENT (Summary)**

There is no effect on competition and employment.

Howard L. Prejean  
Deputy Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its Plan Document of Benefits as follows to impose a \$50 deductible for emergency room treatment unless the Covered Person is hospitalized immediately following the emergency room treatment:

Add the following language under SCHEDULE OF BENEFITS, COMPREHENSIVE MEDICAL BENEFITS ...

Deductibles: ...

"Emergency room deductible for each visit unless the Covered Person is hospitalized immediately following emergency room treatment \$50"

and

Under ARTICLE 3, SECTION III., A. - SUPPLEMENTAL EMERGENCY ACCIDENT BENEFITS change the second paragraph as follows:

The supplemental emergency accident benefits will be payable prior to benefits available under all other provisions of

this contract, and *only the emergency room* Deductible Amount shall apply to benefits payable under this Section.

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on April 11, 1989 at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Deductibles**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no direct savings to state or local governmental units as a result of this rule change. However, the savings that will accrue to the State Employees Group Benefits Program will reduce the impact of future rate increases which will result in savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and/or local governmental units will not be affected by this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The directly affected persons, the plan members of the State Employees Group Benefits Program, will collectively experience an increase in their out-of-pocket medical expenses of approximately \$1,700,000 annually.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and Employment will not be affected by this rule change.

James D. McElveen  
Executive Director

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to adopt the fee schedule as mandated by Act 1009 of the 1988 Regular Legislative Session, effective July 1, 1989:

This proposed rule may be viewed in its entirety at the Board of Trustees of the State Employees Group Benefits Program, 5825 Florida Boulevard, Baton Rouge, LA.

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits

Program until 4:30 p.m. on April 11, 1989, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Fee Schedules**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed fee schedule will reduce claims payments of the State Employees Group Benefits Program by \$8,741,000 for 1989-90. The extent of the savings in subsequent years may be greater depending on the rate of medical inflation. This savings will reduce the amount of any future premium increases which will result in savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed fee schedule will reduce future costs and funding requirements for the State Employees Group Benefits Program by at least \$8,741,000 per year. The program is funded by self-generated revenues from premiums which are paid by employee contributions (50 percent) and by state agency contributions (50 percent).

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Payments to medical providers and/or plan members by the State Employees Group Benefits Program will be reduced by an estimated \$8,741,000 per year. Plan Members who are domiciled in other states or foreign countries will not be affected by the proposed fee schedule. The charge for medical services provided by any health care provider that accepts assignment of benefits shall not exceed the amount authorized by the fee schedule. Providers who do not accept assignment of benefits may bill plan members for the difference between charges and the amounts payable under the fee schedule. Plan members will benefit from a reduction in future premium increases.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Any effect this rule change has on competition and employment will be minimal.

James D. McElveen  
Executive Director

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to adopt the following 24 percent rate increase, effective July 1, 1989:

	Current Rate	Effective 7-1-89	Total Increase
Employee Only	\$119.52	\$150.20	\$30.68
Emp. w/Medicare	62.32	72.08	9.76
COBRA Participant	121.88	153.20	31.32
Emp. and 1 Dep.	207.40	266.12	58.72
One w/Medicare	148.08	183.72	35.64
Two w/Medicare	136.72	169.16	32.44
COBRA Participant and One Dependent	211.52	271.44	59.92
Employee and Family	275.16	329.08	53.92
One w/Medicare	207.16	241.48	34.32
Two w/Medicare	191.72	223.04	31.32
COBRA Participant and Family	280.64	335.64	55.00

Rates for surviving spouses are the same as those listed above. However, the surviving spouse must pay the entire premium amount as there is no state contribution.

Sponsored dependent rates will be \$125.58 per person without Medicare, and \$70.08 per person with Medicare. There is no state contribution for sponsored dependent parents.

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on April 11, 1989, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Insurance Increase: State Employees and Department of Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated total cost to the state of the proposed increase in group health and accident insurance rates effective July 1, 1989, is \$28,762,192 annually. This estimate does not include the employee share of the premium increase, which is shown in Part III. of this impact statement.

The above cost estimate reflects the impact on two separate entities:

A. Implementation of the proposed rate increase will result in additional costs to state agencies of an estimated \$18,501,904 annually. This estimate was calculated by Group Benefits and includes the impact on 37 school systems which are members of the program, but does not in-

clude the impact on 29 school systems with private insurance carriers as described below.

B. Implementation of the proposed rate increase on those 29 school systems with private insurance plans will cost the state \$10,260,288 annually. This estimate, which was made by the Department of Education, assumes that the state will continue to elect the option of paying a portion of the premium for school systems participating in private insurance plans. According to R.S. 42:821, the state may pay up to 50 percent of the private insurer's rate or 50 percent of the Group Benefits rate, whichever is less. In the past the state has opted to pay the maximum allowable by law.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rate increase will result in additional revenues to Group Benefits and to local school systems with private insurance plans:

A. Self-generated revenues for Group Benefits will increase by an estimated \$32,758,452 annually. These revenues are comprised of the employee share (\$16,697,988) and the state share (\$16,060,464) of premiums paid to the program by state agencies and 37 school systems which participate in the program.

B. Revenues to 29 school systems with private insurance plans are estimated by the Department of Education to increase by \$10,260,288 annually. These increased revenues will be paid with state funds through the Department of Education, assuming that the state elects to continue the option of paying a portion of the premiums for those school systems participating in private insurance plans. The state may pay up to 50 percent of the private insurer's rate or 50 percent of the Group Benefits rate, whichever is less. In the past the state has opted to pay the maximum allowable by law. Employee contributions to premiums paid for group health and accident insurance will be affected as follows:

A. Group Benefits plan members will experience a collective increase in their contributions by an estimated \$16,697,988 annually.

B. The proposed rate increase will not directly affect the costs of employees of the 29 school systems which have private group health insurance carriers. If the private carriers increase their rates as a result of this rate increase, the plan members of the private carriers would then be impacted but the extent of the impact cannot be predicted.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The effect on competition and employment is unknown at this time. Implementation of the proposed rate increase may cause some plan members to transfer from one health care delivery system to another due to the resulting differential in rates.

James D. McElveen  
Executive Director

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its Plan Document of Benefits as follows:

Under ARTICLE 3, SECTION IX. COORDINATION OF BENEFITS, C. delete the following paragraph in its entirety:

“Benefits not paid due to the application of coordination of benefits provision may be accrued for a single claim determination period. Such accrued amounts may be used, with respect to that covered person only, to provide additional benefits when the combined payment of the primary plan and all secondary plans does not provide 100 percent reimbursement for all allowable expenses. This accrued amount shall not carry over to the next claim determination period.”

Comments or objections will be accepted, in writing, by the executive director of the State Employees Group Benefits Program until 4:30 p.m. on April 11, 1989, at the following address: Dr. James D. McElveen, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

James D. McElveen  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Single Claim Determination Period**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule change will not directly affect the costs or savings of state or local governmental units. However, the approximate annual savings of \$250,000 that will accrue to the State Employees Group Benefits Program will reduce the amount of any future premium rate increases which will result in future savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections of state or local governmental units will not be affected by this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
The directly affected persons, the plan members of this program for whom we are secondary carrier, in a coordination of benefits situation, will collectively experience an annual increase of approximately \$250,000 in out-of-pocket expenses.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Any effect this rule change has on competition and employment will be minimal.

James D. McElveen  
Executive Director

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

Pursuant to the authority granted under R.S. 56:22, the Louisiana Wildlife and Fisheries Commission hereby advertises its intent to prohibit fish seining on the Louisiana sides of Old River Lake, Vidalia, and Old River Lake, Deer Park, Concordia Parish, Louisiana; except, that fish seining will be legal under a special permit issued by the Louisiana Department of Wildlife and Fisheries as described below:

Date

SPECIAL COMMERCIAL FISH SEINING PERMIT  
NUMBER: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

FOR PERIOD: January 1, \_\_\_\_\_ to December 31, \_\_\_\_\_

This permit entitles the holder, who must have a valid fish seine license, to conduct legal fish seining operations on the Louisiana sides of Old River Lake, Vidalia, and Old River Lake, Deer Park, Concordia Parish, Louisiana.

In addition to existing Louisiana fish seining rules the following special permit regulations shall apply.

1. Seining shall be permitted only on Monday through Friday, during daylight hours from sunrise to sunset.

2. Permittee shall notify enforcement personnel, Louisiana Department of Wildlife and Fisheries, located at the Region IV office headquarters, Ferriday, Louisiana, at least 24 hours prior to conducting each seining operation.

3. Permittee shall make every effort to conduct seining operations as per R.S. 56:328 which states: Nets shall not be hauled out upon the shore in such a way that any illegal fish which may happen to be taken therein cannot be returned to the water without injury.

4. Permittee shall leave no fish captured during a seining operation, on or in the vicinity of the shoreline.

5. Permittee must have this permit on his person while using or transporting commercial fish seines in the above described waters.

6. Failure to comply with the terms of this permit or any Louisiana commercial fishing regulations, or any Mississippi State commercial fishing regulations on the Mississippi side of the above lakes shall result in immediate cancellation of the permit, and the option to deny the issuance of another seine permit in the future.

7. This permit is issued on a calendar year basis and shall be renewed each year.

I have read and understand the terms of this permit and agree to comply.

SIGNATURE: \_\_\_\_\_

COMMERCIAL FISHERMAN LICENSE NUMBER: \_\_\_\_\_

Interested persons may submit written comments on the proposed rule until 4:30 p.m., March 31, 1989, to the following address: Virginia Van Sickle, Secretary, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898.

Virginia Van Sickle  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Fish Seining Permit-Old River Lakes,  
Concordia Parish**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using the existing staff. Concordia Parish enforcement agents are presently employed to patrol Old River Lakes as part of their routine duties. Freshwater Fish Division staff will issue and administer the permits which will be very few in number. There are presently only five commercial fishermen who seine in Old River Lakes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no impact on revenue collections of state or local governments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

The proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY-  
MENT (Summary)**

The proposed rule will have no impact on competition and employment in the public and private sectors.

Virginia Van Sickle  
Secretary

John R. Rombach  
Legislative Fiscal Officer

# Potpourri

## POTPOURRI

### **Department of Agriculture and Forestry Horticulture Commission**

The next Uniform National Exam for licensure in Landscape Architecture will be given at Louisiana State University, Baton Rouge, Louisiana on June 12, 13, and 14, 1989. The deadline for getting in application and fee is March 1, 1989. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 44517, Capitol Station, Baton Rouge, LA 70804, phone (504) 925-7772.

Bob Odom  
Commissioner

## POTPOURRI

### **Department of Agriculture and Forestry Horticulture Commission**

The next retail floristry examinations will be given at 10 a.m. daily at Shreveport-Bossier Vo-Tech School in Shreveport, LA. The deadline for getting in application and fee is March 24, 1989. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be April 11-14, 1989.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 44517, Capitol Station, Baton Rouge, LA 70804, phone (504) 925-7772.

Bob Odom  
Commissioner

## POTPOURRI

### **Department of Health and Hospitals Board of Embalmers and Funeral Directors**

The Louisiana State Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, March 11, 1989 at Delgado Community College, 615 City Park Ave., New Orleans.

Interested persons may obtain further information from the Louisiana State Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA (504) 483-4684.

Dawn Scardino  
Confidential Assistant

## POTPOURRI

### **Department of Labor Research and Statistics**

The Louisiana Department of Labor announced plans to shift to a new method of calculating estimates of monthly labor force data for the state. Beginning with data for January 1989, the department plans to replace the current method with a new one that will yield more precise estimates and automatically adjust to structural changes in the state's economy.

The current methodology has been deficient in a number of respects, the most important of which are the relatively small proportion of the total unemployed accounted for by Unemployment Insurance (UI) claimants and difficulties in estimating groups not covered by UI. These difficulties cause the building-block estimates to significantly underestimate Current Population Survey (CPS) levels. The magnitude of the underestimation is such that unemployment as measured by the building-block approach before adjustment may be less than the level derived from the CPS. While the adjustment to the CPS corrects for the

underestimation, it introduces other problems into the estimates, because it adversely affects the seasonality of the series.

The new method uses variable coefficient regression models developed by the Bureau of Labor Statistics (BLS) and tested by various state employment security agencies across the nation. These dynamic time series regression models permit use of CPS, Current Employment Statistics (CES), and UI data in a more accurate and reliable manner. Over 10 years of data from these sources have been collected to build regression models that are resistant to large random sample errors in the CPS and are flexible enough to reflect the individual features of the state's economy.

These changes have been mandated by the U.S. Department of Labor, Bureau of Labor Statistics, which provides procedures and resources for this program.

Phyllis Coleman Mouton  
Secretary

## POTPOURRI

### Department of Natural Resources Fishermen's Gear Compensation

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1, notice is given that 59 claims amounting to \$105,270.11 were received during the month of January, 1989. During the same month, 32 claims in the amount of \$53,846.67 were paid, and five claims were denied.

Pursuant to the provisions of Act 33 of 1988, the following claims with the Fishermen's Gear Compensation Fund have been validated by the Fund's hearing examiner and the secretary of DNR will approve payment, effective March 3, 1989.

Written comments from interested parties may be addressed to: Department of Natural Resources, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, and must be received on or before March 2, 1989.

No objections were filed to claims proposed for payment in the January, 1989 *Louisiana Register*.

Claim No. 87-88-539

Tony Galliano, Box 262 Galliano, LA 70354, SSN 434-76-3694 Lafourche (Parish) Intracoastal Canal (Waterbody) Amount No. \$1446.68

Claim No. 88-89-149

Mervin Gaspard, 310 East 25th St. Cut Off, LA 70345, SSN 436-90-4167 Terrebonne Timbalier Bay Amount \$972.74  
Claim No. 87-88-644

Randy P. Dufrene, Sr., Box 165 Lafitte, LA 70067, SSN 435-21-5782 Jefferson Bayou St. Denis Amount \$2947.85

Claim No. 88-89-150

Don Wayne Luke, Route 1, Box 137 Chauvin, LA 70344, SSN 437-35-3136 Terrebonne Grand Caillou Bayou Amount \$3891.28

Claim No. 88-89-168

Gerald Lewis, 413 Chinchilla Arabi, LA 70032, SSN 438-96-6214 Orleans Intracoastal Canal Amount \$349.25

Claim No. 88-89-157

Kenneth Guidry, 274 Decamp St. Lafitte, LA 70067, SSN 433-92-6831 St. Bernard Lake Eloi Amount \$2229.23

Claim No. 88-89-156

Kenneth Guidry, 274 Decamp St. Lafitte LA 70067, SSN 433-92-6831 Orleans Lake Pontchartrain Amount \$2210.

Claim No. 88-89-131

Charles Robin, Jr., Route 1 Box 501 Maple St. Bernard, LA 70085, SSN 434-48-0559 St. Bernard Point Comfort Amount \$675.

Claim No. 88-89-123

James P. Cheramie, Route 1 Box 456 Galliano, LA 70354, SSN 437-96-7312 Terrebonne Loran 28198 46866 Amount \$938.45

Claim No. 88-89-174

Lloyd Serigne, 2026 Todd St. St. Bernard, LA 70085, SSN 434-58-4416 St. Bernard St. Elaina Pass Amount \$1854.24

Claim No. 88-89-155

Scott James Esponge, Box 1144 Grand Isle, LA 70358, SSN 438-92-7734 Jefferson Caminada Bay Amount \$559.42

Claim No. 88-89-59

Gary Kelly, 6200 Gnell Dr. St. Bernard, LA 70085, SSN 433-90-0798 St. Bernard Breton Sound Amount \$1100.

Claim No. 88-89-81

Levia C. Crosby, 205 Palmetto St. Golden Meadow, LA 70357, SSN 435-54-6192 Lafourche Bayou Lafourche Amount \$475.

Claim No. 88-89-135

Kenneth Robin, Route 2 Box 584 St. Bernard, LA 70085 SSN 436-60-4254 St. Bernard Mississippi River Gulf Outlet Amount \$4745.34

Claim No. 88-89-86

Percy A. Boudwin Jr., #1 Kingsridge Ct. Houma, LA 70363 SSN 437-84-6906 Iberia Cote Blanche Bay Amount \$968.81

Claim No. 88-89-144

Clifton Bellanger, Route 2 Box 485 D Cut Off, LA 70345 SSN 439-29-8128 Lafourche Loran 28443 46842 Amount \$1023.62

Claim No. 87-88-455

Kenny Seafood, Inc. 3012 S. Palm Dr. Slidell, LA 70458 Fed ID# 72-0758373 Orleans Loran 28810 47054 Amount \$1368.37

Claim No. 88-89-29

Hebert & Bourgeois, Inc. Box 526 (E 37-A St.) Cut Off, LA 70345 Fed. ID #72-1120563 Vermilion Loran 27320 46946 Amount \$1150.

Claim No. 88-89-151

O'Neil Sevin Box 306 Chauvin, LA 70344 SSN 437-31-3356 Terrebonne Terrebonne Bay Amount \$4649.90

Claim No. 88-89-148

Russell A. Portier Route 2, Box 795 Chauvin, LA 70344 SSN 434-70-2197 Terrebonne Taylors Bayou Amount \$5000.

Claim No. 88-89-183

Benjamin F. Sanders Route #1, Box 558E St Bernard, LA 70085 SSN 267-94-8743 Plaquemines Black Bay Amount \$1220.

Claim No. 88-89-136

David J. Perez Route 1 Box 669 St. Bernard, LA 70085 SSN 439-74-4192 St. Bernard Lake Borgne Amount \$695.

Claim No. 88-89-119

Michael A. Lobue 2403 Farragut St. New Orleans, LA 70114 SSN 436-19-6643 Jefferson Lake Pontchartrain Amount \$1479.20

Claim No. 88-89-105  
Eric VanAernam 617 11th St. Westwego, LA 70094  
SSN 083-52-1236 Plaquemines Mississippi River Amount  
\$1326.99  
Claim No. 88-89-115  
Stanley K. Helmer, Sr. Route 1, Box 328 H Lot 25 Mar-  
rero, LA 70072 SSN 433-56-5778 Lafourche Barataria Bay  
Amount \$3807.86  
Claim No. 88-89-92  
Bret M. Ainsworth Route 2 Box 190 AA Tickfaw, LA  
70466 SSN 437-96-8269 Plaquemines Catfish Ben Amount  
\$630.  
Claim No. 88-89-165  
Gelpi Cherie Route 2 Box 485 Cut Off, LA 70345  
SSN 433-56-8346 Vermilion Loran 27551 46925 Amount  
\$1521.58  
Claim No. 88-89-145  
David Camardelle Highway 1 Box 1871 Grand Isle, LA  
70358 SSN 438-98-5729 Jefferson Gulf of Mexico Amount  
\$896.85  
Claim No. 88-89-133  
Daniel Gaspard Route 1 Box 87 Cameron, LA 70631  
SSN 434-43-3395 Cameron Gulf of Mexico Amount \$4259.  
Claim No. 88-89-181

Dolton J. Gaspard 310 East 25th Street Cut Off, LA  
70345 SSN 433-48-8113 Lafourche Timbalier Bay Amount  
\$2455.  
Claim No. 88-89-163  
Ronnie M. Campo 10012 Claiborne Violet, LA 70092  
SSN 438-60-8396 Plaquemines Breton Sound Amount \$5000.  
Claim No. 88-89-192  
Percy Boudwin 3488 East Park Ave. Houma, LA 70363  
SSN 437-44-7012 Vermilion Gulf of Mexico Amount \$3432.  
Claim No. 88-89-160  
Tony Guerra, Jr. 832 Florissant Rd. St. Bernard, LA  
70085 SSN 44-50-4851 St. Bernard Point Chicot Amount  
\$4172.29  
Claim No. 88-89-183  
Benjamin Sanders Route 1 Box 558 E St. Bernard, LA  
70085 SSN 267-94-8743 Plaquemines Black Bay Amount  
\$1220.  
Claim No. 88-89-93  
Gary Terrebonne, Jr. Box 380 Larose, LA 70373 SSN  
438-23-4198 Lafourche Lake Raccourci Amount \$1112.77

Raymond W. Stephens  
Secretary



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