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# EXECUTIVE ORDERS

## EXECUTIVE ORDER EWE 93-15

WHEREAS: serious problems have arisen throughout this State, as well as throughout this Nation, due to increased incidents of violent crime and drug abuse; and

WHEREAS: the Congress of the United States has enacted the Crime Control Act of 1990, the Anti-Drug Abuse Act of 1988, and the Omnibus Crime Control and Safe Streets Act of 1968 in recognition of the proliferation of such incidents of violent crime and drug abuse; and

WHEREAS: the above legislation establishes national priorities for achieving drug control, responding to violent crime and improving the criminal justice system, and provides for federal assistance to states and territories of the United States which comply with certain federal guidelines found in the aforementioned legislation; and

WHEREAS: the applicable federal guidelines strongly urge each state to establish a Drug and Violent Crime Policy Board to serve as a forum for communication, and to facilitate coordination of drug abuse and violent crime projects within the state; and

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby establish the Louisiana Drug Control and Violent Crime Policy Board, and do hereby order and direct as follows:

SECTION 1: The Louisiana Drug Control and Violent Crime Policy Board is established and created within the Executive Department, Office of the Governor.

SECTION 2: The Louisiana Drug Control and Violent Crime Policy Board shall be composed of 17 members to be appointed by the Governor. The composition of the Board shall be as follows:

1. three Sheriffs,
2. two District Attorneys,
3. one Trial Lawyer,
4. undersecretary, Adult Services, Department of Corrections,
5. Executive Director of the Louisiana Sheriffs' Association,
6. one retired District Attorney,
7. representative of the Executive Director of the Louisiana District Attorneys' Association,
8. three private citizens active in drug prevention and community awareness,
9. one retired District Court Judge, and
10. three Chiefs of Police.

SECTION 3: The members shall serve at the pleasure of the Governor.

SECTION 4: The Governor shall appoint a Chairperson who is a member of the Board and who is also a member of

the Louisiana Commission on Law Enforcement and Administration of Criminal Justice. The Board may elect other officers as it deems necessary.

SECTION 5: The members of the Louisiana Drug Control and Violent Crime Policy Board shall receive no per diem or other compensation for their services. Furthermore, the members shall receive no reimbursement for expenses incurred in the performance of their duties.

SECTION 6: The duties and functions of the Louisiana Drug Control and Violent Crime Policy Board shall include, but shall not be limited to the following:

1. to serve as an advisory body to, within the framework of, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice;
2. to develop a statewide Drug Control and Violent Crime Strategy encompassing all components of the criminal justice system; and
3. any other duties and functions as required by the Governor and/or the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Louisiana Drug Control and Violent Crime Policy Board in implementing the provisions of this Executive Order.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of June, 1993.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
SECRETARY OF STATE

## EXECUTIVE ORDER EWE 93-16

WHEREAS: Title IV of the Energy Policy Act of 1992 (PL 102-486) authorizes the expenditure of federal monies to states for the development and implementation of state programs to establish the use of alternative fueled vehicles; and

WHEREAS: under Title IV, alternative fuels to power motor vehicles include natural gas, methanol, ethanol, liquified petroleum gas, hydrogen, coal derived fuels, electricity, and other fuels designated by the secretary of the U.S. Department of Energy; and

WHEREAS: the availability and use of such alternative fuels will provide the citizens of this state with energy efficient transportation that will reduce the amount of air pollution caused by motor vehicles; and



WHEREAS: Section 409 of the Energy Policy Act of 1992 requires the state to submit a plan in order to be eligible for federal assistance for state and local planning to introduce and use alternative fuels and alternative fueled vehicles.

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby establish the Governor's Alternative Fuels Task Force and hereby order and direct:

SECTION 1: The Alternative Fuels Task Force shall develop a comprehensive state alternative fuels and alternative fueled vehicle program; and shall prepare such plans as are necessary to meet the federal requirements for assistance to implement such plans.

SECTION 2: The Task Force shall be chaired by the secretary of Natural Resources and include representatives of the Department of Environmental Quality and other departments of the state which have an interest in this matter.

SECTION 3: The Task Force shall also include representatives of business, labor, agriculture, environmental organizations, and other citizen groups having an interest in this matter.

SECTION 4: The Task force shall submit a report of its activities along with any proposed legislation to the legislature no later than March 1, 1994.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 21st day of June, 1993.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
SECRETARY OF STATE

#### EXECUTIVE ORDER EWE 93-17

WHEREAS: Louisiana has long recognized that the retirement community is a vital component of local, state and national economics; and

WHEREAS: Louisiana further recognizes that the expanding numbers and percentages of the elderly throughout the nation demand the development of appropriate residential communities to accommodate the unique needs and concerns of elderly; and

WHEREAS: Louisiana, because of its culture, climate, recreational opportunities and service infrastructure, boasts numerous advantages over other states with respect to retirement lifestyles of the nation's elderly; and

WHEREAS: Louisiana is committed to the development of retirement communities as an essential component of its Comprehensive Housing Affordability Strategy ("CHAS") and as an economic development opportunity,

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby order and direct the following:

SECTION 1: The Louisiana Retirement Inducement Task Force is hereby created within the Governor's Office of Elderly Affairs.

SECTION 2: The task force shall be composed of 21 members, each of whom shall be appointed by the Governor as follows:

(a) The Secretary, or designee, and one other member of the Department of Economic Development;

(b) The Director of the Governor's Office of Elderly Affairs, or designee;

(c) The Secretary of the Department of Social Services, or designee;

(d) The President of the Louisiana Housing Finance Authority;

(e) The Secretary of the Department of Health and Hospitals, or designee;

(f) The Assistant Secretary of the Office of Tourism, Department of Culture, Recreation and Tourism;

(g) one member of the Louisiana Real Estate Commission;

(h) onemember of the Louisiana Association of Retired Persons;

(i) twelve at-large members, who have shown a demonstrated interest in the needs of the elderly community.

SECTION 3: The members of the task force shall serve at the pleasure of the Governor. The Governor shall designate the chair and vice-chair. The task force shall elect other officers as it deems necessary. No member shall receive a per diem of other compensation or reimbursement of expenses incurred by the performance of his or her duties.

SECTION 4: The task force shall identify and coordinate the programs, policies and resources necessary to promote retirement communities within the State of Louisiana.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of June, 1993.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
SECRETARY OF STATE

## EXECUTIVE ORDER EWE 93-18

WHEREAS: R.S. 23:103 established the Louisiana Employment Service Advisory Council within the Department of Labor; and

WHEREAS: unlike many other state boards and commissions, the five members of the Louisiana Employment Service Advisory Council serve without compensation in connection with their duties as Council members; and

WHEREAS: as these Council members are not compensated in any way, and as they are donating their time, it is believed that, at a minimum, the five members of the Louisiana Employment Service Advisory Council should be reimbursed for their travel expenses;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana do hereby order and direct that the members of the Louisiana Employment Service Advisory Council be reimbursed for their reasonable and necessary travel expenses incurred attending any meeting of the Board within the State.

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 25th day of June, 1993.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
SECRETARY OF STATE

## EXECUTIVE ORDER EWE 93-19

WHEREAS: quality childcare is an important objective in the United States and in Louisiana; and

WHEREAS: the United States Congress passed the Child Care and Development Block Grant Act of 1990 to provide funds to the states in order to increase the availability, affordability and quality of child care through the use of grants, contracts and certificates for child care services; and

WHEREAS: the State of Louisiana is a participant in the Child Care and Development Block Grant program and is a recipient of block grant funds under the Child Care and Development Block Grant Act of 1990; and

WHEREAS: the State of Louisiana can best utilize these block grant funds with the benefit of an advisory council which would advise the State on various ways to upgrade child care in day care centers in Louisiana and help the State to develop a long range plan for day care;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby establish the Advisory Council on the Child Care and

Development Block Grant, and do hereby order and direct as follows:

Section 1: The Advisory Council on the Child Care and Development Block Grant is hereby created within the Department of Social Services.

Section 2: The Advisory Council on the Child Care and Development Block Grant shall be composed of 9 members who shall be appointed by the Governor. The composition of the Council shall be as follows:

A. a representative of a non-profit organization of Greater New Orleans,

B. a representative of the Louisiana Head Start Association,

C. a representative of the Louisiana Association for the Education of Young Children,

D. a representative of the Child Development Program from a Louisiana University,

E. a representative of the Department of Education,

F. an at-large representative of the Louisiana child care providers,

G. an at-large representative of the Louisiana child care givers,

H. a representative of the Department of Social Services, Bureau of Quality Assurance or Bureau of Licensing,

I. an at-large representative of citizens who have demonstrated an interest in child care issues.

Section 3: The members shall serve at the pleasure of the Governor.

Section 4: The members of the Advisory Council on the Child Care and Development Block Grant shall elect a chairperson from their membership.

Section 5: The members of the Advisory Council for the Child Care and Development Block Grant shall receive no compensation or per diem for their services. Actual expenses of the Advisory Council on the Child Care and Development Block Grant may be reimbursed upon the approval of the Commissioner of Administration.

Section 6: The duties and functions of the Advisory Council for the Child Care and Development Block Grant shall be advisory in nature. Such duties and functions shall include, but shall not be limited to, the following:

1. making recommendations to the Department of Social Services on the expenditure of Child Care and Development Block Grant Funds;

2. making recommendations to the Department of Social Services on various ways to upgrade child care in day care centers in Louisiana;

3. assisting the Department of Social Services in developing a long range plan for insuring quality day care.

Section 7: All departments, commissions, boards, agencies, and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate with the Advisory Council on the Child Care and Development Block Grant in implementing the provisions of this executive order.

Section 8: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

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

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of June, 1993.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
SECRETARY OF STATE

# EMERGENCY RULES

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences

"One Day to Make a Difference"  
Pest Management

The Commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A) adopts the emergency rules set forth below:

The members of the Pest Control Association (the "association") have scheduled Monday, June 21, 1993, for its "One Day to Make a Difference" activity. On that day, members of the association will work to help individuals and organizations in need better their quality of life through improved pest management by donating pest control services at locations that are in need of, but unable to afford such services.

Recognizing that the "One Day to Make a Difference" program greatly benefits the public welfare, this emergency adoption is necessary in order that the department may aid the implementation of this program by suspending regulations regarding the issuance of contracts and the requisite fees associated with such contracts.

Rule 1. The regulations described below are declared suspended and will not be enforced in connection with structural pest control work performed by members of the Pest Control Association in connection with that association's "One Day to Make a Difference" program:

- a. the fee for termite contracts required under LAC 7:14113.M; and
- b. the requirements of LAC 7:14115 pertaining to contracts.

Rule 2. The regulations suspended by Rule 1 above are

suspended only in connection with structural pest control work performed on buildings and structures at the following specific locations:

Arna Bontemps African-American Museum 1327 Third Street Alexandria, LA	104 Vanessa St. Lake Charles, LA	1432 Kenneth Ave. Shreveport, LA
2139 Georgia Street Baton Rouge, LA	Caring House Stadium Drive Slidell, LA	2812 Looney Street Shreveport, LA
2625 Laurel Street Baton Rouge, LA	2846 Abbie Street Shreveport, LA	1729 Madison Shreveport, LA
The Children's Abuse Clinic Lafayette, LA	2760 Dunlop St. Shreveport, LA	2738 Poland Street Shreveport, LA
Faith House Lafayette, LA	2939 Frederick Shreveport, LA	130 N. Mitchell St. Sulphur, LA
120 S. Elton Court Lake Charles, LA	1933 Ford Street Shreveport, LA	89 Beech Street Sulphur, LA

The effective date of these rules is 12:01 a.m., June 21, 1993, and they shall remain in effect until 12:01 a.m. June 22, 1993.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences

"One Day to Make a Difference"  
Pest Management Extension

The Commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A) adopts the emergency rules set forth below:

The members of the Pest Control Association (the "association") originally scheduled Monday, June 21, 1993, for its "One Day to Make a Difference" activity. On that day, members of the association worked to help individuals and organizations in need better their quality of life through improved pest management by donating pest control services at locations that are in need of, but unable to afford such services. Extremely heavy rains and flooding made it impossible for members in several areas to complete the work scheduled for June 21, 1993, making necessary this extension of the original emergency rule in effect on that date.

Recognizing that the "One Day to Make a Difference" program greatly benefits the public welfare, this emergency adoption is necessary in order that the department may aid the implementation of this program by suspending regulations regarding the issuance of contracts and the requisite fees associated with such contracts.

Rule 1. The regulations described below are declared suspended and will not be enforced in connection with structural pest control work performed by members of the Pest Control Association in connection with that association's "One Day to Make a Difference" program:

- a. the fee for termite contracts required under LAC 7:14113.M; and
- b. the requirements of LAC 7:14115 pertaining to contracts.

Rule 2. The regulations suspended by Rule 1 above are suspended only in connection with structural pest control work performed on buildings and structures at the following specific locations:

Arna Bontemps African-American Museum 1327 Third Street Alexandria, LA	Caring House Stadium Drive Slidell, LA	2846 Abbie Street Shreveport, LA
2760 Dunlop Street Shreveport, LA	1933 Ford Street Shreveport, LA	2939 Frederick Shreveport, LA
1432 Kenneth Avenue Shreveport, LA	2812 Looney Street Shreveport, LA	1729 Madison Shreveport, LA
2738 Poland Street Shreveport, LA		

These rules are effective upon signature and shall remain in effect for 60 days or until the completion of structural pest control work done at the above locations, whichever occurs first.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Division of Pesticides and Environmental Programs

### Azinphos-Methyl

In accordance with R.S. 49:953(B) and R.S. 3:3203(A), the commissioner of agriculture and forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the attached rules for the implementation of regulations governing the use of the pesticide azinphos-methyl.

This emergency adoption is necessary in order to implement registration requirements and issue permits and also to establish a program for monitoring applications of azinphos-methyl during the current crop year. The rules become effective July 1, 1993 and will remain in effect 120 days.

### Regulations Governing Applications of Azinphos-Methyl

#### A. Registration Requirements

1. The commissioner hereby declares that prior to making any aerial applications of azinphos-methyl to sugarcane, the aerial owner/operator must first register such

intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

2. The commissioner hereby declares that prior to selling azinphos-methyl to be applied on sugarcane, the dealer must first register such intent by notifying the DPEP in writing.

3. The commissioner hereby declares that prior to making recommendations for application of azinphos-methyl to sugarcane, the agricultural consultant must first register such intent by notifying the DPEP in writing.

B. Grower Liability. Growers of sugarcane shall not force or coerce applicators to apply azinphos-methyl to their crops when the applicators, conforming to the Louisiana Pesticide Law and regulations or the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this Section shall forfeit their right to use azinphos-methyl on their crops, subject to appeal to the Advisory Commission on Pesticides.

#### C. Procedures for Permitting Applications of Azinphos-Methyl

1. Prior to any application of azinphos-methyl to sugarcane, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for five days from the date issued. Approval may be obtained by certified agricultural consultants from the DPEP. Where farmers do not use agricultural consultants, approval must be obtained by the private applicator or aerial applicators employed by such farmers from DPEP.

2. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

- a. weather patterns and predictions;
- b. soil moisture;
- c. propensity for run-off;
- d. drainage patterns;
- e. quantity of acreage to be treated;
- f. extent and presence of vegetation in the buffer zone between application site and water body;
- g. water monitoring results; and
- h. any other relevant data.

#### D. Monitoring of Azinphos-Methyl

1. Agricultural consultants registered to recommend azinphos-methyl on sugarcane shall report daily to the DPEP, on forms prescribed by the commissioner, all recommendations for applications of azinphos-methyl to sugarcane.

2. The department shall maintain a water monitoring program for azinphos-methyl.

a. Water sample collection sites shall be distributed throughout the sugarcane growing region of the state. The locations of said sites shall be selected by criteria including, but not limited to:

- i. those areas that have agricultural land use for the growing of sugarcane where azinphos-methyl has been recently applied, including but not limited to those sites where azinphos-methyl has been involved in recent kill incidents;
- ii. those areas that have water drainage from sugarcane lands; and
- iii. the propensity for run off due to topography, soil

types, and other characteristics.

b. The water sampling frequency shall be monthly intervals.

c. Base line conditions of azinphos-methyl at each water sampling site shall be established by water sampling and analysis prior to the application season.

d. The analysis of water samples shall be accomplished in accordance with procedures of the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency (EPA), and shall be conducted by and costs assumed by the registrants of azinphos-methyl.

3. Miles and Makhteshim Chemical Products Limited, producers of azinphos-methyl shall establish and maintain a water monitoring program to monitor for azinphos-methyl in the waters of the sugarcane growing area of the state. This program shall be in accordance with an agreement with the EPA, and that the sample analysis results be provided to LDAF's DPEP as soon as available.

4. The commissioner shall consider results of the analysis of the samples from both monitoring programs, the criteria established in R.S. 3:3306 (c)(1)-(11), and/or other relevant data to determine whether a threat or reasonable expectation of a threat to human health or to the environment exists.

E. Determination of Appropriate Action

1. Upon determination by the commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- a. stop orders for use, sales, or application;
- b. label changes;
- c. remedial or protective orders;
- d. any other relevant remedies.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Marketing  
Market Commission

Linked Deposit Loan Programs (LAC 7:V.Chapter 14)

In accordance with R.S. 49:953(B), the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in connection with the enactment by the legislature of linked deposit loan programs for agricultural production and agricultural products processing.

The purpose of these emergency rules is to avoid imminent peril to the welfare of the citizens of the state. Failure of the agency to adopt these emergency rules would harm the citizens of the state by not permitting the state to provide the maximum stimulus possible for the production and processing of Louisiana agricultural products. The rules become effective on July 1, 1993 and remain in effect 120 days or until these

rules are adopted through the normal promulgation process, whichever occurs first.

### Title 7

## AGRICULTURE AND ANIMALS

### Part V. Advertising, Marketing and Processing

#### Chapter 14. Market Commission - Agricultural

##### Production Linked Deposit Loan Program

##### Subchapter A. Procedures for Authorization and

##### Administration of Agricultural Products

##### Processing Linked Deposit Loan

##### Program

#### §1401. Definitions

*Agricultural Plant*—any facility which receives raw agricultural products for the purpose of rendering them suitable for wholesale or retail marketing.

*Agricultural Product*—any farm product or seafood product.

*Aquacultural Crop*—catfish, crawfish, crabs, oysters, shrimp, prawns, alligators, turtles and other species of fish.

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

*Eligible Agricultural Products Processing Business*—any person, partnership, corporation, or cooperative which owns, leases or operates or seeks to own, lease or operate and possesses all of the following characteristics:

1. is headquartered in this state;
2. maintains offices and operating facilities in this state and transacts business in this state;
3. employs fewer than 150 full-time employees, 80 percent of whom are residents of this state;
4. is organized for profit;
5. is engaged in the processing or marketing of any agricultural, agronomic, horticultural, silvicultural, or aquacultural crop, or raw product derived therefrom, or any final derivative resulting from a combination or breakdown of raw farm materials.

*Eligible Lending Institution*—any bank located in this state and organized under the laws of this state which is authorized to make commercial or agricultural loans and which agrees to participate in the linked deposit program as defined herein.

*Farm Product*—any agronomic, horticultural, silvicultural or aquacultural crop; any commercially raised livestock or raw product and derived therefrom, or any final derivative resulting from a combination or breakdown of raw farm products.

*Final Derivative*—any agricultural product that is ready to be passed on to a marketing level.

*Linked Deposit*—a certificate of deposit placed by the treasurer (as defined herein) with an eligible lending institution at three percent below existing investment rates, as determined and calculated by the treasurer, provided the institution agrees to lend the value of such deposit, according to the deposit agreement required by this Chapter, to eligible agricultural products processing businesses at three percent below the existing borrowing rate applicable to each specific business at the time of the deposit of state funds in the lending institution.

*Necessary improvement*—any improvement to an existing agricultural plant mandated by local, state or federal law, or an improvement thereto which will form an economically justifiable basis and, in the judgment of the commissioner of

agriculture and forestry, improve the quality or quantity of service, or both.

*Person*—any individual, firm, corporation, partnership or association domiciled in this state.

*Process or Processing*—any action that will enhance any raw agricultural product's value or render a raw agricultural product suitable for further refinement or introduction at a marketing level.

*Substantial Stockholder*—any person (as defined herein) who owns more than 20 percent of a business applying for a loan or currently participating in the Linked Deposit Loan Program outlined in this Chapter.

*Treasurer*—the treasurer of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:

### §1403. Eligibility of Applicant

A. Any person engaged or to be engaged in the processing of agricultural products shall be eligible for a low-interest agricultural loan, under the Louisiana Agricultural Products Processing Linked Deposit Program. However, the applicant must also meet all the required characteristics as outlined under "Eligible Agricultural Products Processing Business," in LAC 7:V.1401 herein.

B. The commissioner and treasurer shall give priority to those persons who utilize Louisiana agricultural products to the maximum extent possible.

C. The lending institution shall give priority to the:

1. economic needs of the area of the state in which the business is located;
2. the number of jobs created or preserved in the state;
3. the financial need of the agricultural products processing business relative thereto;
4. the order in which the linked deposit loan packages were received and whenever possible give priority based on this chronological order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:

### §1405. Linked Deposit Loan Program Authorization; Lending Institution Requirements; Applicants Requirements and Conditions for Approval

A. The treasurer may invest in linked deposits, as provided and defined by R.S. 49:327.2, and, also defined herein, provided that at the time of placement of any linked deposit the total amount of such investments at any one time shall not exceed, in the aggregate, \$10,000,000. When deciding whether to invest in linked deposits, the treasurer shall give priority to the investment, liquidity, and cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

B. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible agricultural products processing businesses. The eligible lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible

agricultural products processing business. The eligible lending institution shall not charge, levy or collect any loan application fee, processing fee, or other charges other than its normal loan application fee, processing fee, or other charges when handling a linked deposit application.

C.1. Only one loan through the linked deposit program shall be made and shall be outstanding at any one time to any eligible agricultural products processing business.

2. The maximum amount available to any eligible agricultural products processing business, under this program, at any one time shall be \$200,000.

3. No loan shall be made to any officer or director of the lending institution making the loan.

D. An eligible agricultural products processing business shall certify on its loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities in the state. Whoever knowingly files a false statement concerning such application shall be guilty of the offense of filing false public records and shall be subject to penalty provided for in R.S. 14:133.

E. In considering which eligible agricultural products processing business to include in the linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area of the state in which the business is located, the number of jobs to be created or preserved in the state by the receipt of such loans, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible agricultural products processing business.

F. The eligible lending institution shall forward to the commissioner and the treasurer for review a linked deposit loan package. The package shall include such information as required by the commissioner including the amount of the loan requester, the number of jobs to be created or sustained in the state by each eligible agricultural products processing business, the ratio of state funds to be deposited to jobs sustained or created, and any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the commissioner considers appropriate. The eligible financial institution shall certify that each applicant is an eligible agricultural products processing business as defined herein and shall, for each eligible agricultural products processing business, certify the present borrowing rate applicable to each specific eligible agricultural products processing business. Within 45 days after receipt, the commissioner shall provide written recommendations to the treasurer on each linked deposit loan package received from eligible financial institutions.

G. The treasurer may accept or reject a linked deposit loan package or any portion thereof, based on the treasurer's review of the recommendations of the commissioner, the availability and amount of state funds to be deposited, and a determination of the financial soundness of the financial institution in which the deposit is to be made. The treasurer shall notify the commissioner and the eligible lending institution of acceptance or rejection of a linked deposit loan package within 15 days of receipt of the recommendations of the commissioner.

H. Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer may place certificates of deposit with the eligible lending institution at three percent below the current investment rates, as determined and calculated by the treasurer. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked deposit loan package.

I. The eligible lending institution shall enter into a deposit agreement with the treasurer, which shall include the requirements necessary to carry out the purposes of this Chapter. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may specify the period of time in which the lending institution is to loan funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year. The treasurer may renew a certificate of deposit in one-year increments but in no event shall the total period of time that a certificate of deposit is placed with any lending institution exceed three consecutive years. Interest shall be paid at the times determined by the treasurer. However, upon placement of a linked deposit, the treasurer will give priority to renewal of existing linked deposits prior to placement of new linked deposits. Prior to renewal of linked deposits, the treasurer shall continue to give priority to the investment, liquidity cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

J. The period of time for which each certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding to an eligible agricultural products processing business.

K. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to each approved eligible agricultural products processing business listed in the linked deposit loan package. Each loan shall be at a fixed rate of interest for a period of one year which shall be three percent below the current borrowing rate applicable to each eligible agricultural products processing business. All records and documents pertaining to the linked deposit program shall be segregated by each lending institution for ease of identification and examination. A certification of compliance with this Section in the form and manner prescribed by the treasurer shall be completed by the leading institution and filed with the treasurer and the commissioner.

L.1. If it is discovered that there is a linked deposit made for any purpose not authorized, the certificate may be matured and/or rewritten, if appropriate, without penalty to the state treasurer.

2. If the eligible lending institution fails to pledge securities to the treasurer as required under R.S. 49:321 or if such securities shall be unsatisfactory to secure the deposit, in his sole discretion, the treasurer may declare the deposit and interest earned thereon, or any part thereof, to become

immediately due and payable, notwithstanding any agreement or contract to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:

#### **§1407. Prohibitions**

A. No linked deposit loan shall be approved if the agricultural products processing business' headquarters is not located in Louisiana.

B. No linked deposit loan shall be approved if the agricultural products processing business' principal officers and operating facilities are not in Louisiana.

C. No linked deposit loan shall be approved if the agricultural products processing business employs over 150 full-time employees.

D. No linked deposit loan shall be approved if the agricultural products processing business employs less than 80 percent Louisiana residents.

E. No linked deposit loan shall be approved if the agricultural products processing business is not operated for profit.

F. No linked deposit shall be approved if the agricultural products processing business does not process agricultural products as defined in these rules.

G. No linked deposit loan shall be approved if the agricultural products processing business does not either create new jobs or contribute to preserving existing jobs.

H. No linked deposit loan shall be approved if the agricultural products processing business benefits directly any officer or director of the lending institution making the loan.

I. No linked deposit loan shall be approved if it involves loan fees by the lending institution other than would be normally charged on this type of application.

J. No linked deposit shall be approved if it requires liability, other than the three percent interest, by the state, the commissioner or the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:

#### **Subchapter B. Procedures for Authorization and Administration of Agricultural Production Linked Deposit Loan Program**

##### **§1411. Definitions**

*Agricultural Production Loan*—any loan made by a lending institution to a farmer under the linked deposit program. An agricultural production loan may only be made and used for one or more of the following purposes:

1. if necessary for the continuance of the operation of the farm through the crop or production year, repair of agricultural equipment or machinery, or purchase of used replacement equipment or machinery;

2. operating capital including, but not limited to, capital necessary for the rental of equipment or machinery and the purchase of seed, feed, fertilizer, chemical, crop insurance,



livestock, and production-related energy, labor, or veterinarian fees;

3. refinancing all or a portion of a loan entered into before the effective date of this Section for a purpose set forth in Paragraphs 1 or 2.

*Commissioner*—the commissioner of the Louisiana Department of Agriculture and Forestry;

*Farmer*—any person who:

1. is an owner and operator of a farm engaged in the production of agricultural goods, and if incorporated, has all of the stock owned by persons operating the farm for which the loan is sought;

2. is headquartered in this state;

3. conducts agricultural operations exclusively in this state;

4. employs less than ten employees;

5. is a resident of this state, or if a corporation or multi-member entity, the majority of the stockholders or members are residents of this state;

6. is organized for profit;

7. has gross income from the agricultural operation which is at least 50 percent of his total income;

8. has a positive net worth.

*Lending Institution*—any state bank organized under the laws of this state and any national bank having its principal office in this state which is authorized to make agricultural production loans and agrees to participate in the linked deposit program.

*Linked Deposit*—a certificate of deposit placed by the state treasurer with a lending institution at three percent below existing market rates, as determined and calculated by the state treasurer, provided the institution agrees to lend the value of such deposit, according to the deposit agreement required by this Section, to farmers at three percent below the existing borrowing rate applicable to each specific farmer at the time of the deposit of state funds in the lending institution.

*Treasurer*—the treasurer of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:

### §1413. Eligibility of Applicant

A. Any person engaged or to be engaged in the agricultural production of products shall be eligible for a low-interest agricultural loan, under the Louisiana Agricultural Production Linked Deposit Program. However, the applicant must also meet all the required characteristics as outlined under *Farmer* in LAC 7:V.1411.

B. The commissioner and treasurer shall consider agricultural conditions prevailing in the lending institution's lending area, in the order in which the linked deposit loan packages were received and whenever possible give priority based on this chronological order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:

### §1415. Linked Deposit Loan Program Authorization; Lending Institution Requirements; Applicants Requirements and Conditions for Approval

A. The treasurer may invest in linked deposits, as provided and defined by R.S. 49:327.1, and, also defined herein, provided that at the time of placement of any linked deposit the total amount of such investments at any one time shall not exceed, in the aggregate, \$10,000,000. When deciding whether to invest in linked deposits, the treasurer shall give priority to the investment, liquidity, and cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

B. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible farmers. The eligible lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible farmer. The eligible lending institution shall not charge, levy or collect any loan application fee, processing fee, or other charges other than its normal loan application fee, processing fee, or other charges when handling a linked deposit application.

C.1. Only one loan through the linked deposit program shall be made and shall be outstanding at any one time to any eligible farmer;

2. The maximum amount available to any eligible farmer, under this program, at any one time shall be \$100,000;

3. No loan shall be made to any officer or director of the lending institution making the loan.

D. An eligible farmer shall certify on his loan application that the reduced rate loan will be used exclusively in accordance with LAC 7:V.1411. Whoever knowingly files a false statement concerning such application shall be guilty of the offense of filing false public records and shall be subject to penalty provided for in R.S. 14:133.

E. In considering which farmer to include in the linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area of the state in which the business is located, the prevailing agricultural conditions, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible farmer.

F. The eligible lending institution shall forward to the commissioner and the treasurer for review a linked deposit loan package. The package shall include such information as required by the commissioner including the amount of the loan requested, and any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the commissioner considers appropriate. The eligible financial institution shall certify that each applicant is an eligible farmer as defined herein and shall, for each eligible farmer, certify the present borrowing rate applicable to each specific eligible farmer. Within 45 days after receipt, the commissioner shall provide written recommendations to the treasurer on each linked deposit loan package received from eligible financial institutions.

G. The treasurer may accept or reject a linked deposit loan package or any portion thereof, based on the treasurer's review of the recommendations of the commissioner, the



availability and amount of state funds to be deposited, and a determination of the financial soundness of the financial institution in which the deposit is to be made. The treasurer shall notify the commissioner and the eligible lending institution of acceptance or rejection of a linked deposit loan package within 15 days of receipt of the recommendations of the commissioner.

H. Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer may place certificates of deposit with the eligible lending institution at three percent below the current investment rates, as determined and calculated by the treasurer. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked deposit loan package.

I. The eligible lending institution shall enter into a deposit agreement with the treasurer, which shall include the requirements necessary to carry out the purposes of this Chapter. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may specify the period of time in which the lending institution is to loan funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year. The treasurer may renew a certificate of deposit in one-year increments. Interest shall be paid at the times determined by the treasurer. However, upon placement of a linked deposit, the treasurer will give priority for a period of two more years to renewal of existing linked deposits prior to placement of new linked deposits. Prior to renewal of linked deposits, the treasurer shall continue to give priority to the investment, liquidity cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

J. The period of time for which each certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding to an eligible agricultural products processing business.

K. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to each approved eligible farmer listed in the linked deposit loan package. Each loan shall be at a fixed rate of interest for a period of one year which shall be three percent below the current borrowing rate applicable to each eligible farmer. All records and documents pertaining to the linked deposit program shall be segregated by each lending institution for ease of identification and examination. A certification of compliance with this Section in the form and manner prescribed by the treasurer shall be completed by the leading institution and filed with the treasurer and the commissioner.

L.1. If it is discovered that there is a linked deposit made for any purpose not authorized, the certificate may be matured and/or rewritten, if appropriate, without penalty to the state treasurer.

2. If the eligible lending institution fails to pledge

securities to the treasurer as required under R.S. 49:321 or if such securities shall be unsatisfactory to secure the deposit, in his sole discretion, the treasurer may declare the deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:

#### §1417. Prohibitions

A. No linked deposit loan shall be approved if the farmer's headquarters are not located in Louisiana.

B. No linked deposit loan shall be approved if the farmer's principal officers and operating facilities are not in Louisiana.

C. No linked deposit loan shall be approved if the farmer employs over 10 full-time employees.

D. No linked deposit loan shall be approved if the farmer employs less than 80 percent Louisiana residents.

E. No linked deposit loan shall be approved if the agricultural products processing business is not operated for profit.

F. No linked deposit shall be approved if gross income from the agricultural operation is less than 50 percent of the farmer's income.

G. No linked deposit loan shall be approved if the farmer has a negative net worth.

H. No linked deposit loan shall be approved if the agricultural products processing business benefits directly any officer or director of the lending institution making the loan.

I. No linked deposit loan shall be approved if it involves loan fees by the lending institution other than would be normally charged on this type of application.

J. No linked deposit shall be approved if it requires liability, other than the three percent interest, by the state, the commissioner or the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

### Department of Economic Development Office of Financial Institutions

#### Louisiana Capital Companies Tax Credit Program (LAC 13:I.701-717)

The Department of Economic Development, Office of Financial Institutions, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) and pursuant to authority granted by R.S. 51:1929, to repeal

LAC 13:I.701-727, and adopt LAC 13:I.701-717 entitled "Louisiana Capital Companies Tax Credit Program."

This emergency rule is necessary in order to implement changes enacted by Acts 1993, Numbers 279 and 724.

This rule provides for the transfer of administration of the program from the Office of Commerce and Industry to the Office of Financial Institutions.

To those groups interested in becoming Certified Louisiana Capital Companies, this rule places more stringent guidelines on these groups and provides greater guidance.

Clarification provided in the proposed rule will enhance the regulation of the Certified Louisiana Capital Companies and should promote investment in such companies, since the terms of the statute are clarified in a more objective and measurable manner.

This emergency rule is effective June 21, 1993, for 120 days or until a permanent rule takes effect through the normal promulgation process, whichever is shortest.

### Title 13

## ECONOMIC DEVELOPMENT

### Part I. Commerce and Industry

#### Subpart 1. Finance

### Chapter 7. Louisiana Capital Companies Tax Credit Program

#### §701. Description of Program

These rules implement the Louisiana Capital Companies Tax Credit Program pursuant to R.S. 51:1921 et seq. and R.S. 22:1068(E). This program was created by Act 642 of the 1983 Legislature, amended by Act 891 in 1984, Acts 695 and 915 in 1986, Act 496 in 1989 and Acts 279 and 724 of 1993.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1921-1932.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

#### §703. Definitions Provided by Rule

The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

**Affiliated Companies or Affiliate**—two or more companies related through common ownership; or two or more corporations closely related through stock ownership.

**Allowable Organization Cost**—those direct costs incurred to incorporate and charter an entity; however, such costs are limited to 25 percent of capitalization, before any reduction for disallowed organization costs.

1. Direct organization costs include, but are not limited to legal, accounting, consulting fees and printing costs directly related to the chartering or incorporation process, and filing fees paid to chartering authorities. Allowable organization costs may be capitalized and amortized over a period not to exceed five years.

2. Pre-opening and development stage enterprise costs, such as salaries and employment benefits, rent, depreciation, supplies, directors' fees, training, travel, expenses associated with the establishment of business relationships, postage and telephone fees are examples of costs that shall be expensed

and not capitalized. Similarly, direct costs associated with the offering and issuance of capital stock are not considered to be organization costs and shall not be capitalized; these costs shall be deducted from the proceeds in recording initial capitalization.

**BIDCO**—a Business and Industrial Development Corporation licensed pursuant to the Louisiana Business and Industrial Development Corporation Act, R.S. 51:2386 et seq.

**Capitalization**—for purposes of initial certification, pursuant to R.S. 51:1925(B):

1. Generally Accepted Accounting Principles (GAAP) Capital: common stock, preferred stock, general partnership interests, and limited partnership interests, all of which shall be exchanged for cash; surplus; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by disallowed organization costs.

2. LESS: the following, when any preferred or common stock, or partnership interests are subject to redemption or repurchase by the Certified Louisiana Capital Company:

a. preferred stock, common stock, partnership interests, or limited partnership interests shall be multiplied by the following percentage reductions and deducted from capital:

Within 5 years from redemption or repurchase 20%

Within 4 years from redemption or repurchase 40%

Within 3 years from redemption or repurchase 60%

Within 2 years from redemption or repurchase 80%

Within 1 year from redemption or repurchase 100%

**Commissioner**—the commissioner of the Office of Financial Institutions.

**Date Certified, Newly Certified or Designated as a Certified Louisiana Capital Company**—the date that a Louisiana Capital Company is notified of the certification or recertification by the secretary.

**Equity Investment**—pursuant to R.S. 51:1923(5), may include debt which must provide for conversion rights and may include the following features or elements: royalty rights, net profit interests, warrants for future ownership, or equity sale participation rights. The predominant feature or features of the investment must be a true equity position, i.e. a residual or ownership interest.

1. **Royalty Right**—a right to receive a percent of gross or net revenues, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon revenues in excess of a base amount.

2. **Net Profit Interest**—a right to receive a percent of operating or net profits, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon operating or net profits in excess of a base amount.

3. **Warrant for Future Ownership**—an option on the stock of the qualified Louisiana business. The qualified Louisiana business may repurchase a warrant (a "call") or the qualified Louisiana business may be required to repurchase a warrant (a "put") at some fixed amount or an amount based on a pre-agreed upon formula.

4. **Equity Sale Participation Right**—a conversion option

of debt, to convert all or a portion of the debt to the qualified Louisiana business's stock, then to participate in the sale of the stock of the qualified Louisiana business.

*Office*—the Office of Financial Institutions.

*Permissible Investments*—for purposes of R.S. 51:1926(B), cash deposited with a federally-insured financial institution; certificates of deposit in federally-insured financial institutions; investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; investment-grade instruments (rated in the top four rating categories by a nationally recognized rating organization); obligations of any state, municipality or of any political subdivision thereof; or any other investments approved in advance, in writing, by the commissioner.

*Primary Business Activity*—at all times, a minimum of 50 percent of total certified capital will be available for investment in or invested in qualified Louisiana businesses.

*Qualified Investment*—shall not include:

1. any investment in a business engaged primarily in lending or investing activities, long-term leasing activities, or to any passive business. A passive business is one that is not engaged in a regular or continuous operation;
2. the purchase of a loan made by another Certified Louisiana Capital Company to a qualified Louisiana business;
3. reciprocal investments or loans made between Certified Louisiana Capital Companies;
4. an investment in a subsidiary or affiliate.

*Total Certified Capital Under Management*—for purposes of investment limits, pursuant to R.S. 51:1926(B):

1. GAAP Capital: common stock, preferred stock, general partnership interests, and limited partnership interests, all of which shall be exchanged for cash; surplus; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by disallowed organization costs.

2. PLUS Qualified NON-GAAP Capital: The non-secured portion of any certified capital in the form of debentures, notes or any other quasi-equity/debt instruments with a maturity of at least five years.

3. LESS: the following, when any preferred or common stock, debentures, notes or any other quasi-equity/debt instruments are subject to redemption or repurchase by the Certified Louisiana Capital Company:

a. The non-secured portion of any preferred stock, debentures, notes or any other quasi-equity/debt instruments, and any stock subject to redemption or repurchase, shall be multiplied by the following percentage reductions and deducted from capital:

Within 5 years from redemption or repurchase	20%
Within 4 years from redemption or repurchase	40%
Within 3 years from redemption or repurchase	60%
Within 2 years from redemption or repurchase	80%
Within 1 year from redemption or repurchase	100%

*Total Certified Capital*—for purposes of R.S. 51:1926, the total of all investments into a Certified Louisiana Capital Company pursuant to R.S. 51:1924(A) and (B) and R.S. 22:1068(E), and includes any investments made by an agency

of the state of Louisiana or a political subdivision of the state of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1921-1932.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

### **§705. Income and Premium Tax Credits**

A. In order to be eligible for any income or premium tax credits, debentures, notes or any other quasi-equity/debt instruments shall have an original maturity date of at least five years from the date of issuance. If an investment is in the form of stock or a partnership interest, the stock or partnership interest shall not be subject to redemption or repurchase within five years from the date of issuance. If debentures, notes or any other quasi-equity/debt instruments or stock or partnership interests are redeemed or repurchased within five years from issuance, any income or premium tax credits previously taken, to the extent applicable to the investment redeemed or repurchased, shall be repaid to the Department of Insurance or the Department of Revenue at the time of redemption, and any remaining tax credits shall be forfeited.

B. The transfer or sale of income or premium tax credits will be allowed, subject to the following conditions:

1. The transfer or sale of income and premium tax credits, pursuant to R.S. 51:1924(F) and R.S. 22:1068(E)(4), will be restricted to transfers or sales between affiliated companies.

2. All transactions involving the sale or transfer of income and premium tax credits shall be subject to the approval of the commissioner. Companies shall submit, in writing, to the commissioner, a notification of any transfer or sale of income and premium tax credits within thirty days of the transfer or sale of such credits. The notification shall include a copy of a proposed act of transfer or sale. The act of transfer or sale shall contain the original investors' income and premium tax credit balance prior to transfer, the remaining balance after transfer, all tax identification numbers for both seller and purchaser, the date of transfer, and the amount of the transfer.

3. If an insurance company transfers credits between affiliated companies, the notification submitted to the office must include a worksheet, which the company shall also attach to the premium tax returns for any affiliates claiming credits, that shall contain the following information for each affiliate:

- a. name of each affiliate;
- b. the gross premium tax liability;
- c. credits taken under R.S. 22:1068 (A);
- d. credits taken under R.S. 22:1068 (B);
- e. credits taken under R.S. 22:1068 (C);
- f. credits taken under R.S. 22:1068 (D);
- g. Louisiana Insurance Guaranty Association (LIGA) Credits;
- h. Louisiana Life and Health Insurance Guaranty Association (LHIGA) Credits;

i. net premium tax liability before Certified Capital Company (CAPCO) Premium Tax Reductions;

j. credits taken under R.S. 22:1068 (E); and

k. net premium tax liability after all credits.

**Note:** Subparagraphs a-k shall be reflected as columns and the entire worksheet shall be totalled, in order for the office and the Department of Insurance to verify the amount of total credits taken among affiliated companies.

4. If income tax credits are transferred between affiliates, the notification submitted to the office must include a worksheet, which the transferor shall also attach to the Louisiana corporate and individual income tax returns for all affiliates claiming credits, which shall contain the following information, for each corporation or individual involved:

a. name of each affiliate;

b. the gross Louisiana corporation or individual income tax liability of each affiliate; and

c. credits taken under R.S. 51:1924(A) and (B).

6. Failure to comply with this rule may jeopardize the income and premium tax credit transferred.

7. The office will notify the Department of Revenue and Taxation and the Department of Insurance of all transactions involving the transfer or sale of premium and income tax credits granted under R.S. 51:1924 and R.S. 22:1068, and reported pursuant to R.S. 51:1925(D).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1924(F) and 1929, and R.S. 22:1068(E).

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

#### **§707. Application Fees, Other Fees**

A. An "Advance Notification" of intent to seek certification shall be filed by a company or entity, "the applicant," prior to filing an application. An advance notification fee of \$100 shall be submitted with the advance notification form.

B. An application fee shall be submitted with the application based on 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$200 and in no case shall a fee exceed \$5,000 per project. Please make checks payable to: Louisiana Office of Financial Institutions.

C. The office reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications and applications which have been accepted, will not be refundable.

D. The commissioner shall conduct an annual review of each Certified Louisiana Capital Company to determine the company's compliance with the rules and statutes. The company will receive notice of the annual review 45 days in advance. A review fee of \$100 must be returned and received 15 days prior to the appointment date of the annual review.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1925 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

#### **§709. Application Process**

A. A company organized and existing under the laws of Louisiana, created for the purpose of making qualified equity investments, or financing assistance as a licensed BIDCO, as required in R.S. 51:1921 et seq., shall make written application for certification to the commissioner on application forms provided by the office.

B. The form for applying to become a Certified Louisiana Capital Company may be obtained from the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, and shall be filed at the same address. The time and date of filings shall be recorded at the time of filing in the office and shall not be construed to be the date of mailing.

C. Said application and all submissions of additional information reported to the office, shall be forwarded via United States Mail, properly addressed and postmarked and signed by a duly authorized officer, manager, member or partner, and contain the following information and evidence:

1. the full legal name of the applicant;

2. the street address of the applicant's principal office in Louisiana;

3. each individual director, officer, general or managing officer, manager member, or shareholder with a five percent or greater ownership or partnership interest shall provide the following: names, street addresses, social security numbers, date of birth, personal financial statements, resumes indicating employment experience, an affidavit certifying that there are no outstanding federal, state, or local tax liens against them, and a signed "Authority to Obtain Information" form. Each corporate shareholder with a five percent or greater ownership interest shall provide its name, Federal Employer Identification Number and its most recent financial statement;

4. a certified copy of the certificate of incorporation, and articles of incorporation, or a certified copy of the certificate of formation of a limited partnership, or trust documents, or other evidence that the applicant is organized and existing under the laws of Louisiana, as required by the secretary of state;

5. information and evidence that the applicant's purpose is to encourage and assist in the creation, development, and expansion of Louisiana businesses and to provide maximum opportunities for the employment of Louisiana residents, by making equity investments, or financing assistance as a licensed BIDCO, available to qualified Louisiana businesses;

6. information and evidence that the applicant has disclosed or will disclose to all investors that a tax credit is not available for an investment in a company until the company has been designated a Certified Louisiana Capital Company;

7. information and evidence that the applicant has disclosed or will disclose to all investors that all statutory limits on tax credits are disclosed;

8. information and evidence that the applicant has disclosed or will disclose to all investors that the State of Louisiana is not liable for damages to an investor in a Louisiana capital company that fails to become designated as a Certified Louisiana Capital Company;

9. a statement that if the investors in the company or partnership receive a tax credit under R.S. 51:1921 et seq., or R.S. 22:1068, the company will use its total certified capital to make qualified investments as required in R.S. 51:1926;

10. a statement that the company will comply with all requirements of Title 51, Chapter 26, including the filing of quarterly reports of new investors and qualified investments that include the name of each investor in a Certified Louisiana Capital Company who has applied for a tax credit, the amount of each investor's investment, the amount of tax credit allowed to the investor and the date on which the investment was made;

11. information stating the estimated total certified capital of the applicant and how the value has been determined;

12. information showing that the applicant's GAAP capital, as of the date certified will be \$200,000 or more;

13. proforma statements of income and condition for the first day of operation and for the following three years, with a listing of organization and pre-operating costs and evidence of availability of capital funds;

14. the Certified Louisiana Capital Company shall include in any offering involving the sale of shares or debentures to an investor, the following statement:

"The State of Louisiana is not liable for damages to an investor in a Certified Louisiana Capital Company. Use of the words "certified" or "Louisiana" in an offering does not constitute a recommendation or endorsement of the investment by the Louisiana Department of Economic Development;"

15. a statement disclosing any existing or potential conflicts of interest between the applicant, members, managers, associates or affiliates;

16. any other information deemed relevant to the commissioner of financial institutions.

D. The commissioner shall cause all applications to be reviewed by the office and designate those he determines to be complete. In the event that an application is deemed to be incomplete in any respect, the applicants will be notified within 15 days of receipt. An incomplete application shall be resubmitted, either in a partial manner or totally, as deemed necessary by the commissioner. A previously incomplete application may be resubmitted, which will establish a new time and date received for that application.

E. The submission of any false or misleading information in the application documents will be grounds for rejection of the application and denial of further consideration, as well as decertification, if such information discovered at a subsequent date would have resulted in the denial of such license.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1925 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

### **§711. Conditions of Certification**

A. All Certified Louisiana Capital Companies, (CAPCO) through a resolution signed by every board member, shall acknowledge and approve the following conditions for certification as a Certified Louisiana Capital Company:

1. a statement certifying that the CAPCO's capitalization is its true property, that the capital has not been nor ever will be rented and will have no prior or future liens or claims by virtue of a counter letter or agreement or will not be retired or repurchased by the CAPCO without prior notification to the office;

2. a statement that the CAPCO will notify, in writing, the office prior to the sale or redemption of stock, partnership interests or debentures constituting 10 percent or more of the then outstanding shares, partnership interests or debentures;

3. a statement that the board of directors may not elect new or replace existing board members or declare dividends without prior written consent of the office for the first two years of business;

4. a statement that the CAPCO will immediately notify the office when its total certified capital under management is not sufficient to enable the CAPCO to operate as a viable going concern;

5. a statement that the CAPCO will not engage in any activity which represents a material difference from the business activity described in its application without first obtaining prior written approval by the office;

6. if a CAPCO contemplates any public or private stock, partnership interest or debenture offerings, prior to such offerings, the CAPCO shall have a securities attorney provide a written opinion that the company is in compliance with Louisiana securities laws, federal securities laws, and the securities laws of any other states where the offerings might be made. Copies of all offerings must be submitted to the office, prior to investor solicitation;

7. any other conditions deemed relevant to the commissioner of financial institutions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1925 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:

### **§713. Requirements for Continuance of Certification and Voluntary Decertification**

A. In calculating the percentage requirements for continued certification under R.S. 51:1926(A), and voluntary decertification under R.S. 51:1928, the numerator shall be the sum of all qualified investments held for one year or greater, and 50 percent of all qualified investments held less than one year; the denominator shall be the total certified capital.

B. If a Certified Louisiana Capital Company invests a portion of its total certified capital in a wholly-owned subsidiary, the qualified investments made by the wholly owned subsidiary shall be added to the numerator under Subsection A of this Section. The amount added will be a percentage of the qualified investment based upon the parent's pro rata portion of total funds available for investment by the subsidiary.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1926 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

**§715. Initial Funding Period**

A. Except as provided by R.S. 22:1068(E), a newly Certified Louisiana Capital Company will have a funding period of twelve months, from the date of receiving certification, in which to solicit investment into its certified capital.

B. Any Certified Louisiana Capital Company which has not completed or closed its initial funding, pursuant to R.S. 51:1924(D), may apply to the commissioner for recertification by written request. A Certified Louisiana Capital Company applying for recertification must demonstrate to the satisfaction of the commissioner that:

1. the capital company is in compliance with Louisiana R.S. 51:1921, et seq., and the rules and regulations promulgated thereunder;

2. compelling reasons exist for recertification; and

3. recertification will not adversely affect any previous investors.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1924 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

**§717. Premium Tax Reductions for Insurance Companies**

A. The Allowable Annual Premium Tax Credit (AAPTC) that may be taken during any year shall be the lesser of (1) 10 percent of premium tax reduction allowable; or (2) 25 percent of the gross premium tax liability for the base year of investment. Furthermore, the credit taken in any year shall not exceed the net premium tax liability for that year.

B. The Premium Tax Reduction Allowable (PTRA) is one hundred twenty percent of the investment in a Certified Louisiana Capital Company.

C. The Gross Premium Tax Liability (GPTL) in the base year of investment is the gross premium tax liability in the year of investment, before any credits.

D. The Net Premium Tax (NPT) is the GPTL during any year for which the Certified Louisiana Capital Company (CAPCO) credit may be taken, reduced by credits provided in R.S. 22:1068 (A), (B), (C) and (D), and credits for Louisiana Insurance Guaranty Association (LIGA) and Louisiana Life and Health Insurance Guaranty Association (LHIGA) assessments. If the allowable annual premium tax credit is ever limited, the excess may be carried forward until utilized.

**EXAMPLE:**

Base (Taxable) Year of Investment, Assuming Multiple Investments in	<b>1993</b>	<b>1994</b>
Investment by Insurer in CAPCOs *	\$2,000,000	\$1,000,000

**Premium Tax Reduction**

Allowable (PTRA)  
(120% of Investment)            2,400,000            1,200,000

Gross Premium Tax Liability (GPTL) of Insurer            1,000,000            1,100,000

Credits from R.S. 22:1068 (A), (B), (C), (D), LIGA or LHIGA            (600,000)            (540,000)

Net Premium Tax Before CAPCO Credits (NPT)            \$ 400,000            \$ 560,000

Allowable Annual Premium Tax Credit (AAPTC) for the Base Year of Investment is the Lesser of:

(1) 10% of PTRA            240,000            120,000  
(2) 25% of GPTL            250,000            275,000

And further limited to:

100% of NPT            400,000            560,000

For subsequent years, the AAPTC for each investment is the lesser of:

(1) The Base Year Reduction            240,000            120,000  
(2) 100% of NPT for the Subsequent Years

If Net Premium Tax liabilities of \$500,000 per year are estimated for the period of 1993 through 2003, the following amount of allowable annual premium tax credits may be taken:

Year	1993	1994	Total Premium Tax Credit
1993	(240,000	+ 0 )	\$ 240,000
1994	(240,000	+ 120,000)	360,000
1995	(240,000	+ 120,000)	360,000
1996	(240,000	+ 120,000)	360,000
1997	(240,000	+ 120,000)	360,000
1998	(240,000	+ 120,000)	360,000
1999	(240,000	+ 120,000)	360,000
2000	(240,000	+ 120,000)	360,000
2001	(240,000	+ 120,000)	360,000
2002	(240,000	+ 120,000)	360,000
2003	( 0	+ 120,000)	120,000
<b>Total</b>			<b>\$ 3,600,000</b>

\* Note: The maximum allowable investment by an insurer in any Certified Louisiana Capital Company (ies) during any one year is calculated as follows: (GPTL X 25 percent X 10 years)/ 1.20. In this example, the maximum allowable investment would be \$2,083,333 in 1993 and \$2,291,666 in 1994.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1068(E) and R.S. 51:1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 19:

**§719. Repealed**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1925, 1926 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), repealed by the Department of Economic Development, Office of Financial Institutions, LR 19:

**§721. Repealed**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1924 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), repealed by the Department of Economic Development, Office of Financial Institutions, LR 19:

**§723. Repealed**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1927 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), repealed by the Department of Economic Development, Office of Financial Institutions, LR 19:

**§725. Repealed**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1928 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended LR 18:251 (March 1992), repealed by the Department of Economic Development, Office of Financial Institutions, LR 19:

**§727. Repealed**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1924 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), repealed by the Department of Economic Development, Office of Financial Institutions, LR 19:

Sidney E. Seymour  
Chief Examiner

**DECLARATION OF EMERGENCY**

**Department of Economic Development  
Racing Commission**

**Health Certificate Repeal (LAC 35:I.1303)**

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S.

4:141 et seq., adopts the following emergency rule effective June 21, 1993, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The Racing Commission finds it necessary to repeal this rule since it has long been obsolete and enforcing it is no longer practical. If left in place it would have the potential of closing down racing since it had not been adhered to in years.

**Title 35**

**HORSE RACING**

**Part I. General Provisions**

**Chapter 13. Health Rules**

**§1303. Health Certification Necessary**

Repealed in its entirety.

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

**HISTORICAL NOTE:** Adopted by the State Racing Commission in 1971, amended and promulgated by the Department of Commerce, Racing Commission, LR 2:423 (December 1976), repromulgated LR 3:19 (January 1977), LR 4:271 (August 1978), repealed by the Department of Economic Development, Racing Commission, LR 19:

Paul D. Burgess  
Executive Director

**DECLARATION OF EMERGENCY**

**Board of Elementary and Secondary Education**

**Bulletin 741-Nonpublic**

The Board of Elementary and Secondary Education, at its meeting of June 24, 1993, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted an amendment to Bulletin 741 - Nonpublic, Standard 6.099.01 to delete the requirement for computer literacy for all students.

Emergency adoption is necessary to clarify previous board actions regarding the computer literacy requirement for nonpublic schools. Effective date of emergency rule is August 1, 1993.

Carole Wallin  
Executive Director

**DECLARATION OF EMERGENCY**

**Board of Elementary and Secondary Education**

**Bulletin 1706—School for the Deaf  
Alternative Placement**

The State Board of Elementary and Secondary Education, at its meeting of June 24, 1993, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and re-adopted an amendment to Bulletin 1706,



Regulations for Implementation of the Exceptional Children's Act to add Section 716, Louisiana School for the Deaf Alternative Placement as stated below:

**§716. Louisiana School for the Deaf Alternative Placement**

A. In compliance with Acts 433 and 911 of the 1992 Regular Session of the Louisiana Legislature, the Louisiana School for the Deaf (LSD) shall:

1. Determine, not later than the second Monday in September of each year, the number of additional children who may be admitted under this placement option.

2. Base the determination on the availability of all necessary resources required to provide a free appropriate public education.

B. Upon receipt from a parent (as defined in Part 900 of this bulletin) of an application for admission of their child, LSD shall:

1. require, at a minimum, an individual evaluation which meets the requirements in Bulletin 1508 for classification as hearing impaired (deaf/hard of hearing) as a part of the application;

2. notify the school system of parent/child domicile that application has been made, in order to fulfill the provisions established in Subsection 709 of this bulletin.

C. Within 45 operational days, LSD shall: process the application; make a determination of eligibility for admission; and develop an Individualized Education Program (IEP). In the development of the IEP, the parent shall be informed of all placement options available to meet the child's educational needs.

D. LSD shall notify the school system of parent/child domicile that a child has been admitted or rejected under the provisions of this Subsection.

E. The applicable procedural safeguards established in Part 500 of this bulletin shall be followed.

Re-adoption as an emergency rule is necessary in order to continue the emergency rule until it can be finalized as a rule. Effective date of emergency rule is June 24, 1993.

Carole Wallin  
Executive Director

**DECLARATION OF EMERGENCY**

**Board of Elementary and Secondary Education**

Bulletin 1858—BESE Personnel Manual (LAC 28:I.922)

*(Editor's Note: This emergency rule, which appeared on page 726 of the June 20, 1993 Louisiana Register is being republished to include descriptive paragraphs which were inadvertently omitted during production of the publication.*

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved Revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the

manual. In order that implementation begin immediately, Bulletin 1868 is being adopted as an emergency rule, effective May 27, 1993.

Included in Bulletin 1868, under Chapter D: Employee Compensation, Section 145: Vocational-Technical System, is the Salary Schedule for Technical Institutes. This Section 145 of Bulletin 1868 supersedes the emergency rule relative to the Salary Schedule for Technical Institutes which appeared in the May 1993 issue of the *Louisiana Register* on pages 597-604.

Copies of this bulletin have been provided to all entities under the jurisdiction of the Board of Elementary and Secondary Education and listed below:

1. each technical institute and regional management center;

2. BESE's special schools—Louisiana School for the Deaf, Louisiana School for the Visually Impaired, Louisiana Special Education Center;

3. each site operated by Special School District #1; and

4. LA Association of Educators and LA Federation of Teachers.

Bulletin 1868, BESE Personnel Manual, may be seen in its entirety in the Office of the State Register, Room 512, Capitol Annex, 1051 North Third Street, Baton Rouge, LA 70804; in the Office of the State Board of Elementary and Secondary Education, Education Building, Baton Rouge; or in the Office of Vocational Education; or in the Office of Special School District #1, State Department of Education.

Bulletin 1868 is referenced in the Administrative Code, Title 28, and is amended as stated below:

**Title 28**

**EDUCATION**

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

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

**§922. Personnel Policies**

**A. Bulletin 1868**

1. Revised Bulletin 1868, Personnel Manual of the State Board of Elementary and Secondary Education is adopted by the board. Policies in this bulletin apply to personnel under the jurisdiction of the state board in the board special schools; in the entities comprising Special School District #1, and in entities in the vocational-technical system, exclusive of the assistant superintendent for vocational education and related state department staff.

(It should be noted that the clause "exclusive of the central office staff" which appeared after Special School District #1 has been eliminated from the bulletin.)

Carole Wallin  
Executive Director



# DECLARATION OF EMERGENCY

1.2

## Board of Elementary and Secondary Education

### Bulletin 1903—The Louisiana Dyslexia Law

The State Board of Elementary and Secondary Education, at its meeting of June 24, 1993, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted revised Bulletin 1903, regulations for the implementation of R.S. 17:7(11) - The Louisiana Dyslexia Law. Bulletin 1903 which is referenced in the Administrative Code, Title 28, includes regulations for implementing the five-step process for evaluation and determination of program eligibility. This bulletin contains statewide regulations for student placement in a multi-sensory regular education program. It identifies the five-step process to be implemented for the LEAs. It includes characteristics of multi-sensory programs as well as procedures and criteria for assessment.

Emergency adoption of revised Bulletin 1903 is required in order to allow local school systems adequate time to disseminate these changes to schools, teachers, and parents. Revised Bulletin 1903 is being printed in this issue of the *Louisiana Register*. Copies of the revised regulations and guidelines will be mailed to school systems to assist in implementation of the law. Effective date of emergency rule is June 24, 1993.

#### SECTION I PREFACE

##### 1.1

#### LEGAL REQUIREMENTS AND ELIGIBILITY FOR SERVICES

The Department of Education and Local Education Agencies (LEAs) have an obligation to provide for the evaluation of a child suspected of having a disability. The evaluation shall determine the child's need for specialized instruction and related services. Children with disabilities may qualify for educational and related services under Section 504 of the Rehabilitation Act of 1973 and under the Individuals with Disabilities Education Act (IDEA -formerly Public Law 94-142).

A *handicapped person* is defined under Section 504 (34CFR 104.3(j)) as any person

- \* who has a physical or mental impairment that substantially limits a major life activity (e.g. learning, self-care, manual tasks, seeing, walking, speaking, breathing, working);
- \* who has a record of such an impairment; or
- \* who is regarded as having such an impairment.

Students who have reading problems that substantially limit the learning process and who are suspected of having dyslexia are entitled to procedural safeguards under Section 504 of the Rehabilitation Act of 1973. In addition, some students exhibiting dyslexic characteristics may be served under special educational services.

Federal laws require that recipients that operate a public elementary or secondary education program address the needs of children considered "handicapped persons" as adequately as they address the needs of non-handicapped persons. No handicapped person shall, on the basis of the handicap, be excluded from participation in, or denied the benefits of, or otherwise subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

Both laws require that an LEA provide a free, appropriate public education to each qualified handicapped child. A free, appropriate public education, under Section 504, consists of regular or special education and related aids and services designed to meet the individual student's needs and based on adherence to the regulatory requirements for educational setting, evaluation, placement, and procedural safeguards.

LEAs are obliged to provide a free, appropriate public education to each child who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap (34 CFR 104.33, 104.34, 104.35, and 104.36). A student may be handicapped within the meaning of Section 504 and therefore entitled to regular or special education and related aids and services, even though the student may not be eligible for special education and services under IDEA.

Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies that provide assistance to handicapped persons, and the employment of students (34 CFR 104.37).

#### DEFINITIONS AND REQUIREMENTS IN THE STATE LAW

Act 854 of the 1990 Regular Legislative Session [R.S. 17:7(11)] defines *dyslexia* as a "language processing disorder which may be manifested by difficulty processing expressive or receptive oral or written language despite adequate intelligence, educational exposure, and cultural opportunity." Specific manifestations may occur in one or more areas, including difficulty with the alphabet, reading comprehension, writing, and spelling.

The law also identifies *related disorders* as "disorders similar to or related to dyslexia such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability."

The law requires that the State Board of Elementary and Secondary Education provide for the testing of certain students for dyslexia and related disorders, that the Board provide duties for local school boards, that the Board provide for remediation of any student determined to have dyslexia or a related disorder, that the Board provide definitions, and that the Board provide guidelines and standards for the implementation of the law.

Local education agencies must adhere to the five-step process contained within these guidelines for evaluation and placement for students suspected of being dyslexic. Adherence to these guidelines will provide for consistency in the implementation of these laws.

#### SECTION 2

##### GUIDELINES FOR THE IMPLEMENTATION OF R. S. 17:7(11)

#### THE FIVE-STEP PROCESS FOR EVALUATION AND DETERMINATION OF PROGRAM ELIGIBILITY

STEP ONE	Data Gathering, Screening, and Review .....page 4
STEP TWO	Appropriate Individual Intervention Strategies ...page 6 Within the Regular/Compensatory Education Program
STEP THREE	Assessment of Students for Dyslexia and.....page 7 Related Disorders
STEP FOUR	Multi-sensory Regular Education Program.....page 10
STEP FIVE	Individual Evaluation to Determine Eligibility ...page 11 for Special Educational Services

##### 2.1

#### STEP ONE. DATA GATHERING, SCREENING, AND REVIEW

The total evaluation and determination of program eligibility must be completed within 60 operational days. This evaluation includes data gathering, screening and review (Step One), specialized instructional interventions and strategies (Step Two), and comprehensive assessment, as warranted (Step Three).

#### I. Request for Assistance by the School Building Level Committee

A. A request may be made to the school building level committee for review of a student's educational progress if school personnel (principal, guidance counselor, teacher, school nurse), a parent/guardian, community agency personnel, or a student has reason to believe that the student is not making expected progress because of a suspected language processing disorder. This request begins the 60 day timeline. The committee membership may be modified in order that a group of knowledgeable persons may address an individual student's needs.

#### II. Formation of a Committee of Knowledgeable Persons

A. Each campus must establish a committee of knowledgeable persons, per requirements of Section 504 of the Rehabilitation Act of 1973 to conduct the following assessment and referral activities. The group shall be referred to as the Committee.

B. The Committee must be comprised of at least three members:

1. the child's teacher, and
2. two other professional persons knowledgeable about the child and/or the suspected condition in the individual school setting, including the following:
  - a. reading specialist
  - b. guidance counselor
  - c. language/speech therapist
  - d. curriculum specialist in language arts
  - e. master degree teachers in reading, language arts, special education, elementary education
  - f. school psychologist
  - g. assessment teacher
  - h. occupational therapist

C. The Committee of knowledgeable persons may include as additional member the following:

1. the parent or guardian and student, when possible;
2. pupil appraisal team members, when necessary.

### III. Data Gathering and Review

- A. Upon request, the first action by the Committee shall be to gather data about the student and to establish a profile of the total child from the standpoint of school and home.
- B. Data gathered shall include but not be limited to the following:
1. health information
    - a. vision and hearing screening
    - b. medical history
  2. academic, cognitive, and behavioral information
    - a. cumulative record review
    - b. academic progress reports
    - c. teacher reports of aptitude, behavior, and concerns
    - d. LEAP and/or any other standardized test scores; results of basal reading series assessment
    - f. informal testing such as curriculum-based measures
    - g. types of interventions used in the regular program
    - h. samples of a student's work
    - i. achievement motivation information
  3. speech and language information, if indicated
  4. additional information from the parents and other sources.
- C. The Committee shall document, review, and recommend actions needed to ensure improved academic performance.

#### Actions of the Committee

A. The actions of the Committee in order of occurrence are as follows :

STEP TWO	Strategies within the Regular/Compensatory Education Program,
STEP THREE	Assessment of Students for Dyslexia and Related Disorders,
STEP FOUR	Multi-sensory Regular Education Program,
STEP FIVE	(IF APPROPRIATE) Individual Evaluation to Determine Eligibility for Special Educational Services. *This option may be considered anywhere in the process.

### 2.2

#### STEP TWO. SPECIALIZED INSTRUCTIONAL INTERVENTIONS AND STRATEGIES WITHIN THE REGULAR/COMPENSATORY EDUCATION PROGRAM

The total evaluation and determination of program eligibility must be completed within 60 operational days. This evaluation includes data gathering, screening and review (Step One), specialized instructional interventions and strategies (Step Two), and comprehensive assessment, as warranted (Step Three).

#### I. Committee Documentation

A. The Committee shall document the use of specialized instructional interventions and strategies previously used with the student.

#### II. Instructional Interventions and Strategies

- A. Additional specialized instructional interventions and strategies may be recommended by the Committee for the student.
- B. If specialized instructional interventions and strategies have not been tried and documented, the Committee shall recommend specialized instructional interventions and strategies to be implemented in the regular/ compensatory education setting.
- C. Intervention results shall be recorded and reported to the Committee.
1. If the specialized instructional interventions and strategies were successful, these efforts will be continued, as needed, and documentation shall remain in the student's cumulative records. The evaluation process for dyslexia may be terminated at this point if the Committee, including the parent, is in agreement.
  2. If a student has not made the expected progress after implementation of the Committee's recommendations for interventions and strategies, the student shall be assessed for dyslexia and/or related disorders (Step Three).
  3. If a student is suspected of having a handicapping condition under IDEA, the student shall be referred to Individual Evaluation to Determine Eligibility for Special Educational Services (Step Five).

#### STEP THREE. ASSESSMENT OF STUDENTS FOR DYSLEXIA AND RELATED DISORDERS

The total evaluation and determination of program eligibility must be completed within 60 operational days. This evaluation includes data gathering, screening and review (Step One), specialized instructional interventions and strategies (Step Two), and comprehensive assessment, as warranted (Step Three).

#### I. The Assessment Plan

- A. An assessment plan shall be developed by the Chairman of the Committee. The Chairman shall assign assessment activities to personnel qualified to conduct these activities. Documentation shall be kept on the assessment plan and subsequent activities.
- B. At this time, the parent should be contacted and informed about the assessment plan. Permission for testing is not required under Section 504, but all rights of the parents under Section 504 must be explained.
- C. The assessment must include information from a variety of sources including physical, aptitude, and achievement measures.

#### II. Initiation of Assessment

- A. Assessment shall be conducted following the Committee's recommendation and parental notification; or
- B. Assessment shall be conducted upon the receipt of a request by a parent or guardian, provided that Steps One and Two have been completed.

#### III. Assessment Criteria [34 CFR 104.35 (b) 1-3]:

- A. The assessment procedures shall be conducted by appropriately trained local education agency (LEA) personnel as described in the assessment plan.
- B. The assessment shall include multi-source data and shall be conducted with valid and reliable instruments. Tests and other evaluation materials must have been validated for the specific purpose for which they are used and must be administered in conformance with the instructions provided by their producer.
- C. Tests and other evaluation materials must include those tailored to assess specific areas of educational need, not those designed merely to provide a single intelligence quotient.
- D. Tests shall be selected and administered to ensure that the results accurately reflect the student's aptitude or achievement level rather than reflect only the student's impaired skills (except where those skills are the factors the test purports to measure). Careful attention must be given to test selection and administration for students with impaired sensory, manual, or speaking skills.
- E. A written report of findings, signed by the assessment team, shall be given to the parents and a copy shall be maintained in the student's cumulative folder.
- F. A referral to Special Educational Services is required if, during the assessment process, other handicapping conditions under IDEA are suspected.

#### IV. Required Components of the Assessment Procedure

A. The assessment shall include the following:

1. a review of data gathered in Step One regarding hearing and vision screening results
2. a review/assessment of cognitive ability
3. an assessment of communication skills
  - a. receptive language
    - (1.) listening
    - (2.) reading (non-word reading, word attack skills, and timed test)
  - b. expressive language
    - (1.) oral expression
    - (2.) written expression
4. an assessment of mathematics skills
  - a. computation
  - b. word problems
5. behavioral characteristics
  - a. attention span
  - b. self-esteem
  - c. metacognition
  - d. social skills
6. family interview

#### V. Interpreting the Data

- A. The committee shall interpret the data acquired in Section IV of Step Three. (Refer to the reference and information section item 12.)
- B. A referral to Special Educational Services is required during the assessment process if other handicapping conditions under IDEA are suspected.

## VI. Criteria for Determination of Program Eligibility

- A. A student shall meet criteria 1-5, inclusive, as listed below in order to be classified as dyslexic and eligible for a program designed for dyslexic students. If a student exhibits characteristics associated with dyslexia and/or related disorders, the student shall be eligible for Step Four - Multi-sensory Regular Education Program.
1. The student has adequate intelligence demonstrated through performance in the classroom appropriate for the student's age, or on standardized measures of cognitive ability.
  2. The student at-risk for dyslexia must exhibit some of the following characteristics associated with dyslexia, as determined through the assessment procedures. Consideration must be given to chronological age of students in weighing the following characteristics.
    - a. problems in learning the names of the letters of the alphabet
    - b. difficulty in learning to write the alphabet correctly in sequence
    - c. difficulty in learning and remembering printed words
    - d. reversal of letters or sequences of letters
    - e. difficulty in learning to read
    - f. difficulty in reading comprehension
    - g. cramped or illegible handwriting
    - h. repeated erratic spelling errors
    - i. losing ground on achievement or intelligence tests
    - j. delay in spoken language
    - k. difficulty in finding the "right" word when speaking
    - l. late in establishing preferred hand for writing
    - m. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west, and others
    - n. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year
    - o. family history of similar problems
    - p. late in learning to talk
    - q. delay in motor milestones
    - r. slow reading speed
    - s. error proneness in reading
    - t. difficulty in foreign language for older students
    - u. word substitutions in oral reading
  3. The student demonstrates a discrepancy between achievement in the language areas (e.g., reading, spelling, handwriting) and other abilities.
  4. The student has completed 1 year of formal education (to include kindergarten) and is identified by the teacher as at risk for failure in first grade. The child must be 7 years of age.
  5. The student is identified as eligible for a program for dyslexic students if, as a result of this disability, a major life activity is substantially limited.

### 2.4

## STEP FOUR. MULTI-SENSORY REGULAR EDUCATION PROGRAM

### I. Program Determination

- A. A student should be maintained within the regular education program with recommended modifications.
1. Options for programming may include the following:
    - a. regular class placement with supplementary aids and services;
    - b. in or out-of-class placement in a multi-sensory program;
    - c. specialized individual or small group tutoring; and
    - d. a combination of these options or any additional arrangements that may be developed by the team and approved by the LEA.
  2. If a parent or guardian or school system does not agree with the provision of services, either party may pursue the resolution of this issue through the appropriate due process procedure.

### II. Program Description

- A. The multi-sensory regular education program(s) shall be one(s) in which the major instructional strategies are language-based, intensive phonetic, synthetic to analytic phonetics, linguistic, systematic, sequential, cumulative, individualized, meaning-based, and multi-sensory in approach.
1. *Individualized* refers to the personalization of instruction to student ability levels, interests, and learning styles.
  2. *Multi-sensory* refers to the combined use of visual, auditory, kinesthetic, and tactile senses to reinforce learning.
  3. *Systematic, sequential, and cumulative* refer to an orderly fashion of learning to read, write, and spell, building on what the student already knows.
  4. *Language-based* refers to the relating of all aspects of language into meaningful settings.
  5. *Intensive phonics* refers to a combination of analytic phonics and synthetic phonics. Analytic phonics uses prior knowledge of letters and their corresponding sounds to form new words. Synthetic phonics teaches students the sounds of the letters first and then combines or blends these sounds to create words.
  6. *Linguistics* refers to the study of language.

## III. Teacher Training

- A. Teachers of particular multi-sensory regular education programs shall be appropriately trained according to the criteria of an adopted program, and such assurance shall be provided by the LEA.

## IV. Evaluation Data and Review of Student Progress

- A. Evaluation data shall be maintained on students enrolled in multi-sensory regular education programs.
- B. A periodic review shall be made to determine the appropriateness of the program for the student. At a minimum, an annual review is required. However, a review may be conducted at any time the student does not appear to be making adequate progress.
- C. Reevaluation shall be conducted at a minimum of every three years.

### 2.5

## STEP FIVE. Referral for Individual Evaluation to Determine Eligibility for Special Education

- I. (IF APPROPRIATE) An individual evaluation will be conducted in accordance with *Bulletin 1508, Pupil Appraisal Handbook*, to determine whether a student is exceptional and, if so, the kind and extent of needed special education and related services.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

### Interim Policy for Hiring Noncertified School Personnel (LAC 28:I.903)

The Board of Elementary and Secondary Education, at its meeting of June 24, 1993, exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and approved an extension of the interim emergency policy for hiring full-time/part-time noncertified school personnel until July 1, 1995. Emergency adoption is necessary since the policy's previous expiration date is July 1, 1993 and without emergency adoption, school systems would be unable to utilize the policy for the opening of the coming school year for employment purposes when there is no certified teacher available. Effective date of emergency rule is June 24, 1993. This is an amendment to the Administrative Code, Title 28 as stated below:

### Title 28 EDUCATION

### Part I. Board of Elementary and Secondary Education CHAPTER 9. Bulletins, Regulations, and State Plans §903. Teacher Certification Standards and Regulations

#### I. Non-Certified Personnel

##### A. Administrative Guidelines

##### 1 - 3...

**Note:** Sections 1 - 3 of the guidelines were printed in the December, 1991 issue of the *Louisiana Register*, Volume 17, page 1204 as a rule.

4. Copies of transcripts showing the six semester hours and a copy of the NTE score card showing that the NTE has been taken since the last employment under this policy shall be kept on file in the LEAs superintendent's/personnel office.

LEAs shall have the authority to review and waive requests for re-employment under this policy according to approved administrative procedures when the requirements have not been met.

**B. Compensation**

1. These individuals shall be employed at the salary, on an hourly basis, that is based on the effective state salary schedule for a beginning teacher with a baccalaureate degree and a certificate.

2. Full-time/part-time noncertified school personnel shall be considered part of the regular teacher allotment, and local systems shall be reimbursed in the same manner as they are for regular teachers.

This interim emergency policy will remain in effect until July 1, 1995.

Carole Wallin  
Executive Director

**DECLARATION OF EMERGENCY**

**Office of the Governor  
Office of Elderly Affairs**

Long Term Care Assistance Program (LAC 4:VII.1237)

The Office of the Governor, Office of Elderly Affairs, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B), to adopt the following rule, effective July 9, 1993. This rule change is necessary to implement R.S. 40:2802 (C), as amended by Act 462 of the 1993 Regular Session of the State Legislature. This rule shall remain in effect for 120 days.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 11. Elderly Affairs**

**Subchapter E. Uniform Service Requirements**

**§1237. Long Term Care Assistance Program**

\* \* \*

**E. Program Benefits**

1. The benefits under the Long Term Care Assistance Program shall be up to \$350 per month, as established by the commissioner of administration, with oversight by the Senate and House Committees on Health and Welfare.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2802.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19:627 (May 1993), LR 19:

James R. Fontenot  
Director

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of Management and Finance**

**Health Services Provider Fee**

The Department of Health and Hospitals, Office of Management and Finance, is adopting the following rule in accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B). In March, 1993 the Department of Health and Hospitals adopted the final rule (*Louisiana Register*, Vol. 19, No.3, pages 347-348), implementing R.S. 46:2601 through 2605, which imposed a fee on the providers of certain health care services as authorized under P.L. 102-234.

Interim final regulations published by the Health Care Financing Administration (HCFA) limit the amount of certain taxes, fees and assessments to six percent of the provider revenues. Louisiana has challenged the validity of HCFA's regulations by filing suit in Federal District Court. However, to prevent disallowances of all state revenues derived from provider fees by HCFA, the Department of Health and Hospitals is required to revise the fees placed on nursing facility and Intermediate Care Facility services for the mentally retarded and developmentally disabled.

In conjunction with the above revision, the department is also redefining the composition of the calendar quarters which changes the month of the payment due dates under this rule. However, there is no change in the due date or delinquent date from that of the original rule. Therefore, the due date is August 20, 1993 for the service dates of June and July 1993.

**EMERGENCY RULE**

Effective for services provided on or after July 1, 1993, provider fees for nursing facility services and Intermediate Care Facility services for the mentally retarded (ICF-MR) shall not exceed six percent of the average revenues received by providers of each class of services. The fee amounts shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

The calendar quarter used for establishing the due dates for the health service provider fees shall be as follows:

- 1. First Quarter: November  
December  
January
- 2. Second Quarter: February  
March  
April
- 3. Third Quarter: May  
June  
July
- 4. Fourth Quarter: August  
September  
October

J. Christopher Pilley  
Secretary

# DECLARATION OF EMERGENCY

## Department of Justice Office of the Attorney General Riverboat Gaming Commission

### Riverboat Gaming (LAC 42:XIII.Chapters 1-16)

In accordance with the provision of R.S. 49:953 (B), the Riverboat Gaming Commission, after consideration of the evidence available to it, hereby determines that a state of emergency exists in riverboat gaming in Louisiana which affects the safety, health, or welfare of the public in general.

The state of Louisiana is experiencing a serious projected budgetary deficit and is in need of generating new revenue and enlarging its economic development base. The Louisiana Riverboat Economic Development and Gaming Control Act was passed in an effort to realize a new source of revenue without raising taxes on the general citizenry of Louisiana.

Currently, millions of dollars are leaving the state of Louisiana and are being spent on the Mississippi gulf coast in that state's riverboat gaming casinos. Additional riverboat casinos are beginning operations along the Mississippi gulf coast at the rate of one per month. A total of approximately 15 riverboat casinos are currently planned for the Mississippi gulf coast approximately 60 miles from New Orleans. As a result, the state of Mississippi is experiencing tremendous economic growth and is collecting gaming revenues and fees that should be staying in Louisiana. In addition, thousands of out-of-state tourists are opting to make areas outside of Louisiana their travel destination because of the availability of legalized gaming in those jurisdictions.

The commission further determines that unless immediate rule action is taken by the commission, those companies which are presently willing to invest millions of dollars in Louisiana and provide thousands of jobs to Louisiana residents will decide to invest their resources in other jurisdictions which presently offer riverboat gaming or will have authorized riverboat gaming in the next eight weeks.

The commission also finds that many state programs which would be or could be providing critical medical, health, social, and educational services to the citizens of Louisiana could be funded by revenues received by the state from implementation of riverboat gaming operations. Until riverboats are constructed and gaming activity has commenced, no revenue from this source can be realized.

Any unnecessary delay in the promulgation of Riverboat Gaming Commission rules will seriously delay the collection of application fees for "certificate of approval" and "certificates of approval of riverboat design", thereby adversely impacting the commission's ability to meet and deliberate the approval of the forthcoming rules for the application and licensing of riverboat operations.

As a result of the above findings, the Riverboat Gaming Commission determines that promulgation of initial rules constitutes circumstances affecting the safety, health and welfare of the citizens of the state of Louisiana and hereby readopts emergency rules, effective June 18, 1993 pursuant to the provisions of R.S. 49:950 et seq. and in particular R.S.

49:954(B)(2) for a period of 120 days, or until the final rules take effect through the normal promulgation process, whichever occurs first.

## Title 42

### LOUISIANA GAMING

#### Part XIII. Riverboat Gaming Commission

#### Chapter 1. Issuance and Construction of Regulations and Administrative Matters

##### §101. Definitions

As used in this Subchapter, the following words and phrases shall have the following meanings:

*Act*—the Louisiana Riverboat Economic Development and Gaming Control Act.

*Administrative Decision*—the final action, decision, order or disposition by (the supervisor) or chairman of a request for administrative approval.

*Advisory Panel*—a panel or group of persons appointed by the chairman with and given a request to study, consider and advise the commission regarding specific or generalized issues, areas or courses of action.

*Applicant*—any person who has filed any part of an application with the commission seeking any certificate or permit authorized by the act or by rule of the commission.

*Application*—all the information, documents, forms, and materials required by the act and commission rules to be filed with the commission (or division) for any license, certificate or permit authorized by the act, commission rule or division rule.

*Architectural Plans and Specifications or Architectural Plans or Plans or Specifications*—all of the plans, drawings, and specifications for the construction, furnishing, and equipping of a riverboat, and including but not limited to detailed specifications of and illustrative drawings or models depicting the proposed size, layout and configuration of the component parts of the vessel, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as prepared by one or more licensed professional architects and engineers.

*Berth*—the approximate location or locations where a riverboat is or will be authorized to dock as provided in the act and commission rules.

*Certificate*—an approval or authority issued by the commission. *Certificate* shall also mean the document or writing issued by the commission as evidence of the approval or authority granted.

*Certificate of Final Approval*—a certificate issued by the commission when and if, upon completion, the vessel and all support facilities comply with all requirements of the act and the regulations and, after a final inspection, have been certified by the applicant to be constructed in accordance with the riverboat plans, specifications and any conditions previously approved by the commission.

*Certificate of Preliminary Approval*—a certificate approving construction of a riverboat in accordance with a certificate and conditions thereto and preliminary approval of a proposed riverboat route and operations, as described in the application.

*Chairman*—the chairman of the Louisiana Riverboat Gaming Commission.

*Commission*—the Louisiana Riverboat Gaming Commission.

**Compliance Ruling**—a non-emergency ruling or opinion issued by the chairman determining whether a proposed action of a person subject to commission jurisdiction or a holder of a certificate will comply or has complied with a commission order or regulation, or condition of a certificate.

**Component**—a substantial portion or tangible part of a riverboat that must be constructed, modified or installed in or on the riverboat to complete construction of a riverboat, including but not limited to hulls, decks, paddlewheels, engines, motors, boilers, modular units, generators, electrical systems and wiring, plumbing systems and apparatus, heating and cooling systems, custom-made furniture and fixtures. Component shall not include gaming devices, equipment and supplies.

**Condition**—a condition or term upon which a certificate is issued. A condition may be voluntary or proposed by the applicant, or may be ordered by the commission even if not agreed to or proposed by the applicant in his application for certificate.

**Day**—as used in these rules and regulations, shall mean a calendar day.

**Designated Waterways**—those waterways listed in the act.

**Division**—the Louisiana Riverboat Gaming Enforcement Division of the Office of State Police.

**Dock**—to lower the gangplank to a pier or shore or to anchor a riverboat at a pier or shore, or both. The term also means the place where docking occurs and where one or more berths may be located.

**Emergency Order**—an order or approval issued by the chairman or his designee when an emergency or safety consideration necessitates immediate modification of an order of the commission, of a certificate or a condition thereof, or authorized route or operation of a riverboat.

**Excursion**—that period of time when a riverboat is away from its approved berth or is embarking or disembarking passengers at its approved berth.

**Gaming Operator**—a person issued a license by the division to conduct gaming operations upon a riverboat.

**Hearing**—a proceeding conducted by or at the direction of the supervisor or the commission and includes formal proceedings conducted by a hearing officer at the request of the commission to determine issues of fact or law and take such other action as authorized and provided in the act or the commission rules.

**Hearing Officer**—an agent of the commission appointed by the chairman from a list approved by the commission to conduct a hearing who has the following qualifications:

1. must be at least 21 years of age;
2. must be licensed to practice law in the state of Louisiana;
3. must have a working knowledge of the act and the regulations; and
4. such other qualifications required by the commission.

**Holder**—the person to whom a certificate has been issued.

**Inspection**—a surveillance or observation by the commission or its agents of operations conducted by a licensee or permittee, which surveillance and observation may or may not be made known to the licensee or permittee. *Inspection* also means a surveillance or examination of the activities of a

holder of certificate including construction of a riverboat and any operation or activity conducted by a person holding a certificate.

**License or Operator's License**—a riverboat gaming operator's license.

**Licensee**—a person who holds a license or operator's license.

**Meeting**—a gathering of the commission pursuant to law at which a quorum is present for the purpose of deliberating toward a decision or making a decision. The term includes but is not limited to, consideration of an application for certificate, the consideration of appeals taken from decisions of the division concerning license or permit applications, transfer of interest, issues involving matters of taxation, fees, charges and/or penalties, disciplinary proceedings, and exclusion list proceedings.

**Modification**—a change or modification of a material or substantial term, condition, part or portion of a certificate or commission order which is initiated by an applicant or holder.

**Operation**—the conducting of activities, excursions or gaming operations as described in an application or certificate.

**Operator's License**—a riverboat gaming operator's license.

**Passenger Access Area**—any enclosed or unenclosed area of a riverboat that is open to the public including but not limited to lavatories, restaurants, shopping areas, seating, lounges, entertainment areas, the outside deck areas and the designated gaming area.

**Permit**—a permit other than a certificate issued by the commission.

**Permittee**—a person who holds a permit by the commission.

**Person**—a person as defined in the act.

**Riverboat**—a vessel that carries a valid certificate of inspection issued by the United States Coast Guard with regard to the carriage of passengers on designated rivers or waterways within or contiguous to the boundaries of the state of Louisiana, carries a valid Certificate of Inspection from the United States Coast Guard for the carriage of a minimum of 600 passengers and crew, has a minimum length of 150 feet, is of such type and design so as to replicate in the opinion of the commission as nearly as practicable historic Louisiana river borne steamboat passenger vessels of the nineteenth century era, and is paddlewheel driven. For purposes of this Chapter, *paddlewheel driven* shall mean that the riverboat has one or more functional paddlewheels which, in the opinion of the commission, substantially contribute to the overall propulsion of the riverboat. A riverboat as defined herein is not required to be steam propelled or maintain overnight facilities for its passengers.

**Riverboat Operator**—an owner and/or operator of a riverboat.

**Route**—the authorized route or path of a riverboat moving upon designated rivers and waterways as permitted or authorized by the commission.

**Rule or Regulation**—an administrative rule promulgated by the commission pursuant to the act.

**Supervisor**—the individual in charge of the division.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§103. Commission Rules and Regulations; Promulgation**

A. Commission rules shall be promulgated in accordance with the Administrative Procedure Act.

B. Any rule or regulation proposed by the division shall be submitted to the commission for approval. The commission shall reject any rule or regulation which it finds unacceptable, or which does not comply with the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§105. Construction of Regulations; Severability**

Nothing contained in these regulations shall be so construed as to conflict with any provision of the act or any other applicable statute. If any provision of any rule or regulation is held invalid by any state or federal court in Louisiana, such provision shall be deemed severed from the rule and the court's finding shall not be construed to invalidate any of the other provisions of the regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§107. Definitions, Captions, Pronouns, and Gender**

The terms defined in the act have the same meaning in these rules as they have in the act, unless the context otherwise requires. Captions appearing at the beginning of the rule are descriptive only, are for convenient reference to the rule and in no way define, limit or describe the scope, intent or effect of the rule. Masculine and feminine pronouns shall be substituted for the neuter form and vice-versa, and the plural shall be substituted for the singular form and vice-versa, in any place or places in the rule where the context requires such substitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§109. Delegation to Chairman**

A. The commission hereby delegates to the chairman the authority to issue rulings on meeting scheduling, procedural and evidentiary matters and other matters as provided in these rules that may be presented to the commission during the course of conducting a meeting or hearing or that may arise when the commission is not meeting. Any ruling issued by the chairman hereunder shall be deemed the ruling of the commission, unless objection is taken to such ruling as provided hereinafter.

B. The commission may, upon a majority vote in a specific case, temporarily abrogate the general delegation granted to the chairman by this rule, and any specific ruling or decision of the chairman is subject to consideration by the entire commission upon the request of any member of the commission or upon timely request by a person adversely affected by such ruling or decision.

C. The chairman may sign all orders on behalf of the commission.

D. The chairman may continue a meeting or hearing, recess a meeting or hearing, or call a special meeting of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§111. Establishment of Advisory Panels**

The chairman may, at his discretion, appoint advisory panels to study and report to the commission on any matter appropriate to the commission's administration of the act and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§113. Appeal of Commission Decision after Review of Administrative Decision**

The decision of the commission concerning its review of an administrative decision may be appealed as other decisions by the commission are appealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§115. Annual Commission Report; Periodic Special Reports**

A. The commission shall make an annual report to the president of the Senate, speaker of the House, the chairmen of the committees having legislative oversight and the Joint Legislative Committee on the Budget concerning riverboat gaming operations and activities and shall include in the report recommendations for changes in the act. A copy of this report shall be transmitted simultaneously to the governor.

B. The commission shall report immediately to the governor, the House of Representatives Committee on Administration of Criminal Justice and the Senate Committee on the Judiciary, Section B if any matter arises that necessitates prompt action or consideration or that requires changes in the act or Louisiana law to prevent abuses and evasions of the act or to correct undesirable conditions in connection with the operation and regulation of riverboat gaming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

## **Chapter 3. Applications for Certificates, Permits, and Licenses**

### **§301. Applications in General**

A. Any certificate, license or permit issued by the commission is deemed to be a revocable privilege, and no person holding such a license or permit is deemed to have acquired any vested rights therein. An applicant for any certificate, license or for any permit issued or to be issued by the commission or the division is seeking the granting of an absolute privilege, and the burden of proving his qualification to receive the certificate, license or permit sought is at all times on the applicant. An applicant agrees to accept the risk of adverse public notice, embarrassment, criticism, or other



action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof. The filing of an application under the act and these rules specifically constitutes a request for a decision upon the applicant's general suitability, reputation, character, integrity, and ability to participate or engage in or be associated with the riverboat gaming industry, and by filing an application, the applicant specifically consents to the making of such a decision by the division and commission.

B. A person may, but is not required to, file an application for a certificate of preliminary approval before making application to the division for a riverboat gaming license or permit. Additionally, a person may file an application for a certificate of preliminary or final approval after he has applied to or been licensed by the division.

C. The commission shall compose and provide forms for submission of applications and may prepare written instructions for submission of applications.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§303. Application for Certificate of Preliminary Approval**

A. Except as provided in §305 of this Chapter, before commencing construction of any vessel intended to be operated under the act, each person seeking approval of riverboat plans shall submit for advance approval by the commission an application for a certificate of preliminary approval which shall include the following information (parts) in the following order:

1. An Application Form. The applicant shall, on a form provided by the commission, provide a brief or general written description of the proposed vessel, a statement describing all persons proposed to have an interest in the ownership of the riverboat vessel, the proposed gaming operator and all persons holding an interest therein, the designated waterway or waterways upon which the vessel will operate, and the general area or areas where it is intended the riverboat will operate and berth.

2. A Detailed Statement of Proposed Riverboat Operations. The detailed statement of proposed operations shall be designed to inform the commission of the nature, scope, significant aspects, and general parameters of the proposed operation. It shall specifically include but not be limited to the following:

a. a diagram and description of the physical layout of the riverboat including a detailed artist's rendering of the riverboat which describes each deck and shows the details and proposed use of each area.

b. a statement of the total estimated cost of construction of the riverboat and shore and dock facilities proposed in the application, as well as the projected construction schedule for completion of the riverboat and shore and dock facilities.

c. a description of planned excursions including all proposed designated waterways and routes, frequency and approximate schedule of excursions, projected passenger load, admission charges, and a proposed general location of the berth or berths.

d. a description of proposed support facilities and services to be provided for each route and each proposed berth including parking, transportation to and from the vessel, terminal facilities, office facilities, rest areas, warehousing, security employee areas, food service, and facilities necessary for the safety of the operation.

e. a description of the kinds of cruise offerings and activities to be offered on the riverboat and support facilities including:

i. gaming activities. A description of all gaming activities including the approximate number and types of each kind of games or devices to be offered, a reasonably specific layout of the gaming area, and a description of any proposed projected dockside gaming and the periods thereof.

ii. nongaming activities. A description of all other proposed offerings upon the riverboat including food service, lounges, bars, entertainment, retail areas, rest areas and any non-gaming activities.

iii. a general promotion and advertising plan. A general description of the amounts, kinds and types of general promotion and advertising campaign(s) which will likely be undertaken by the applicant or operator including information whether any national or regional advertising will occur, the medium(s) which may be used, the proposed market and whether any other facility or activity except the riverboat will be included in such advertising.

3. A Feasibility Study. Each applicant shall submit or make available to commission personnel a feasibility study performed by an independent or approved applicant's staff consultant, which study shall examine, evaluate and attest to the feasibility of the applicant's proposed operation and shall describe or list the evaluation methodology used. The feasibility study shall include a list of the consultant's qualifications, a discussion of the overall market for riverboat gaming operations and the effect of the proposed riverboat on the market. In addition, the feasibility study shall address possible competition from other riverboat gaming and other forms of gaming in all areas of Louisiana and other states.

4. An Economic Development and Utilization Plan. Each applicant shall submit an economic development plan addressing the purchasing of or utilization of goods and services in the construction and operation of proposed riverboat as described in the detailed description of proposed operations. The plan shall include a list and offer of voluntary conditions by the applicant regarding the following procurement:

a. an estimated procurement budget for resources and goods to be used in the operation of a riverboat listing the amount of the proposed utilization of Louisiana resources, goods and services in the operation of the riverboat and the area from which they will be procured.

b. a list of (projected) employees which the applicant expects to employ in the riverboat operation, including job classifications and total estimated salaries.

c. the percentage of Louisiana residents projected to be hired and the percentage of minorities projected to be employed.

d. the projected participation, by way of ownership



interest or contracts for goods or services, of any minority owned or disadvantaged business enterprises.

5. **A Statement of Local Support or Opposition.** The application shall include any statements of support from the community or communities in which applicant intends to operate, including any letters of recommendation and, if available, letters of no opposition or support from businesses which, according to applicant's feasibility study, might be affected by applicant's operation of the riverboat. The applicant shall also list any organized opposition to its proposed actions.

6. **An Application and Evaluation Fee.** The applicant shall remit to the commission an application fee and an evaluation fee which shall consist of \$25,000 for the application and \$5,000 to defray the expenses of the commission in analyzing and evaluating an application for certificate. In the event that the actual expenses of the commission in evaluating an application for certificate exceed the evaluation deposit, the commission shall bill and the applicant shall remit the additional amount. An application fee shall not be refunded unless the application is denied or rejected in which case one half of the amount of the application fee will be refunded. Evaluation fees or deposits may not be returned or refunded. As part of an evaluation deposit an applicant shall provide the commission with the following:

a. ten pre-addressed overnight delivery service invoices (such as Federal Express, UPS, Airborne, etc.) which bear the delivery address of the applicant and a billing account number for the applicant.

b. a pre-paid or billable account number at a duplication or copy service or services designated by the commission to be used for duplication, binding or preparation of documents forming a part of or necessary for evaluation of the person's application. This may include duplication of artists renderings or blueprints of riverboats or support structures.

7. **Other Requirements and Information.** The applicant shall also include the below listed items or information and such other information which the applicant wishes the commission to consider:

a. an affidavit of full disclosure signed by the applicant certifying that the information, including all ownership interests listed, are true and correct to the knowledge, information and belief of the applicant;

b. an authorization to release information to the commission, signed by the applicant;

c. a release of all claims resulting from disclosure of information signed by the applicant; and

d. in addition, the commission may require an applicant to provide such other information and details as it needs to discharge its duties properly.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§305. Certificate of Approval of Riverboat Design**

A. A person who is a shipyard may make application to the commission for a certificate of approval of riverboat design

whereby the shipyard may receive approval of the design and construction of a riverboat as defined in the act and these rules. Applicants may, at their own risk, and without any implied or actual guarantee of a certificate of preliminary approval other than for approval of the vessel design and specifications, start construction of a riverboat (for which a certificate of design approval has been issued) prior to receipt of a certificate of preliminary approval. The receipt of a certificate of approval of riverboat design does not imply, require, or guarantee that the riverboat will meet all of the requirements of the division in regard to division offices, security areas, and surveillance systems.

B. A person seeking a certificate of approval of riverboat design shall make application to the commission on a form prescribed by the commission. The application form shall include or have attached thereto the following:

1. preliminary arrangement drawings, profile drawings and preliminary construction specifications of the proposed riverboat which show the planned use of each deck, including the hold.

2. a schedule of the riverboat deck areas such that the commission can determine that not more than 60 percent of the total passenger access area or 30,000 square feet is planned for gaming. Space planned for division offices and division surveillance areas and monitors must also be designated.

3. profiles or renderings which are of sufficient detail to allow the commission to determine that the vessel has a recognizable appearance, insofar as is practical, of a nineteenth century riverboat.

4. information which shows how the riverboat is to be propelled and the overall percentage of propulsion that the paddlewheel(s) may contribute to the total forward propulsion power of the riverboat.

5. a statement of the total estimated cost of construction of the riverboat, as well as the projected construction schedule for completion.

6. a description and layout of the deck areas which may or are to be utilized for the following:

a. gaming activities. A description of all areas to be used for gaming and a reasonably specific layout and configuration of the proposed gaming area.

b. nongaming activities. A layout and configuration of areas to be used or capable of use for all other offerings upon the riverboat including any food service, lounges, bars, entertainment, retail areas, rest areas and any other non-gaming activities.

C. As part of the application for a certificate of approval of design the applicant shall designate the place and company to construct the vessel and the origin of component parts. Also included shall be the approximate total cost of the riverboat construction.

D. Upon receipt of a certificate of approval of riverboat design, the holder may commence construction of the riverboat as specified in the application and certificate. A completed riverboat which has been the subject of a certificate of approval of riverboat design shall qualify as a riverboat for purposes of a subsequent certificate of preliminary approval. An applicant for a certificate of preliminary

approval which proposes to utilize a riverboat which is the subject of a certificate of approval of riverboat design shall not be required to resubmit diagrams and descriptions of the riverboat as otherwise required by §303.A.1 and 2 of these rules in order to obtain a certificate of preliminary approval.

E. The application fee for an certificate of approval of riverboat design shall be \$25,000.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§307. Time Periods for Application to Division and Commencement of Construction**

It shall be a requirement that, within 30 days of the granting of a certificate of preliminary approval or final promulgation of application rules by the division which ever is later, the applicant or the proposed gaming operator for the riverboat must apply to the division for a license to conduct gaming operations and further must actually commence construction of the riverboat as authorized by the preliminary certificate within 60 days of being granted a license by the division. Should the applicant fail to apply to the division or fail to commence construction within either period specified above, the certificate shall become null and void. A construction plan, condition, berth, route or excursion may, upon approval of the commission, be changed at any time prior to or after the granting of a certificate by filing a petition for modification of certificate with the commission requesting the modification(s) described therein.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§309. Mandatory Conditions of Certificates**

A. Preliminary Approval. It shall be a mandatory condition of any certificate of preliminary approval that the applicant agree and stipulate to the following:

1. that the applicant or holder of the certificate may not mention, assert, utilize or argue that he or another person should be licensed by the division because he or another person holds or has applied for a certificate.

2. that the holder make application to the division for a gaming operator's license and commence construction of the riverboat within the time limits required by §307 of this Chapter.

B. Final Approval. It shall be a mandatory condition of any certificate of final approval that the holder agree and stipulate that:

1. any certificate of final approval is contingent upon licensure and approval of the gaming operator by the division.

2. that the commission may require a holder or applicant to discontinue use of a particular advertisement or promotion which the commission determines offensive or contrary to the integrity of gaming regulations.

3. that the riverboat meet all coast guard requirements.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§311. Berth - Not Required at Time of Application**

In the application for certificate of preliminary approval, it shall not be a requirement that an applicant have a specific berth site under contract at the time the application is filed. If an applicant shall have a berth site under a contract with a third party at the time of the application, then such contract shall be filed with the application. Contracts for berth sites entered after a certificate is granted shall be filed with the commission for approval prior to execution.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§313. Time of Filing**

A. An application is deemed filed when a written request for a certificate of preliminary approval and all necessary related supporting documentation and information, or any portion thereof, has been accepted by the commission as evidenced by a signed receipt.

B. The commission will make an initial determination within 10 days after the application has been filed if the application is complete, but if incomplete, the commission will request such additional information as is necessary to complete the application. The applicant shall provide all additional information requested by the commission to supplement the application, and an applicant's failure or refusal to comply with a request by the commission for such additional information is grounds for denial of part or all of the application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§315. Criteria for Commission Action**

In deciding whether to approve an application for certificate of preliminary approval, the commission shall evaluate each application based upon the information provided therein. The commission shall approve those applications for certificate of preliminary approval it deems to be in the best interests of the state and locale of the proposed operation subject to the following conditions and findings:

1. the operation must meet all requirements for commission approval contained in the regulations and the act;

2. the proposed appearance and design of the riverboat must be substantially in keeping with the appearance or aesthetics of historical designs, of nineteenth century riverboats;

3. the designated gaming area may not be more than 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser;

4. no proposed route may be approved unless it is upon one or more designated rivers or waterways as specified in the act;

5. no proposed excursion may be approved unless it will last a period of at least three hours, but not more than eight hours in a continuous 24-hour period. One or more excursions may be scheduled in the same 24-hour period every day of every year;

6. no proposed route, excursion schedule, or berth may be approved if the approval would:

a. create a foreseeable danger to the riverboat passengers and crew or an unreasonable risk of harm to the riverboat, docks, or real property, or

b. be inconsistent with laws, regulations, ordinances or orders issued by the United States Coast Guard.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§317. Awarding of Certificate - Subject to Conditions**

The commission shall award certificates as provided in the rules subject to such conditions as it deems advisable. Conditions may be proposed by the applicants, or the commission may order conditions consistent with the information contained in the application and particularly, the proposed economic development and utilization plan. Such conditions shall be deemed to be conditions precedent or resolutive to the issuance or continuing validity of certificates.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§319. Commission Objection to Advertising or Promotion**

A. The commission may require an applicant or holder of a certificate to discontinue use of a particular advertisement or promotion of riverboat operations if the commission determines the advertisement or promotion is:

1. inconsistent with the provisions of the act, or these rules,

2. offensive, or

3. likely to negatively affect the integrity of the gaming operation, or the perception of the state of Louisiana or gaming activities therein.

B. No holder, permittee or licensee shall be required to submit specific advertising promotions to the commission prior to use, display, or broadcast of the advertising or promotion.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§321. Information Constitutes Grounds for Delay or Denial of Application; Petitions for Modification**

A. It is grounds for denial of an application or disciplinary action for any person to:

1. make any untrue statement of material fact in any application or commission hearing, or in any statement or report filed with the commission,

2. willfully to omit to state in any such application, statement or report any material fact which is required to be stated therein, or which is necessary to make the facts stated not misleading.

B. All information included in an application must be true and complete as of the dates submitted. An applicant shall promptly add to or supplement any information based on facts occurring after the original application so as to make such information not misleading as of the dates of any action taken by the commission.

C. An application or certificate may be modified by leave of the commission upon the filing of a petition for modification by the applicant. Any modification to an

application may have the effect of establishing the date of such modification as the filing date of the application with respect to any time requirements for action on the application which have been set by the commission. Petitions for modification of an application must be in writing.

D. Except for emergency orders and applications therefor, all proposed modifications to routes, excursion schedules, and berths must be submitted by the applicant or holder for advance approval by the commission.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§323. Continuing Representations and Quarterly Certifications**

A. Once an applicant has submitted the application and all required supporting information or has been awarded a certificate, the applicant shall notify the commission of any material change in any information previously submitted or any fact relating to any voluntary or other condition of the certificate.

B. Commencing with the issuance of any certificate, the holder of the certificate shall submit on a quarterly basis to the commission a statement of compliance with the applicant or holder's previously submitted application or economic development plan as to those aspects of the plan which are then underway.

C. The holder of a certificate will certify quarterly under oath that he is continuing to comply with all conditions of that certificate. The quarterly certification shall be forwarded to the commission by certified mail.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§325. Commission Decision**

The commission will consider and conduct a hearing on an application for certificate for preliminary approval after the application is deemed complete. Applications first filed will be first considered, but not necessarily acted upon, by the commission in the order of filing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§327. Place of Construction; Contract**

The applicant shall, as part of the application, advise the commission and obtain commission approval of all places where construction of the riverboat and its component parts will be undertaken and must file a copy of the contract or contracts for construction of the riverboat with the commission within five days after both parties have signed. The commission shall provide for quarterly pre-approved inspections of riverboat construction progress at the place of construction. If the location where construction will occur is within the state of Louisiana, the chairman may authorize the periodic inspection of each riverboat. If the location is outside of the state, then the full commission shall authorize the inspection of each riverboat during construction. All change orders, amendments, and modifications of the terms and

conditions of the contract or contracts must be reported by the applicant to the commission within seven days. All such contracts shall include a provision allowing the commission and division to have access during all construction.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§329. Confidentiality; Privileged Communications and Documents**

A. Any communication or document of an applicant that is required by law or by the act or regulations to be made or transmitted to the commission or any of their agents or its employees is deemed a public record and subject to public inspection as provided by law, unless such document or communication is a private or privileged document and excepted from public inspection by law. Private or privileged documents shall include documents which:

1. relate to the background of an applicant and were provided by a confidential source or informant.
2. consist of an applicant's detailed personal history questionnaires, disclosure forms, and financial statements which shall include financial projections and feasibility studies submitted as a part of an application for a certificate.
3. relate to the surveillance and security techniques, procedures, or practices of an applicant, licensee, or permittee.
4. relate to trade secrets and design of experimental gaming devices and equipment.
5. consist of architectural plans, specifications and blueprints of a riverboat or support facilities, not including artists renderings, deck and vessel configuration and deck plans.

B. If such a document or communication contains any information that is privileged under any law of this state, or the rules of the commission that privilege is not waived or lost because the document or communication is disclosed to the division or commission or any of their agents or employees.

C. The commission and their agents and employees shall not release or disclose any information, documents or communications provided by an applicant that are privileged under any law of this state, rules of the commission or division or any intelligence sharing or restricted use agreement entered into pursuant to the act. Privileged information, documents and communications protected by the rule may be disclosed in enforcement actions and hearings, without the prior written consent of the applicant, or pursuant to a lawful court order after timely notice of the proceeding has been given to the applicant.

D. The commission shall maintain all privileged information, documents and communications in a secure place that are accessible only to members of the commission and their authorized agents and employees.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§331. Waiver of Privilege**

An applicant or holder may claim any privilege afforded by

the Constitution of the United States or of the state of Louisiana in refusing to answer questions or inquiries by the commission, but a claim of privilege with respect to any testimony or evidence pertaining to an application may by itself constitute sufficient grounds for denial of the application and may be used against the applicant or holder in any commission, division or subsequent proceeding.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

## **Chapter 5. Riverboat Design and Construction**

### **§501. Riverboats upon which Gaming May Be Conducted**

Gaming may be conducted only upon riverboats of new construction which is commenced after January 1, 1992. New construction shall include the laying of a keel or construction of a new vessel.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§503. Compliance with Requirements of the Act and Other Laws**

After receiving a certificate of preliminary approval, and before commencing construction, unless otherwise authorized pursuant to §305 of these rules, an applicant must submit detailed architectural plans and specifications to the commission, and must represent and warrant that:

1. the plans and specifications satisfy the minimum requirements of riverboat size provided in the act, and
2. the plans and specifications comply with all applicable Coast Guard Regulations including, but not limited to, fire and safety codes or such other applicable requirements as are imposed on vessels of similar design and size by federal, state, or local laws,
3. the riverboat is paddlewheel driven. For purposes of this Chapter, paddlewheel driven shall mean that the riverboat has one or more functional paddlewheels which in the opinion of commission substantially contributes to the overall propulsion of the riverboat.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§505. Commission Ruling**

The chairman will issue in writing the commission's decision to approve or disapprove of the architectural plans of a riverboat as described in the application for a certificate of preliminary approval and will notify the applicant thereof. If the plans are not approved, the commission's decision will include a statement of the reasons therefor.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§507. Certificate of Final Approval**

Before any vessel, for which an applicant has obtained a certificate of preliminary approval and a riverboat gaming license, may be placed in service, the operator thereof shall

make application to the commission for and obtain a certificate of final approval from the commission. A certificate of final approval shall be granted if, upon completion, the vessel and all support facilities are found to comply with all requirements of the act, commission rules, and the certificate of preliminary approval. After a final inspection of any riverboat approved by the commission, the holder shall certify to the commission that the riverboat was constructed in accordance with the plans and specifications contained in the certificate of riverboat design approval or the certificate of preliminary approval and any conditions thereto.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§509. Indemnification**

Every certificate for preliminary or final approval and every contract for construction of a riverboat shall contain an indemnification provision for the protection of the state, the commission, and their agents and employees against claims for personal injury or property damage arising out of errors and omissions in the following:

1. approval of riverboat or support facility plans, designs and specifications.
2. granting of a certificate.
3. issuance of emergency orders.
4. denial, suspension or revocation of a certificate of approval.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

## **Chapter 7. Operating Standards**

### **§701. Methods of Operation Generally**

A. It is the goal and policy of the commission to require that all riverboats whereon gaming is conducted, be operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the state of Louisiana and in a manner that will foster and promote economic development and growth of the tourism industry and create new jobs for the inhabitants of the state of Louisiana within the state of Louisiana.

B. Responsibility for the observance and maintenance of suitable methods of operation rests with the applicant, holder, permittee or licensee, as the case may be, and willful or persistent use or toleration of unsuitable methods of operation is grounds for denial of application, or suspension or revocation of any certificate, license or permit.

C. The commission deems unsuitable any activity on the part of a holder, licensee, or permittee, or his agents or employees, which relates to activities or operations authorized by a certificate that is inimical to the public health, safety, morals, good order and general welfare of the people of the state of Louisiana or that would negatively reflect or tend to negatively reflect upon the state of Louisiana or its tourism industry. Any such unsuitable method of operation is grounds for denial or revocation of an application or certificate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§703. Compliance with Laws**

Acceptance of a certificate or permit or renewal thereof constitutes an agreement on the part of the holder or permittee to be bound by all of the applicable provisions of the act and commission rules. It is the responsibility of the holder or permittee to keep informed of the content of all such laws and commission rules, and ignorance thereof will not excuse violations. Violation of any applicable provision of the act, commission rules, a certificate or the conditions thereof by a holder or permittee or by the agent, employee or representative of a licensee or permittee is contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the state of Louisiana and constitutes grounds for disciplinary action including revocation or suspension of a certificate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§705. Emergency and Compliance Orders**

A. The chairman or his designee who is a member of the commission or staff may, in the event of extreme weather conditions, acts of God or other extreme circumstances, in consultation with the U.S. Army Corps of Engineers and the U.S. Coast Guard, issue any order which the commission deems necessary, suspending, changing, limiting or modifying the route, excursion schedule, or berth of a riverboat operating pursuant to the act.

B. The chairman or his staff designee is authorized to issue written compliance orders upon such kinds of matters which involve a determination of whether an action, specification or proposed action complies with a certificate or condition thereof. Any compliance order issued by the chairman shall be deemed to be an order or decision of the commission unless a member of the commission requests the commission to review or reverse the compliance ruling. Commission members shall be notified of compliance order issued by the chairman.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **§707. Authorized Routes, Excursion Schedules, Berths**

A. Gaming may be conducted on a riverboat only when the riverboat:

1. is located upon a route authorized by the commission at such times as are authorized by the commission,
2. is at dockside and for periods authorized by law and rule of the commission,
3. docks at another berth due to weather conditions or other emergency for not more than 45 minutes, or
4. stops during an excursion due to engine malfunction or failure and repairs are underway.

B. Gaming on a riverboat at any time or place other than those times and places specified in Subsection A above is prohibited.

C. For purposes of R.S. 4:525 (B) and these rules, a water level below 140 national geodetic vertical datum (feet) on the

Red River flowing through or adjacent to a parish or municipality within the below described population limits shall constitute a water condition which is a present danger to the riverboat, its passengers and crew.

1. Any parish having a population between 240,000 and 250,000 persons according to the latest United States census.

2. Any parish having a population of between 85,000 and 90,000 persons according to the latest United States census.

3. Any municipality having a population of between 200,000 and 195,000 persons according to the latest United State census.

4. Any municipality having a population between 55,000 and 50,000 persons according to the latest United States census.

D. A riverboat which is located on the Red River within a parish or municipality when the river water level is a present danger as described in Subsection C of this Section may remain at its licensed berth while that water level exists and may conduct gaming operations during the period of the riverboats authorized excursions and periods authorized by R.S. 4:525 (B)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

#### **§709. Passenger Embarking and Disembarking**

Except in the case of emergencies, passengers and crew may embark and disembark a riverboat only at its authorized berths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

#### **§711. Stops During Excursion; Gaming Prohibited**

Gaming on a riverboat that is stopped during an excursion is prohibited, except where the stop is the result of an emergency order, navigation delay, coast guard order, safety delay, engine malfunction or failure and repairs are underway.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

#### **§713. Access to Premises and Production of Records**

A. Each gaming operator and manufacturer or supplier shall immediately make available for inspection by any division or commission member or agent, all papers, books and records produced and all portions of the premises where gaming is conducted or where gaming devices or equipment are manufactured, sold or distributed.

B. Any division or commission member or agent shall be given immediate access to any portion of the premises of any riverboat or premises of a manufacturer or supplier for the purpose of inspecting or examining:

1. any records or documents required to be kept under the provisions of the act and the rules of commission or division,

2. any gaming device or equipment, or

3. the conduct of any gaming activity.

C. Access to the areas and records that may be inspected or examined by division and commission members or their

agents must be granted to any such individual who displays official identification issued by the division or commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

#### **§715. Inspections During Construction**

Upon presentation of valid identification, any member or employee of the commission or division shall have the right at all times to inspect all portions or component parts of a riverboat under construction. The commission and division may, but are not required, to conduct joint inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

#### **§717. Emergency Orders by Commission**

An emergency order modifying a certificate of preliminary approval, a certificate of final approval, or other certificate, license or permit may be issued by the chairman who shall notify the commission of such emergency order.

1. Unless safety or emergency circumstance prevent contemporaneous issuance in writing, the emergency order must be in writing and must set forth the grounds upon which it is issued including a statement of facts constituting the alleged emergency necessitating such action.

2. The emergency order is effective immediately upon issuance and service upon the applicant, holder or permittee.

3. An emergency order shall not be effective for or have a term of more than 10 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### **Chapter 9. Appeal of Division Action, Order of Decision**

#### **§901. Appeals of Division Orders or to Commission**

A. Any person whose application for a license or permit has been denied by the division or any person adversely affected by an action, order, or decision of the division may appeal the action, order, or decision of the division to the commission by filing a notice of appeal with the commission within seven days of certified mailing of notice of the action, order, or decision by the division. The division, upon notice of appeal to the commission, shall transmit to the commission within 14 days, the record of all proceedings before the division at which the action, order, or decision appealed from was taken. For purposes of these rules, the record of a division proceeding shall include but not be limited to a copy of the division order, witness statements, physical evidence, if any, all documents introduced or considered and, upon request of the chairman, a transcript of the hearing before the division. The person appealing an action, order, or decision of the division shall remit to the division the cost of preparing the record of the proceedings before the division to the commission as provided in the act and these rules.

B. The commission shall hear all appeals from actions, orders, or decisions of the division. The commission may reverse or modify an action, order, or decision of the division if it finds, based upon the record of the proceedings before the division, that the action of the division was clearly contrary to

the facts in the record or contrary to the provisions of the act or the rules and regulations of the division.

C. The commission hearing on the appeal will be open to the public unless otherwise authorized by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### §903. Hearings and Appeals

A. The chairman may designate a schedule for the filing of written briefs of the arguments to be presented at the hearing of any matter including appeals. Arguments in the briefs may be based on the law as well as upon facts, and both parties may attach affidavits or other relevant, reliable documentary evidence to support their respective positions. The burden of proof rests with the appellant.

B. The chairman will determine if the record of the hearing or appeal is complete and if incomplete, will request such additional information as the chairman deems necessary under the circumstances, and may issue subpoenas therefor. A party's failure or refusal to provide such additional information is grounds for a ruling in favor of the other party.

C. When the chairman has determined that the record of a hearing or an appeal is complete, he will provide advance written notice to the parties of the date, time and place where the matter will be heard by the commission. The chairman or a majority of the commission present may at any time during a proceeding make a re-determination that the record is incomplete and re-open the record for the purpose of taking additional submissions or evidence.

D. The chairman may determine that a hearing be held before a hearing officer who shall be chosen from a list of hearing officers previously approved by the commission who shall prepare a record and make recommendations to the commission.

E. The chairman may grant a continuance of a hearing or appeal for good cause, and if a continuance is requested by either party, such request must be submitted in writing at least seven days before the scheduled hearing date.

F. When briefs have been filed, the arguments of the parties at the hearing must be restricted to the issues raised in the briefs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### §905. Representation by Counsel

Any party to the hearing may be represented by an attorney or agent authorized to practice before the commission in accordance with commission rules. As used herein, "represented" includes but is not limited to attendance at and participation in hearings and the preparation of documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### §907. Default

The failure of either party to file a brief or respond to a request by the commission is grounds for a ruling in favor of the other party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### §909. Commission Decision

The commission will render its decision on an appeal and the reasons therefor in writing within 20 days after the hearing on the appeal and must provide a copy of the decision to the supervisor and the appellant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

### §911. Appeal of Commission Action

Any person adversely affected by an action, order, or decision of the commission may appeal to the Nineteenth Judicial District Court in accordance with the provisions of the act and Administrative Procedure Act, except that notice of appeal shall be given to the commission and petition for appeal shall be filed with the District Court within 10 days of the action, order, or decision of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Riverboat Gaming Commission, LR 19: (July 1993).

Kenneth E. Pickering  
Chairman

## DECLARATION OF EMERGENCY

Department of Labor  
Office of Labor

Job Training Partnership Act (LAC 40:XIII.Chapter 1)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Louisiana Department of Labor declares that rules and regulations of the Office of Labor, are hereby adopted to be effective July 1, 1993, for 120 days or until the final rule is adopted, whichever occurs first.

The Federal Job Training Partnership Act has been revised and amended by P.L. 102-367 effective July 1, 1993. The State JTPA rules must be amended in accordance with the revised JTPA and the effective date must coincide with the Federal effective date.

The notice of intent and the final promulgation of the rules will be completed in accordance with the Administrative Procedure Act after July 1, 1993.

### TITLE 40

### LABOR AND EMPLOYMENT

### PART XIII. Job Training Partnership Act

### Chapter 1. General Provisions

### §101. Definitions

*Capital Improvement*—any modification, addition, restoration, or other improvement:

1. which increases the usefulness, productivity, or



serviceable life of an existing building, structure, or major item of equipment;

2. which is classified for accounting purposes as a "fixed asset"; and

3. the cost of which increases the recorded value of the existing building, structure, or major item of equipment and is subject to depreciation.

**Construction**—the erection, installation, assembly, or painting of a new structure or a major addition, expansion, or extension of an existing structure, and the related site preparation, excavation, filling and landscaping, or other land improvement.

**Consulting Service**—work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, or expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, data processing, and advertising contracts, except for printing associated therewith.

**Dependent**—any person for whom, both currently and during the previous 12 months, the applicant has assumed 50 percent of his support, and is:

1. a member of the immediate household (parent, spouse, or child); or

2. not a member of the household, but a parent, child or spouse of the applicant, who is unemployed because of a mental or physical disability; or

3. one who may be claimed as a dependent on the applicant's tax return.

**Employing Agency**—any public or private employer which employs participants and which establishes and maintains the personnel standards applicable to those participants covering such areas as wage rates, fringe benefits, job titles, and employment status.

**Entry Level**—the lowest position in any promotional line, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules.

**Family** as defined by Section 4(34) of the Act means:

1. two or more persons living in a single residence, as defined in §626.5 of the regulations, related by blood, marriage, or decree of court and are included in one or more of the following categories. A stepchild or a stepparent is considered to be related by marriage.

a. husband, wife and dependent child;

b. parent or guardian and dependent child;

c. husband and wife;

2.a. for purposes of Paragraph 1 above, persons not living in the single residence but who were claimed as a dependent on another person's Federal Income Tax return for the previous year, unless otherwise demonstrated, shall be presumed to be part of the other person's family;

b. a handicapped individual may be considered an individual when applying for programs under the Act;

c. an individual 18 years of age or older, except as provided in 2.a. or 2.b. above, who receives less than 50 percent of support from the family, and who is not the

principal earner nor the spouse of the principal earner, is not considered a member of the family. Such an individual is considered a family of one.

**Family Income**—all income received from all sources by all members of the family for the six-month period prior to application computed on an annual basis. Family size shall be the maximum number of family members during the income determination period. When computing family income, income of a spouse, parent or child shall be counted for the portion of the income determination period that the person was actually a part of the family unit of the applicant.

1. In accordance with §626.5 of the JTPA Regulations, for the purpose of determining eligibility, family income includes:

a. money wages and salaries before any deductions;

b. net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses);

c. net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses);

d. regular payments from social security, railroad retirement, strike benefits from union funds, workers' compensation, veterans' payments, and training stipends;

e. alimony;

f. military family allotments or other regular support from an absent family member or someone not living in the household;

g. pensions whether private, government employee (including military retirement pay);

h. regular insurance or annuity payments;

i. college or university grants, fellowships, and assistantships;

j. dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts;

k. net gambling or lottery winnings.

2. Family income does not include:

a. unemployment compensation;

b. child support payments;

c. welfare payments (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency Assistance money payments, and non-federally-funded General Assistance or General Relief money payments);

d. capital gains;

e. any assets drawn down as withdrawals from a bank, the sale of property, a house, or a car;

f. tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury;

g. non-cash benefits:

i. employer-paid fringe benefits;

ii. food or housing received in lieu of wages;

iii. Medicare or Medicaid;

iv. food stamps;

v. school meals;

vi. housing assistance.

**Job Training Plan**—the plan of a service delivery area for operating programs under the Act, consisting of the Master Plan and Program Plan.



**Labor Organization**—a local labor organization that represents employees in the service delivery area in the same or substantially equivalent jobs as those for which recipients and subrecipients provide, or propose to provide, employment and training under the Act.

**Limited English Language Proficiency**—the limited ability of a participant, whose native language is not English, to communicate in English, resulting in a job handicap.

**Long-Term Unemployment**—any individual who is unemployed at the time of application and has been unemployed for 15 or more of the 26 weeks immediately prior to such and has limited opportunities for employment and reemployment in the same or similar occupation in the area in which such individual resides, including any older individual who may have substantial barriers to employment by reason of age.

**Master Plan**—the part of the Job Training Plan which serves as a long-term agreement between the governor and a service delivery area.

**Matching Funds for Eight Percent Programs**—shall include all non-JTPA funds, whether in cash or in kind, used in direct support of employment or training services provided by state or local educational agencies.

**Part-Time Employment**—employment in which a worker is regularly scheduled to work less than the employer's full-time schedule for the worker's position.

**Personal Service**—work rendered by individuals which require use of creative or artistic skills, such as but not limited to graphic artists, sculptors, musicians, photographers, and writers, or which require use of highly technical or unique individual skills or talents, such as, but not limited to, paramedicals, therapists, handwriting analysts, and expert witnesses for adjudications or other court proceedings.

**Placement**—the act of securing unsubsidized employment for or by a participant.

**Professional Service**—work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, which independent contractor shall include but not be limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, and accountants. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skill.

**Program Plan**—the part of the Job Training Plan which consists of the description of program activities and services to be provided by the service delivery area during the program year.

**Property**—all tangible non-consumable moveable property purchased with funds under the Act. The term moveable distinguishes this type of property from property attached as a permanent part of a building or structure. Please note that state law requires each item of moveable property having an acquisition cost or appraised value of \$250 or more to be placed on inventory.

**Public Service Employment**—the type of work normally

provided by governments and includes, but is not limited to work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community improvement. This activity is distinguished from work experience in that in general PSE is full-time and long term or open-ended and the participant is employed by the agency involved and not the SDA.

**Real Property**—land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

**Unsubsidized Employment**—employment not financed from funds provided under the Act. In accordance with Section 106(k) of the Act for performance standard purposes, employment means employment for 20 or more hours per week.

**Welfare Recipient**—an individual who receives or whose family receives cash payments under AFDC (Title IV of the Social Security Act), General Assistance, or the Refugee Assistance Act of 1980 (P.L. 96-212). (This term excludes recipients of supplemental security income under Title XVI of the Social Security Act.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:331 (May 1983), amended LR 9:473 (July 1983), LR 10:546 (July 1984), LR 12:439 (July 1986), LR 13:359 (June 1987), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§103. Pre-award Financial Review**

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§105. Accounting Procedures**

Accounting for JTPA funds must be on an accrual basis in accordance with generally acceptable accounting principles. In accordance with §627.430(g)(2) of the regulations, a recipient/subrecipient shall not be required to maintain a separate bank account but shall separately account for federal funds on deposit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§107. Reporting of Expenditures**

The service delivery area grant recipient shall prepare expenditure reports in accordance with procedures established

by the recipient. These reports shall be on an accrual basis and conform to federal and state requirements in regard to the Act.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§109. Requests for Cash**

The financing of the JTPA program will be on an advance or reimbursement basis in accordance with procedures established by the recipient. Service delivery area grant recipients shall establish procedures that will minimize the time elapsing between the receipt of advanced funds and their disbursements in accordance with 31 CFR part 205. At no time shall the service delivery area grant recipient have funds which exceed three days expenditure needs.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§111. Purchasing Procedures**

All purchases and leases of furniture, equipment, supplies, property, office and building space, capital improvements, and services shall be processed in accordance with procedures established by the recipient. All purchases of furniture, equipment, supplies, property, office and building space, and capital improvements, with a unit cost of \$5,000 or more must have the prior approval of the recipient.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§112. Advertising**

Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

1. recruitment of personnel required for the grant program;
2. solicitation of bids for the procurement of goods and services required;
3. disposal of scrap or surplus materials acquired in the performance of the grant agreement;
4. recruitment of participants, employers, other service providers, and general advertising for the SDA; and
5. other purposes specifically provided for in the grant agreement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§113. Travel and Transportation Regulations**

A. All reimbursement for travel will be made in accordance with the travel regulations of the recipient, service delivery area grant recipient, administrative entity or subrecipient. Where subrecipient travel regulations are utilized, they shall at a minimum, conform with applicable standards of the recipient, service delivery area grant recipient, or administrative entity.

B. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to the recipient or subrecipient program. Such costs may be charged on an actual basis on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two provided the method used is applied to an entire trip and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations are unallowable except when less-than-first-class air accommodations are not reasonably available. Each recipient or subrecipient must have clearly defined travel regulations including documentation requirements. These requirements must include travel reports which include the date of travel, travel destination, purpose, beginning and ending odometer reading, amount to be reimbursed, and supervisor signatures.

C. Costs incurred for freight, cartage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 9:333 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§114. Printing and Reproduction Costs**

Costs for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature are allowable. Reasonable publication costs of reports or other media relating to grant program accomplishments or results are allowable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§115. Personnel, Salary Regulations and Fringe Benefits**

A. All employment practices, salary schedules and related personnel procedures will be in accordance with the regulations of the service delivery area grant recipient, administrative entity or subrecipient.

B. Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries, and supplementary compensation and benefits. The costs of such compensation are allowable to the extent that total compensation for individual employees:

1. is reasonable for the services rendered;
2. follows an appointment made in accordance with recipient or subrecipient rules; and
3. is determined to be supported as provided below. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

C. Amounts charged to grant programs for personnel services will be based on payrolls documented and provided in accordance with generally accepted practice of the recipient or subrecipient. Payrolls must be supported by time and attendance or equivalent records for individuals. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

D. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave and the like are allowable, if they are:

1. provided pursuant to an approved leave system; and
2. the cost thereof is equitably allocated to all related activities, including grant programs.

E. Employee benefits in the form of employers' contribution or expenses for social security, employee's life and health insurance coverage, workers' compensation insurance, pension plans, severance pay, and the like, are allowable, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§116. Advisory Councils**

Costs incurred by state advisory councils or committees, including the GETCC and PICs, established pursuant to the JTPA Regulations to carry out grant programs are allowable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§117. Auditing Requirements**

SDA grant recipients, administrative entities and subrecipients who are government or non-profit entities must comply with the audit requirements of the "Single Audit Act of 1984"/OMB Circular-128 or OMB-Circular 133 as appropriate. Commercial organizations who are subrecipients shall be audited in accordance with §627.480(a)(3) of the federal regulations. Audit costs for auditing SDA grant recipients and administrative entities will be paid from state administrative funds upon request. Audit costs for subrecipients of SDA grant recipients and administrative entities must be paid by the service delivery area grant recipient or administrative entity. Other subrecipients contracted directly by the Louisiana Department of Labor will be audited in accordance with the "Single Audit Act of 1984"

which incorporates the use of private audit firms or the legislative auditors.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§119. Non-allowable Costs**

In accordance with §627.435(e) (f) and (i) of the federal regulations some costs associated with JTPA are not considered as necessary and reasonable for proper and efficient administration of the program. These include:

1. costs of fines and penalties resulting from violations of or failure to comply with federal, state, or local laws and regulations;
2. back pay, unless it represents additional pay for JTPA services performed for which the individual was underpaid;
3. entertainment costs;
4. bad debts expenses;
5. insurance policies offering protection against debts established by the federal government;
6. contributions to a contingency reserve or any similar provision for unforeseen events;
7. costs prohibited by 29 CFR part 93 (Lobbying Restrictions);
8. costs of activities prohibited in §627.205, Public Service Employment Prohibition, §627.210; Nondiscrimination and Nonsectarian Activities; and §627.215, Relocation; §627.225, Employment Generating Activities; and §627.230, Displacement of the Federal Regulations;
9. legal services furnished by the chief legal officer of a state or local government or staff solely for the purpose of discharging general responsibilities as a legal officer are unallowable;
10. legal expenses for the prosecution of claims against the federal government, including appeals to an administrative law judge, are unallowable;
11. construction costs are not allowable costs except those specified in §627.435(h)(1) and (2) of the federal regulations;
12. fund-raising activities;
13. interest expense including interest on borrowing, bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith;
14. contributions and donations as specified in OMB Circular A-87.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§120. Fees or Profits**

Any fees or profits earned by the SDA grant recipient or subrecipients must be consistent with §627.420(e)(3) of the federal regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

### §121. Carry-Over Balances

Funds obligated for any program year may be expended by each recipient or service delivery area grant recipient during that program year and the two succeeding program years with the following exceptions:

#### 1. Title II-A and Title II-C Reallotment and Reallocation Policy

a. For program years beginning on or after July 1, 1993, the governor shall, in accordance with §109 of the Act and §627.410 of the federal regulations, reallocate to eligible service delivery areas within the state funds appropriated for such program year that are available for reallocation.

b. The amount available for reallocation is equal to the amount by which the unobligated balance of the SDA's allocation under Part A and Part C of Title II at the end of the program year prior to the program year for which the determination is made exceeds 15 percent of such allocation for the prior program year.

c. In addition, Louisiana will use the reallotment process for SDAs at the end of each program year whether or not the state is subject to a reduction in funding due to reallotment. This will allow the state to deal with significant underexpenditure of funds by individual SDAs even when the state maintains a high overall level of expenditures.

d. In the event that Louisiana is not subject to a reduction in funding, but one or more SDAs are subject to a reduction based on Louisiana's policy, funds deobligated from such SDAs will be allocated to the remaining SDAs who are not subject to a reduction that have the highest rates of unemployment for an extended period of time and to those with the highest poverty rates.

#### 2. Title II-B - Reallocation Policy

a. Section 161(b) of the Act provides that no amount of funds "shall be deobligated on account of a rate of expenditure which is consistent with the job training plan." In order to remain consistent with this policy, if an SDA's rate of expenditure is inconsistent with the job training plan, its new obligational authority (NOA) may be reduced in subsequent years in order to, in effect, reallocate funds from that program year.

b. Beginning in Program Year 1994 and applying to Program Year 1993, an amount equivalent to 15 percent of the previous year's total funds available will be classified as "allowable carry-out."

c. All other carry-out will be designed as "excess carry-out" and the obligational authority (NOA) to the SDA will be reduced by the amount of the excess carry-out. Determination of total carry-out and the excess carry-out will be made after submittal of the final program year expenditure report and reallocation of funds will be made to those SDAs which request the funds and have expended more than 85 percent of their total funds available. The reallocation will be based on the degree that SDAs exceed the 85 percent expenditure level.

#### 3. Title III - Reallotment and Reallocation Policy

##### a. Excess Unexpended Funds

i. The U.S. Department of Labor has established

Title III reallotment procedures that have the effect of limiting the amount of unexpended funds that can be carried-over by the state at the end of each program year. Reallotment also rewards states with high expenditure rates by providing additional funds. These procedures are described in Section 303 of the Job Training Partnership Act, Section 6305(e) of the Economic Dislocation and Worker Adjustment Assistance Act, §631.12 of JTPA Federal Regulation, and Training and Employment Guidance Letter (TEGL) No. 4-88 issued by the U.S. Department of Labor.

ii. Reallotment will occur around September 1 and will result in an increase or decrease in the state's formula-allotted funds for the current year based on a reallotment process applied to the prior year's Title III funds and expenditures. When reallotment results in an increase in funding, such reallocation is subject to allocation procedures specified in §631.32 of the federal regulations. When reallotment results in a decrease in funding, the procedures that follow will be used to recover funds from substate grantees and, where appropriate, state subcontractors in order to make funds available to the U.S. Department of Labor for reallotment. Any remaining funds would come from the governor's 40 percent funds.

iii. Louisiana will apply the same reallotment procedures to sub-state grantees and state subcontractors that the U.S. Department of Labor applies to the state. Our reallotment policy states that the amount available for reallotment from substate grantees and state subcontractors is equal to the sum of unexpended funds in excess of 20 percent of the prior year's allocation or subgrant amount and all unexpended previous program year funds. For PY 88 allocations and subgrants, 30 percent shall be substituted for 20 percent in the previous sentence. Unexpended reallocated funds at the end of the year will also be subject to the 20 percent limitation on allowable carry forward. Substate grantees and state subcontractors that lose funds through the reallotment process will use their allocation or subgrant amount before reallotment in order to calculate allowable carry forward.

iv. In addition, Louisiana will use the reallotment process for substate grantees and, where appropriate, state subcontractors at the end of each program year whether or not the state is subject to a reduction in funding due to reallotment. This will allow the state to deal with significant underexpenditure of funds by individual substate grantees and state subcontractors even when the state maintains a high overall level of expenditures.

v. In the event that Louisiana is not subject to a reduction in funding, but one or more substate grantee(s) or state subcontractor(s) are subject to a reduction based on Louisiana's policy, funds deobligated from such substate grantees will be allocated by formula to the remaining substate grantees who were not subject to a reduction. This allocation will be in addition to any funds reallocated by the U.S. Department of Labor and subsequently allocated to substate areas. Any funds deobligated from state subcontractors as a result of these procedures are subject to regular Title III state obligation procedures.

##### b. Projected Excess Unexpended Funds

i. Louisiana is subject to a U.S. Department of Labor JTPA Title III reallocation process based on expenditures at the end of each program year. In order to avoid a reduction in funding from such a reallocation, a deobligation procedure has been established.

ii. Title III substate grantees and state subcontractors are subject to deobligation of projected excess unexpended funds based on expenditures during the first five months of their subgrant or subcontract period. Projected excess unexpended funds are defined as any amount of projected unexpended funds in excess of 20 percent of a substate grantee's available funds (excluding carry-in funds and any additional funds reallocated during that program year as a result of the U.S. Department of Labor's reallocation process) or 20 percent of a subcontract amount. Projected unexpended funds are total available funds (excluding reallocated funds) less expenditures reported for the first five months and less an amount equal to the higher of the last two months reported expenditure amounts times the number of months remaining in the subgrant or subcontract period. Expenditure amounts used for this process will be those amounts reported as of the official due date specified by the Louisiana Department of Labor's fiscal section. Funds remaining after deobligation will be subject to all cost category limitations.

iii. Substate grantees and state subcontractors will have 15 days from the date they are notified of any amount subject to deobligation to provide documentation to the Louisiana Department of Labor why they should not be subject to such deobligation. The Louisiana Department of Labor may reduce the amount to be deobligated based on acceptance of documentation of corrected expenditure amounts, significant recent obligations not reflected in current reported expenditures, or other appropriate justification.

iv. All funds deobligated from substate grantees will be allocated by formula to substate grantees whose total projected unexpended funds are not expected to exceed allowable projected unexpended funds. Funds deobligated from state subcontractors are subject to regular Title III state obligation procedures.

v. This deobligation procedure does not limit the Louisiana Department of Labor's authority to unilaterally deobligate funds from subgrants and subcontractors when it is deemed necessary in order to carry out responsibilities under the Job Training Partnership Act.

4. Reallocation Waiver. The reallocation policies may be waived for SDAs and substate grantees operating under a reorganization plan issued by the governor in accordance with procedures established by the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), amended LR 10:546 (July 1984), LR 15:496 (June 1989), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended LR 18:372 (April 1992), repromulgated LR 18:493 (May 1992), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

## **§122. Depreciation and/or Use Allowance**

A. Compensation for the use of buildings, capital improvements, and equipment through use allowances or

depreciation is allowable. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

B. The computation of depreciation or use allowance will be in accordance with A-87 Cost Principles for State and Local Governments, Attachment B.

C. Depreciation or use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor federal agency.

D. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

## **§123. Program Income Guidelines**

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19: (July 1993).

## **§124. Building Space and Related Facilities**

A. The cost of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below.

B. The total cost of space, whether in a privately or publicly owned building may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy without authorization of the recipient agency.

C. The cost of utilities, insurance, security, janitorial services, elevator services, upkeep of grounds, normal repairs and alterations and the like, are allowable to the extent they are not otherwise included in the rental or other charges for space.

D. Costs incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities are allowable when specifically approved by the recipient.

E. Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition are allowable.

F. Depreciation and use allowances on publicly owned buildings are allowable as provided in §122 of these state rules (Depreciation and Use Allowance).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§125. Financial and Programmatic Monitoring and Record Retention**

The recipient reserves the right to monitor the financial and programmatic operations of all service delivery area grant recipients. The service delivery area grant recipients shall comply with the record retention requirements at 20 CFR 627.460.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§126. Insurance Costs**

Costs of insurance in connection with the general conduct of activities under the program, including but not limited to, workers' compensation insurance, insurance for injuries suffered by participants who are not covered by workers' compensation, personal liability insurance for PIC members, and insurance covering the risk of loss of, or damage to JTPA property, are allowable subject to the following limitations:

1. Types and extent and cost of coverage will be in accordance with general state and local policy and sound business practice;

2. Contributions to a reserve for a self-insurance program approved by the recipient are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had the insurance been purchased to cover the risks.

3. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§127. Inventory Control**

Property purchased or assumed under the act must be maintained in an efficient and effective manner and shall not be used for purposes other than the act. Service delivery area grant recipients shall obtain written approval from the recipient prior to the disposition of property covered by the act. Proceeds of such disposition shall be considered program income as regulated by Section 141(m) of the act and §627.450 of the regulations. Please note that state law requires each item of moveable property having an acquisition cost or appraised value of \$250 or more to be placed on inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§128. Taxes**

In general, taxes or payments in lieu of taxes which the recipient/subrecipient is legally required to pay are allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§129. Contractual Agreement**

A. The service delivery area grant recipients may enter into contractual agreements with any profit and/or nonprofit organization. Service delivery area grant recipients will be responsible for their subrecipients' financial and programmatic operations and will insure compliance with state and federal regulations. Service delivery area grant recipients may require their subrecipients to implement policies in those areas mentioned in these rules similar to the service delivery area grant recipient's policies. The recipient has the right to inspect financial records or program records of any service delivery area grant recipient or subrecipients.

B. In accordance with §627.422 of the federal regulations, each SDA shall ensure that, for all services provided to participants through contracts, grants, or other agreements with a service provider, such contract, grant, or agreement shall include appropriate amounts necessary for administration and supportive services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§130. Preagreement Costs**

Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§131. Bonding**

Every officer, director, agent or employee of a service delivery area grant subrecipient of JTPA funds on a cash advance basis, who is authorized to act on behalf of a service delivery area grant recipient for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks or other instruments of payment for program costs shall be bonded to provide protection against loss. The amount of coverage shall be the lower of the following:

1. \$50,000; or

2. the highest advance through check or drawdown planned during the contract/subgrant period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.



HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§133. Professional, Personal, and Consultant Services**

A. Contracts for professional, personal, and consultant services are allowable with prior written approval of the recipient and in accordance with procedures established by the recipient. Approval must be obtained annually.

B. The costs of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the costs of studies performed by agencies or individuals other than the recipient are allowable only with prior written approval of the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended LR 18:372 (April 1992), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§135. Funds for Cooperative Agreements**

AUTHORITY NOTE: Promulgated in accordance R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§137. Contents of Cooperative Agreement**

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§139. Deobligation of State Education Cooperative Agreement Funds**

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§141. Redesignation of Service Delivery Area Grant Recipient**

Petitions for redesignation of a service delivery area must be filed with the governor no later than six months before the beginning of the ensuing program year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§143. Maintenance of Document**

The original documents must be maintained unless prior approval from the recipient has been granted to substitute microfilm or similar methods in lieu thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§145. Modification/Amendment of Service Delivery Area Job Training Plan**

A. The approved two-year job training plan may be changed in two ways: by modification and by amendment.

B. A plan modification is a revision of the approved job training plan which requires PIC-CEO approval and is subject to the requirement of Section 104 and 105 of the act. Summaries of plan modifications must be published for public review and comment no later than 80 days prior to the effective date of the modification. In accordance with Section 104(C) a service delivery area must modify its Job Training Plan when one or more of the following occur:

1. a significant change in labor market or other conditions occurs that would have an adverse impact on its performance;
2. change in grant recipient or administrative entity;
3. change in the geographic area served;
4. a change in funding of more than 20 percent of the annual allocation;
5. obligation of Title II allocations for the second year of the two-year plan period;
6. any other factors which require modification shall be at the discretion of the governor;

C. A plan amendment is a minor adjustment to the approved job training plan. There is no publication requirement, however PIC/CEO approval is required. A plan amendment must be submitted via a cover letter explaining the amendment and should be signed by the PIC chairperson and CEO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### **§147. Participant Rights and Benefits**

Each service delivery area grant recipient and its subrecipients shall inform each participant of his rights and benefits at the time of enrollment into any activity under the act and shall require each participant to sign a statement that he has been advised of his rights and benefits. This signed statement shall become a permanent part of each participant's official record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).



#### **§148. Payments to OJT Employers, Training Institutions, and Other Vendors**

Payments to On-the-Job Training employers, training institutions and other vendors are allowable and should be made in accordance with applicable sections of the JTPA federal regulations and any procedures established by the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§149. Grievance Procedure**

Each service delivery area grant recipient and its subrecipients shall adopt a procedure for resolving any grievance including those alleging a violation of the act, federal or state regulations, or other agreements under the act. These procedures shall be in compliance with 20 CFR Part 627 Subpart E and shall be made a part of the service delivery area Job Training Plan. All grievance procedures shall provide for the exhaustion of remedies provided therein before appeal to the governor for review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§151. Non-discrimination Procedure**

Service delivery area grant recipients and its subrecipients shall comply with the applicable requirements of 29 CFR 31, 32 and 34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§153. Participant Supportive Services**

Participant supportive services, needs-based payments, cash incentive payments and bonuses to youth enrolled in Title II-C, and financial assistance are allowable and should be made in accordance with applicable sections of the JTPA Federal Regulations and procedures established by the recipient. Needs-based payments shall be determined in accordance with a locally developed formula or procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§155. Conditional Approval of Job Training Plan**

In order to expedite program operations the governor may, at his option, grant partial or conditional approval to a service delivery area Job Training Plan. Such approval will spell out the parameters within which the Job Training Plan may operate and the revision necessary for final approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repromulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§157. Duplication of Services**

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:334 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repealed by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§159. Administrative Cost Pooling**

Funds for the administration of programs under the act within the service delivery area may be pooled pursuant to §627.440(f) of the regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§161. Statewide Management Information System**

Each service delivery area grant recipient will be responsible for maintaining a client tracking and management information system that will interface required data with the Louisiana Department of Labor statewide automated system established for JTPA purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### **§163. Prevention of Fraud and Program Abuse**

A. To ensure integrity of programs under the act, special efforts are necessary to prevent fraud and other program abuses. Fraud includes deceitful practices and intentional misconduct, such as willful misrepresentation in accounting for use of program funds. "Abuse" is a general term which encompasses improper conduct which may or may not be fraudulent in nature. While any violation of the Act or regulations may constitute fraud or program abuse, this rule identifies and addresses specific areas which need clarification.

B. This rule sets forth specific responsibilities of recipients, service delivery area grant recipients and subrecipients to prevent fraud and program abuse in JTPA.

##### **C. Conflict of Interest**

1. In addition to the standards set forth below, the State Code of Governmental Ethics contains restrictions concerning conflicts of interest. Any issues regarding the State Code of Governmental Ethics should be brought before the Commission of Ethics for Public Employees.

a. No member of any council under the act shall cast a vote on the provision of services by that member or any organization which that member directly represents or any

matter which would provide direct financial benefit to that member. Caution must be exercised by members to insure that council action does not render the member in violation of R.S. 42:1112, which under certain circumstances may require members to cure the conflict of interest through resignation.

b. Each recipient, service delivery area grant recipient and subrecipients shall avoid personal conflict of interest and appearance of conflict of interest in awarding financial assistance and in the conduct of procurement activities involving funds under the act.

c. Neither the recipient, any service delivery area grant recipient nor subrecipients shall pay funds under the act to any individual, institution, or organization to conduct an evaluation of any program under the act if such individual, institution, or organization is associated with that program as a consultant or technical advisor.

D. Kickbacks. No officer, employee, or agent of the recipient, service delivery area grant recipient or subrecipients shall solicit or accept gratuities, favors, or anything of monetary value from any actual or potential subrecipient.

E. Commingling of Funds. The recipient, service delivery area grant recipients and subrecipients shall comply with the applicable requirements of 29 CFR 97.21(h) and R.S. 49:321.

F. Nepotism. The State Code of Governmental Ethics contains restrictions against the hiring of certain family members. Questions regarding the hiring of family members should be referred to the Commission on Ethics for Public Employees.

G. Child Labor. The recipient, service delivery area grant recipients and subrecipients shall comply with applicable federal, state and local child labor laws.

#### H. Political Patronage

1. Neither the recipient, service delivery area grant recipients, nor any subrecipients may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage whether or not political services is partisan in nature, is prohibited.

2. There shall be no selection of subrecipients based on political patronage or affiliation.

#### I. Political Activities

1. No program under the act may involve political activities, including but not limited to:

a. No participant may engage in partisan or non-partisan political activities during hours for which the participant is paid with JTPA funds;

b. No participant may, at any time, engage in partisan political activities in which such participant represents himself/herself as spokesperson of the JTPA program;

c. No participant may be employed or outstationed in the office of a member of Congress or a state or local legislator or on any staff of a legislative committee.

d. No participant may be employed or outstationed in positions involving political activities in the offices of other elected executive officials. However, since under the responsibility of such elected officials are non-political activities, placement of participants in such non-political positions is permissible. Service delivery area grant recipients

and subrecipients shall develop safeguards to ensure that participants placed in these positions are not involved in political activities. These safeguards will be subject to review and monitoring.

2. Persons governed by Chapter 15 of Title 5, United States Code, the Hatch Act, shall comply with its provisions as interpreted by the United States Office of Personnel Management. These provisions apply:

a. to persons (including participants) employed by state and local government in the administration of the JTPA program; and

b. generally to any participant whose principal employment is in connection with an activity financed by other federal grants or loans.

J. Lobbying Activities. No funds provided under the Act may be used in any way:

a. to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress;

b. to attempt to influence in any manner state or local legislators to favor or oppose any legislation or appropriation by such legislators. Communications and consultation with state and local legislators for purposes of providing information such as on matters necessary to provide compliance with the Act shall not be considered lobbying.

K. Sectarian Activities. The Act provides the following prohibitions regarding sectarian activity:

a. participants shall not be employed on the construction, operation or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship; and

b. participants shall not be involved, nor JTPA funds expended, for religious or anti-religious activities.

L. Unionization and Antiunionization Activities/Work Stoppages

1. No funds under the act shall be used in any way to assist, promote or oppose unionization.

2. No individual shall be required to join a union as a condition for enrollment in a program in which only institutional training is provided, unless such institutional training involves individuals employed under a collective bargaining agreement which contains a union security provision.

3. No participant in work experience may be placed into, or remain working in any position which is affected by labor disputes involving a work stoppage. If such a work stoppage occurs during the grant period, participants in affected positions must:

a. be relocated to positions not affected by the dispute;

b. be suspended through administrative leave; and

c. where participants belong to the labor union involved in the work stoppage, be treated in the same manner as any other union member except such members must not remain working in the affected position. The grantee shall make every effort to relocate participants, who wish to remain working, into suitable positions unaffected by the work stoppage.

4. No person shall be referred to or placed in an on-the-job training position affected by a labor dispute

involving a work stoppage and no payments may be made to employers for the training and employment of participants in on-the-job training during the periods of work stoppage.

5. Nothing in this Section shall prevent an employer from checking off union dues or service fees pursuant to applicable collective bargaining agreements or state law.

6. No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

7. No program under this act shall impair existing contracts for services or existing collective bargaining agreements, unless the employer and the labor organization concur in writing with respect to any elements of the proposed activities which affect such agreement, or either such party fails to respond to written notification requesting its concurrence within 30 days of receipt thereof.

8. No participant shall be employed or job openings filled when any other individual is on layoff from the same or any substantially equivalent job, or when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

9. No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

#### M. Maintenance of Effort

1. To ensure maintenance of effort under all programs under the act, the recipient, service delivery area grant recipients and subrecipients shall ensure that such programs:

a. result in an increase in employment and training opportunities over those which would otherwise be available.

b. do not result in the displacement of currently employed workers including partial displacement, such as reduction in hours of nonovertime work, wages, or employment benefits.

c. do not impair existing contracts for services or result in the substitution of federal funds for other funds in connection with work that would otherwise be performed including services normally provided by temporary, part-time or seasonal workers or through contracting such services out; and

d. result in the creation of jobs that are in addition to those that would be funded in the absence of assistance under the act.

2. Funds under this act shall supplement, and not supplant, the level of funds that would otherwise be made available from non-federal sources for the planning and administration of programs.

N. Responsibilities of Service Delivery Area Grant Recipients and Subrecipients for Preventing Fraud and Program Abuse and for General Program Management General Requirements. Each service delivery area grant recipient and subrecipients shall establish and use internal program management procedures sufficient to prevent fraud and program abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 9:335 (May 1983), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### §165. Governor's Responsibility

The governor or his designee reserves the right to issue directives, instructions, or other issuances to the Service Delivery Area (SDA) grant recipients, administrative entities and other subrecipients in order to carry out his responsibility as required by the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:456 (July 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repromulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### §167. CETA Property

All existing nonexpendable Comprehensive Employment and Training Act (CETA) property with an acquisition cost of less than \$1,000 per unit may be used by the possessing recipient, SDA grant recipient, administrative entity, or state agency holding title, to satisfy the matching requirements of the act in accordance with the definition of "Matching Funds for Eight Percent Programs" found in §101 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:456 (July 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### §169. Occupational Demand

Except as otherwise provided, training provided with funds made available under this act shall be only for occupations for which there is a demand in the area served, or in other areas to which the participant is willing to relocate.

All contracts that are being funded by JTPA money where the intent of the contract is placement shall have performance goals including placement goals incorporated in that contract unless otherwise specified by the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:917 (November 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), repromulgated by the Department of Labor, Office of Labor, LR 19: (July 1993).

#### §171. Labor Organizations

Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this act, an opportunity shall be provided for such organization to submit comments with respect to such proposals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:917 (November 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

### §173. Deadlines

Not less than 120 days before the beginning of the first of the two program years covered by the JTPA Plan:

1. the proposed plan or summary thereof shall be published; and
2. such plan shall be made available for review and comment to:

- a. each house of the Legislature;
- b. local educational and public agencies; and
- c. the labor organization in the area which represents employees having the skills in which training is proposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2022.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 10:917 (November 1984), repealed and repromulgated by the Department of Employment and Training, Office of Labor, LR 17:357 (April 1991), amended by the Department of Labor, Office of Labor, LR 19: (July 1993).

Gayle F. Truly  
Secretary

## DECLARATION OF EMERGENCY

### Department of Labor Office of Workers' Compensation

#### Insurance Cost Containment (LAC 40:I.Chapter 11)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 et seq. and R.S. 23:1291, the director of the Office of Workers' Compensation has determined that because of the increased costs of workers' compensation insurance; the economic and social loss, and impairment of productivity caused by occupational accidents, there exists imminent peril to the public health safety and welfare and it is necessary that the Office of Workers' Compensation adopt the following rule.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part I. Workers' Compensation Administration

#### Chapter 11. Workers' Compensation Insurance Cost Containment Rules

\* \* \*

### §1106. Experience Modifier Rates

A. An employers' eligibility shall be based on its experience modifier rate of December 31 of the prior year.

B. The incentive discount provided in L.S.A. R.S. 23:1178(c) shall be based on the employers next effective experience modifier rate after December 31 of the prior year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 19:

The effective date of this rule is upon publication.

Alvin J. Walsh  
Director

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Office of the State Police Riverboat Gaming Division

Riverboat Gaming License, Permit, Compliance, Inspections and Investigations (LAC 42:XIII.Chapters 17-23)

In accordance with R.S. 49:953(B), the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to riverboat gaming. This emergency rule becomes effective July 6, 1993 and hereby repeals and replaces the prior emergency rule made effective April 5, 1993 and published in the April, 1993 *Louisiana Register*, pages 473-485. This emergency rule shall remain in effect for 120 days or until final rule promulgation takes effect, whichever is shortest.

The state of Louisiana is experiencing a serious projected budgetary deficit and is in need of generating new revenue and enlarging its economic development base. The Louisiana Riverboat Economic Development and Gaming Control Act was passed in an effort to realize a new source of revenue without raising taxes on the general citizenry of Louisiana.

Currently, millions of dollars are leaving the state of Louisiana and are being spent on the Mississippi gulf coast in that state's riverboat gaming casinos. Additional riverboat casinos are beginning operations along the Mississippi gulf coast at the rate of one per month. A total of approximately fifteen riverboat casinos are currently planned for the Mississippi gulf coast approximately 60 miles from New Orleans. As a result, the state of Mississippi is experiencing tremendous economic growth and is collecting gaming revenues and fees that should be staying in Louisiana. In addition, thousands of out-of-state tourists are opting to make areas outside of Louisiana their travel destination because of the availability of legalized gaming in those jurisdictions.

The division further determines that unless immediate rule action is taken by the division, those companies which are presently willing to invest millions of dollars in Louisiana and provide thousands of jobs to Louisiana residents will decide to invest their resources in other jurisdictions which presently offer riverboat gaming or will have authorized riverboat gaming in the near future.

The division also finds that many state programs which would be or could be providing critical medical, health, social, and educational services to the citizens of Louisiana could be funded by revenues received by the state from implementation of riverboat gaming operations. Until riverboats are licensed and gaming activity has commenced, no revenue from this source can be realized.

Any unnecessary delay in the promulgation of Riverboat Gaming Division rules will seriously delay the collection of application fees for licenses, permits and certificates of suitability approval, thereby adversely impacting the division's ability to meet and deliberate the approval of the forthcoming rules for application and licensing of riverboat operations.

As a result of the above findings, the Riverboat Gaming Division hereby adopts the following revised emergency rule:

**Title 42**

**LOUISIANA GAMING**

**PART XIII. RIVERBOAT GAMING**

**Subpart 2. State Police Riverboat Gaming Division**

**Chapter 17. General Provisions**

**§1701. Definitions**

As used in the regulations, the following terms have the meanings described below:

*Act*—the Louisiana Riverboat Economic Development and Gaming Control Act.

*Administrative Approval*—the authority conferred upon the division by any regulation or by a condition imposed on a license or permit to grant or deny, in their individual discretion, a request for approval of a proposed action or transaction.

*Administrative Decision*—the final action, decision, order or disposition by the division directed toward a request for administrative approval.

*Agent*—any commissioned Louisiana state police trooper or designated employee of the Louisiana State Police, Riverboat Gaming Enforcement Division.

*Applicant*—a person who has submitted an application to the division seeking a license or permit, or the renewal thereof.

*Applicant Records*—those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished to or obtained by the division from any source incidental to an investigation for licensure, findings of suitability, registration, or other affirmative approval.

*Application*—the forms and schedules prescribed by the division upon which an applicant seeks a license or permit or the renewal thereof. Application also includes information, disclosure statements, and financial statements submitted by an applicant as part of an application.

*Architectural Plans and Specifications or Architectural Plans or Plans or Specifications*—all of the plans, drawings, and specifications for the construction, furnishing, and equipping of a riverboat, including, but not limited to, detailed specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the component parts of the vessel, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers. *Architectural Plans and Specifications* does not include *FF&E*, as defined in this Chapter.

*Associated Equipment*—any gaming device which does not affect the outcome of the game, except as otherwise provided in these regulations.

*Berth*—a location where a riverboat is or will be authorized to dock as provided in the act and regulations.

*Business Year*—the annual period used by a licensee for internal accounting purposes as defined and approved by the division.

*Candidate*—any person whom the division believes should be placed on the list of excluded persons.

*Certification Fees*—the fees charged by commission or division incidental to the certification of documents.

*Certified Electronic Technician*—qualified service personnel trained by a manufacturer, distributor, or other qualified entity, or through training programs approved by the division, who are capable of performing any repairs, parts replacements, maintenance, and other matters relating to servicing of devices.

*Chairman*—the chairman of the Louisiana Riverboat Gaming Commission.

*Chip*—a non-metal or partly metal representative of value, redeemable for cash, and issued and sold by a licensee for use at the licensee's gaming establishment.

*Commission*—the Louisiana Riverboat Gaming Commission.

*Component*—any substantial or tangible part of a riverboat that must be built or made to complete construction of the riverboat or that must be modified for installation or use in or on the riverboat, including but not limited to engines, motors, boilers, generators, electrical systems and wiring, plumbing systems and apparatus, heating and cooling systems, custom-made furniture and fixtures. *Component* does not include *FF&E* as defined this Chapter.

*Confidential Record*—any paper, document or other record or data reduced to a record which is not open to public inspection.

*Day*—as used in these regulations shall mean a calendar day.

*Designated Gaming Area*—that portion of a riverboat in which gaming activities may be conducted. Such designated gaming area shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser.

*Designated Representative*—a person designated by the licensee to oversee and assume responsibility for the operation of the licensee's gaming business.

*Designated River or Waterway*—those rivers or bodies of water listed in R.S. 4:503 with amendment upon which gaming activities may be conducted.

*Disciplinary Action*—any action undertaken by the division which includes the assessment of a fine, fee, or an action which condition, restrict, or otherwise limit a license or permit issued by the division.

*Distributor*—any person that sells, leases, markets, offers or otherwise distributes associated equipment in this state for use by licensees.

*Division*—the Riverboat Gaming Enforcement Division of the Gaming Enforcement Section of the Office of State Police, Department of Public Safety and Corrections.

*Division Surveillance Room*—a room or rooms on each riverboat for the exclusive use of division agents.

*Dock or Docking*—to lower the gangplank to a pier or shore or to anchor a riverboat at a pier or shore, or both. The term also means the place where docking occurs and where one or more berths may be located.

*Drop*—

a. for table games, the total amount of money, chips, and tokens contained in the drop boxes.

b. for slot machines, the total amount of money and tokens removed from the drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

**Duplication Fees**—a charge for duplicating documents for release to the requesting person.

**Economic Interest or Interest**—any interest in a license or licensee whereby a person directly receives or is entitled to directly receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit.

**Electronic Fund Transfer**—any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

**Electronic Gaming Device**—any mechanical or electrical device or machine which upon payment of consideration is available to play or operate, operation of which, whether by reason of the skill of the operator, or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive premiums, merchandise, tokens, redeemable game credits or anything of value other than unredeemable free games whether the payoff is made automatically from the machines or in any other manner.

**Employee Permit or Gaming Employee Permit**—the permit of a person employed in the operation or supervision of a gaming activity on a riverboat and includes pit bosses, floormen, boxmen, dealers or croupiers, machine mechanics, designated gaming area security employees, count room personnel, cage personnel, slot machine and slot booth personnel, credit and collection personnel, casino surveillance personnel, and supervisory employees empowered to make discretionary decisions that regulate gaming activities, including shift bosses, credit executives, casino cashier supervisors, gaming managers and assistant managers, and any individual, other than nongaming equipment maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries, whose employment duties require or authorize access to designated gaming areas.

**Entertainment Fee**—a fee assessed by the state for each passenger boarding a riverboat.

**Excluded List**—a list or lists which contain identities of persons who are to be excluded or ejected from any licensed gaming operation pursuant to the act.

**Excluded Person**—any person who has been placed on the list of excluded persons by the division and who has failed to timely request a hearing or who remains on the list after a final determination.

**Excursion**—that period of time when a riverboat is away from its approved berth or is embarking or disembarking passengers at its approved berth.

**FF&E (Furniture, Fixtures and Equipment)**—any part of a riverboat that may be installed or put into use as purchased from a manufacturer, wholesaler, or retailer, including but not limited to gaming devices, television cameras, television monitors, computer systems, computer programs, computers,

computer printers, ready made furniture and fixtures, appliances, accessories, and all other similar kinds of equipment and furnishings.

**Financial Records**—those records which relate to the finances, earnings, or revenue of an applicant, licensee, registered company, or person to whom any approval has been granted.

**Fiscal Year**—a period beginning July 1 and ending June 30 the following year.

**Game**—any banking or percentage game which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value. *Game* does not include lottery, bingo, pull tabs, raffles, electronic video bingo, cable television bingo, dog race wagering, or any wagering on any type of sports event, including, but not limited to, football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event. *Game* shall also include racehorse wagering.

**Gaming Activities or Gaming Operations**—the use, operation, or conducting of any game or gaming device upon a riverboat.

**Gaming Device or Gaming Equipment**—any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine, including an electronic gaming device, used directly or indirectly in connection with gaming or any game, which affects the result of a wager by determining wins or losses.

**Game Outcome**—the final result of the wager.

**Gaming Operator or Licensee**—any person holding or applying for a gaming license to conduct gaming activities.

**Hearing**—a proceeding conducted by or at the direction of the division, and includes formal proceedings conducted by a hearing officer at the request of the division to determine issues of fact or law and take such other action as authorized and provided in the act or regulations.

**Hearing Officer**—an agent of the division, appointed by the supervisor to conduct a hearing, who has the following qualifications:

- a. must be at least 21 years of age;
- b. must have a working knowledge of the act and the regulations; and
- c. such other qualifications as required by the division.

**Inspection**—periodic surveillance and observation by the division of operations conducted by a licensee or permittee, which surveillance and observation may or may not be made known to the licensee or permittee.

**Internal Control System**—internal procedures and administration and accounting controls designed by the licensee and approved by the division, for the purpose of exercising control over the gaming operations.

**Investigation**—a fact-finding process conducted by the division.

**Key Gaming Employee**—any individual who is employed in a managerial or supervisory capacity, or whose decisions and activities have a significant input on the day-to-day operation of a gaming establishment.

**License or Gaming License**—a license or authorization to conduct gaming activities on a riverboat issued pursuant to the act.

**Manufacturer**—is any person that manufactures, assembles, produces, or programs any gaming device for use or play in this state.

**Material**—that which is important; necessary, or relative to the matter at hand and is so substantial as to influence consideration.

**Meeting**—a gathering of the commission pursuant to a valid call at which a quorum is present for the purpose of deliberating toward a decision or making a decision. The term includes, but is not limited to the consideration of appeals taken from decisions of the division concerning license or permit applications, transfer of interest, issues involving matters of taxation, fees, charges and/or penalties, disciplinary proceedings, and exclusion list proceedings.

**Net Gaming Proceeds**—the total of all cash and property (including checks whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out as winnings to patrons.

**New Construction**—a riverboat upon which construction is commenced on or after January 1, 1992.

**Operation**—a licensed riverboat gaming operation or the operation of a manufacturer or supplier pursuant to the issuance of a permit or the operation of racehorse wagering pursuant to the issuance of a permit under the act.

**Operator's License**—a riverboat gaming operator's license.

**Passenger**—a natural person who is present on a riverboat but has no part in the vessel's operation.

**Patron**—an individual who is at least 21 years of age and who has lawfully placed a wager in an authorized game on a riverboat.

**Payout**—winnings earned on a wager.

**Permit**—any permit or authorization or application therefor issued pursuant to the act other than a gaming license.

**Permittee**—any employee, agent, person, or entity who is issued or applying for a permit pursuant to the act.

**Person**—an individual, partnership, corporation, unincorporated association, or other legal entity.

**Premises**—land, together with all buildings, vessels, improvements, and personal property located thereon.

**Public Record**—any paper, document, or other record required to be kept or necessary to be kept, in the discharge of a duty imposed by law, not declared confidential by statute or regulation.

**Randomness**—the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

**Records**—accounts, correspondence, memorandums, tapes, disks, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

**Regulations**—the riverboat gaming regulations promulgated pursuant to the act.

**Renewal Applicant**—a person who has filed any part of an application for renewal of any license or permit authorized by the act.

**Renewal Application**—all of the information, documents, forms, and materials required by the act and regulations to be

filed with the division to renew any license or permit authorized by the act.

**Riverboat**—a vessel that carries a valid certificate of inspection issued by the United States Coast Guard with regard to the carriage of passengers on designated rivers or waterways within or contiguous to the boundaries of the state of Louisiana, carries a valid certificate of inspection from the United States Coast Guard for the carriage of a minimum of 600 passengers and crew, has a minimum length of 150 feet, is of such type and design so as to replicate as nearly as practicable historic Louisiana river borne steamboat passenger vessels of the 19th Century era, and is paddlewheel driven. A riverboat as defined herein is not required to be steam propelled or maintain overnight facilities for its passengers.

**Riverboat Operator**—an owner and/or operator of a riverboat.

**Route**—the path of one or more riverboats moving continuously on designated rivers and waterways as permitted or authorized by the commission.

**Statements On Auditing Standards**—the auditing standards and procedures published by the American Institute of Certified Public Accountants.

**Supervisor**—the individual in charge of the division.

**Supplier**—any person that sells, leases, markets, offers, or otherwise distributes any gaming device for use or play in this state or sells, leases, or otherwise distributes any gaming device from a location within this state.

**Suitability Certificate**—an approval on authority issued by the division. *Certificate* shall also mean the document or writing issued by the division as evidence of the approval or authority granted.

**Token**—a metal representative of value, redeemable for cash, and issued and sold by a licensee for use in electronic gaming devices, table games or counter games at the licensee's gaming establishment.

**Wager**—a sum of money or thing of value risked on a game.

**Win**—the total of all cash and property (including checks received by a licensee, whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out a winnings to patrons.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

## **Chapter 19. Administrative Procedures and Authority**

### **§1901. Issuance and Construction of Regulations and Administrative Matters**

**A. Division Rules and Regulations; Promulgation; Commission Approval**

1. The division shall submit any proposed regulation to the commission prior to promulgation of the regulation.

2. The commission may reject any regulation submitted by the division. Upon rejection of a regulation by the commission, said regulation shall not be promulgated by the division.



3. Upon commission acceptance of a regulation submitted by the division, the regulation may then be promulgated in accordance with the Administrative Procedure Act.

**B. Construction of Regulations; Severability**

Nothing contained in these regulations shall be so construed as to conflict with any provision of the act or any other applicable statute. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

**C. Definitions, Captions, Pronouns, and Gender**

The terms defined in the act have the same meaning in the regulations as they have in the act, unless the context otherwise requires. Captions appearing at the beginning of regulations are descriptive only, are for convenient reference to the regulations and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or the use of neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice-versa, in any place or places in the regulations where the context requires such substitution.

**D. Establishment of Committees**

The supervisor may at his discretion appoint committees to study and report to the division on any matter appropriate to the division's administration of the act and the regulations.

**E. Review of Administrative Decisions**

Any licensee or permittee adversely affected by an administrative decision of the division may submit the matter for review to the commission or to the 19th Judicial District Court, as provided in the act.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

**Chapter 21. Licenses and Permits**

**§2101. General Authority of the Division**

The division shall have the authority to call forth any person who, in the division's opinion, exercises influence over a licensee, permittee or the riverboat gaming industry, and such person shall be subject to all suitability requirements. In the event a person is required by the division to obtain a license, permit or certificate of suitability and such license, permit or certificate is denied, then the licensee and/or permittee shall cease connection with such person(s).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

**§2103. Applications in General**

Any license, permit, or certificate of suitability issued by the division is deemed to be a revocable privilege, and no person holding such a license, permit or certificate is deemed to have acquired any vested rights therein. An applicant for a riverboat gaming license, permit or certificate of suitability authorized by the act and/or these regulations, is seeking the granting of a privilege, and the burden of proving his qualification to receive the license, permit or certificate is at

all times on the applicant. An applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the division. The filing of an application under the act and the regulations constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with the riverboat gaming industry, and by filing an application, the applicant specifically consents to the making of such a decision by the division.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

**§2105. Investigations**

The division shall investigate all applications for a license, permit, certificate of suitability or other matters requiring division approval. The division may investigate, without limitation, the background of the applicant, the suitability of the applicant, the suitability of the applicant's finances, the applicant's business probity, the suitability of the proposed premises for gaming, and the proposed establishment's compliance with all applicable federal, state, and local laws and regulations.

**HISTORICAL NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

**§2107. Applicants in General; Restrictions**

The securing of a license or permit required under the act is a prerequisite for conducting, operating, or performing any activity regulated by the act. Each applicant must file a complete application.

1. Except as provided herein, if the applicant is a general partnership or joint venture, each individual partner and joint venturer must file a complete application.

2. If the applicant is a corporation, each officer and director of the corporation must file a personal history form. Any shareholder with five percent or more of the corporation must file a completed personal history form, and if such shareholder is another corporation or partnership, each corporate officer and director who is involved in gaming or each person holding five percent or more economic interest in the partnership must file a personal history form.

3. If the applicant is a limited partnership, the general partner and each limited partner having five percent or more interest must file a complete application.

4. If the applicant is a limited liability company, pursuant to Louisiana R.S. 12:1301 et seq., each officer or manager of the company must file a personal history form. Any member of five percent or more of the company must file a personal history form, and if such member is another corporation or partnership, each corporate officer and director who has an involvement in gaming or each partner holding five percent or more economic interest must file a personal history form.

5. If the applicant is a registered limited liability partnership, pursuant to Louisiana R.S. 9:3431 et seq., the managing partner and each partner having five percent or more interest must file a personal history form.

6. A personal history form may be required to be filed by any person who is shown by a preponderance of evidence to:

- a. have influence over the operation of gaming on a riverboat or riverboats;
- b. receive any share or portion of the gaming money or property won by the operator of gaming on a riverboat; or
- c. receive compensation or remuneration in excess of \$50,000 per annum (as an employee of a licensee or in exchange for any service or thing) provided to the licensee on a riverboat; or
- d. be a lessor or provider of goods or services; or
- e. have any contractual agreement with a licensee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2109. Management Agreement**

The riverboat gaming license shall be in the name of the gaming operator. Said gaming operator, vessel owner and/or operator, owner and/or operator of onshore facilities, officer or director, or any person having a five percent or more interest in such entity shall be required to obtain a suitability certificate. All costs associated with conducting a background for suitability of the vessel owner, owner and/or operator of onshore facilities, officer or director, or any person having a five percent or more interest in such entity, shall be borne by said individuals, up to a maximum of \$10,000. The riverboat owner and/or operator shall submit all plans and specifications of the vessel and his qualifications, including a statement of maritime experience as a riverboat operator.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2111. License or Permit Disqualification Criteria**

The division shall not award a license or permit to any person who is disqualified on the basis of any of the following criteria:

1. failure of the applicant to prove by clear and convincing evidence that he is qualified in accordance with the provisions of the act.
2. failure of the applicant to prove by clear and convincing evidence that he is qualified in accordance with the provisions of these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2113. Gaming Operator License and Permits; Suitability**

A. No person shall be eligible to receive a license to conduct gaming operations on a riverboat or any license or

permit issued pursuant to the provisions of the act or these regulations unless the division finds that:

1. the applicant is a person of good character, honesty, and integrity.
2. the applicant is a person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

B. In addition to meeting the above requirement's, no person shall be issued a license to conduct gaming operations unless the division finds that:

1. the applicant is capable of conducting gaming operations, which means that the applicant can demonstrate the capability, either through training, education, business experience, or a combination of the above to operate a gaming casino.

2. the proposed financing of the riverboat and the gaming operations is adequate for the nature of the proposed operation and from a source suitable and acceptable to the division.

3. the applicant has demonstrated a proven ability to operate a vessel of comparable size and capacity and of comparable complexity to a riverboat so as to ensure the safety of its passengers as set forth in the commission regulations.

4. the applicant has submitted a detailed plan of design of the riverboat.

5. the applicant has shown adequate financial ability to construct and maintain a riverboat.

6. the applicant has designated the docking facilities to be used by the riverboat.

7. the applicant has a good-faith plan to recruit, train, and upgrade minorities in all employment classifications.

8. the applicant has a plan to provide the maximum practical opportunities for participation by the broadest number of minority-owned businesses.

9. the applicant is a Louisiana corporation, partnership, limited liability company, or a registered limited liability partnership licensed to conduct business in the state of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2115. Tax Clearances**

No person will be employed by the licensee who is not current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and items for which the department of revenue and taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2117. Certification Required**

Before any riverboat may be operated under the authority of the act, the applicant or, if the application has been approved, the licensed operator, must provide to the division evidence that the riverboat has been certified by the United States Coast Guard for carriage of passengers on navigable rivers, lakes, and bayous as provided by the act and has been authorized by the United States Coast Guard to carry a minimum total of 600 passengers and crew. In addition, the applicant or operator must document compliance with all applicable federal, state and local laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2119. Single Operator's License**

One license to operate riverboat gaming will be issued for each riverboat with a designated gaming area, even though multiple individuals may file or be required to file applications related thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2121. Form of Application**

Applications must be filed by way of forms prescribed by and obtained from the division. Such forms shall include, but not be limited to:

1. a history record regarding the background for the ten-year period preceding submission of the application, unless otherwise extended by the supervisor;
2. a financial statement;
3. a statement disclosing the nature, source, and amount of any financing, the proposed uses of all available funds, the amount of funds available after opening for the actual operation of the riverboat, and economic projections for the first three years of operation of the riverboat;
4. an affidavit of full disclosure, signed by the applicant;
5. an authorization to release information to the division and commission, signed by the applicant;
6. a standard bank confirmation form, signed by the applicant;
7. a release of all claims, signed by the applicant;
8. in addition, the division may require an applicant to provide such other information and details as it needs to discharge its duties properly. Failure to supply any information within the prescribed time periods, after receiving the division's or the commission's request, may constitute grounds for delaying consideration of the application and/or constitutes grounds for denial of the application; and
9. security statement explaining the type of security procedures, practices, and personnel to be utilized by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2123. Additional Application Information Required**

Every operator's application shall contain the following additional information including but not limited to:

1. two copies of detailed plans of design of the riverboat, including a layout of each deck stating the projected use of each area;
2. a statement that the vessel is or shall be certified by the United States Coast Guard;
3. the proposed route to be followed;
4. the total estimated cost of construction of the riverboat and shore and dock facilities, proposed by this application, distinguishing between known costs and projections, and shall separately identify:
  - a. facility design expense;
  - b. land acquisition or site lease costs;
  - c. site preparation costs;
  - d. construction cost or renovation cost;
  - e. equipment acquisition cost;
  - f. cost of interim financing;
  - g. organization, administrative and legal expenses;
  - h. projected permanent financing costs.
5. the construction schedule proposed for completion of the riverboat; including therein a projected date of completion. Indicate whether the construction contract includes a performance bond;
6. explanation and identification of the source or sources of funds for the construction of the riverboat;
7. description of the casino size and approximate configuration of slot machines, video games of chance and table games;
8. the adequacy of security enforcement on the riverboat;
9. the type of slot machines and video games of chance to be used; also, indicate the proposed distributors and manufacturers of this equipment;
10. riverboat days and periods of time that the gaming area will be in operation; and
11. the proposed management of the facility, management personnel by function and organizational chart by position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2125. Access to Applicants Premises and Records**

Each applicant shall upon request immediately make available for inspection by the division or agents of the division, all papers, books and records used, or to be used, in the licensed or permitted operation. The division, or any agent of the division, or a commissioner, or agent of the commission shall be given immediate access to any portion of the premises of any riverboat or premises of a manufacturer or supplier for the purpose of inspecting or examining any records or documents required to be kept under the provisions of the act and the regulations and any gaming device or equipment or the conduct of any gaming activity. Access to the areas and records that may be inspected or examined by the division, division agents, commissioners or their agents

must be granted to any such individual who displays division or commission credentials.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2127. Information Constituting Grounds for Delay or Denial of Application; Amendments**

A. It is grounds for denial of the application or disciplinary action for any person to make any untrue statement of material fact in any application, or in any statement or report filed with the division or commission, or willfully to omit in any such application, statement or report, any material fact which is required to be stated therein, or which is necessary to make the facts stated not misleading.

B. All information included in an application must be true and complete to the best of the applicant's knowledge, and in the opinion of the division as of the date submitted. An applicant shall immediately supply by amendment any new information based on facts occurring after the original application.

C. An application may be amended upon approval of the supervisor. An amendment to an application may have the effect of establishing the date of such amendment as the filing date of the application with respect to the time requirements for action on the application. Request for amendment to an application must be in writing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2129. Other Considerations for Licensing**

Sections 2129 through 2137 set forth criteria which the division may consider when deciding whether to issue a license to conduct riverboat gaming. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of an application for a license. The following criteria are not listed in order of priority.

1. Proper financing. The division may consider whether the proposed riverboat is properly financed.

2. Adequate security. The division may consider whether the proposed riverboat is planned in a manner which provides adequate security for all aspects of its operation and for the people working, visiting, or traveling on the riverboat.

3. Character and reputation. The division may consider the character and reputation of all persons identified with the ownership and operation of the riverboat, and their capability to comply with the regulations of the division, regulations of the commission, and the provisions of the act.

4. Miscellaneous. The division may consider such other factors as may arise in the circumstances presented by a particular application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2131. Timetable for Financing and Construction**

In conjunction with an affiant's submission of its completed application, an applicant shall submit a timetable for financing arrangements, commencement and completion of construction activities and set forth the date upon which gaming activities will begin. This timetable will be subject to approval by the division, and monitored for compliance by the supervisor. It shall be required that within 24 months from the date of the granting of a license, or the commission's certificate of approval, whichever is later, that a riverboat commences gaming operations. Upon the recommendation of the division, an extension of time may be granted.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2133. Filing of Application**

Each application, including renewal applications, must be filed within the time periods, if any, as prescribed in the act. An application is deemed filed with the division when the application form has been received by the division, as evidenced by a signed receipt.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2135. Completeness of Application**

Upon receipt of an application for a riverboat gaming license, the division shall, within seven days, make an initial determination as to the reasonable completeness of the application and shall notify the applicant in writing within said seven days of the determination. If the initial examination determines the application to be incomplete, the notice to the applicant shall set forth in summary terms the reasons thereof.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2137. Fingerprinting**

No application, including a renewal application, is complete unless the applicant has submitted to fingerprinting by or at the direction of the division.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2139. Application Filing Fees**

All monies deposited by an applicant to defray the costs associated with the applicant investigation conducted by the division must be deposited into a designated state treasury fund.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2141. Renewal Applications**

Applications for renewal of a riverboat gaming license or any permit authorized by the act must be made by way of forms prescribed by the division. Said forms shall consist of a statement made under oath of any and all changes in the history and financial information provided in the previous application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

#### **§2143. Conduct of Investigation; Time Requirements**

All investigations conducted by the division in connection with an application must be conducted in accordance with the act.

1. The investigation must be completed and placed upon an agenda within 90 days after the division has notified the applicant that said investigation is complete.

2. If a renewal application has been filed with the division by a person who is qualified to file a renewal application, the division may investigate the applicant commencing with the date of the issuance of the existing license. Such investigation shall be completed within 30 days. The supervisor may extend the period if circumstances require.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

#### **§2145. Notice of Division Hearing to Consider Application**

Hearings by the division to consider gaming license applications will be noticed and conducted in accordance with the provisions of the act and the regulations of the division.

1. The division will notify the applicant in writing of the date, time, and place of the hearing to consider his application at least 10 days prior to said hearing.

2. The division may summon any person named in an application to appear and testify before the division, and all such testimony must be under oath and may embrace any matter that the supervisor deems relevant to the application. Failure of applicant to appear and testify fully at the time and place designated, unless excused by the supervisor, is grounds for denial of the application. Any request by applicant for excuse of appearance must be in writing and filed with the supervisor at least five days prior to the scheduled appearance.

3. The hearing by the division to consider the application shall be conducted by the supervisor or by a representative designated by him.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

#### **§2147. Issuance of Decision**

The division must issue its decision concerning the application on the record at the time of the public hearing, or if unable to do so, in writing within 10 days after the hearing and include therein a statement of the reasons for the decision. The division must provide a copy of its decision to the applicant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

#### **§2149. Appeal of Division Decision to Commission**

Any person whose application for license or permit has been denied by the division or any person adversely affected by an action, order, or decision of the division may appeal the action, order, or decision of the division to the commission by filing a notice of appeal with the commission within seven days of certified mailing of notice of the action, order, or decision by the division. The division, upon notice of appeal to the commission, shall transmit to the commission the record of proceedings before the division at which the action, order, or decision appealed from was taken. The person appealing an action, order, or decision of the division shall remit to the division the cost of preparing the record of the proceedings before the division.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

#### **§2151. Waiver of Privilege**

An applicant may claim any privilege afforded by the Constitution of the United States or of the state of Louisiana in refusing to answer questions by the supervisor and commission, but a claim of privilege with respect to any testimony or evidence pertaining to an application may constitute sufficient grounds for denial of the application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

#### **§2153. Multiple Licensing Criteria**

A. A person licensed as a riverboat gaming operator may apply for additional licenses. In all such cases, the division shall consider whether such multiple approval is in the best interest of the state of Louisiana, having due regard for the state's policy concerning economic development and gaming. In making this determination, the division may consider any index or criteria deemed by the supervisor to be relevant to the effect of multiple licenses upon the public health, safety, morals, good order and general welfare of the public of the state of Louisiana, including but not limited to the following factors:

1. the quality of the applicant's performance under the act and regulations;
2. the adequacy of resources available to the applicant to undertake additional operations, including but not limited to manpower, managerial and financial resources;
3. whether additional operations would jeopardize the stability of the existing operation; and
4. whether additional operations would be inimical to the economic development of the state.

B. If a licensee is issued more than one license by the division and has a license suspended or revoked, the division may suspend or revoke all licenses issued.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2155. Withdrawal of Application**

A request for withdrawal of an application may be made to the supervisor at any time prior to issuance by the division of its determination with respect to the application. The division may deny or grant the request with or without prejudice. If a request for withdrawal is granted with prejudice, the applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such withdrawal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2157. Application After Denial**

Any person whose application for license or permit has been denied by the division, and who has not successfully appealed the decision of denial to the commission, is not eligible to reapply for any approval authorized by the act for a period of five years unless the supervisor rules that the denial is without prejudice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2159. Gaming Employee Permits Required**

A. No person may be employed as a gaming employee unless such person is the holder of a valid gaming employee permit issued by the division.

B. Every licensee shall, before employing any person in connection with the licensed gaming operation, ascertain that such person holds a valid gaming employee permit issued in accordance with this regulation, and shall note his employment records to reflect such fact. The licensee shall secure an application and fingerprint cards from the division for each employee.

C. Every gaming employee shall keep his gaming employee permit on his person and displayed in accordance with §2165 at all times when actively engaged in gaming operations, or on the licensed premises.

D. The division may investigate the applicant and may either grant or deny the gaming employee permit.

E. The division may issue a temporary permit subject to future revocation to each employee.

F. A gaming employee permit is not transferable and upon resignation or termination of employment must be returned by the employee to the holder of an operator's license or to the division. If returned to the holder of an operator's license, the holder must then return the badge to the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2161. Application for Gaming Employee Permit; Procedure**

A. An applicant for a gaming employee permit shall submit to fingerprinting at the direction of the division and supply two passport size photographs. The photographs must be satisfactory to the division and must have been taken not earlier than three months before the date of filing the application. The applicant shall also provide any other information requested by the division.

B. An applicant for a gaming employee permit shall pay the application fee established by the act or by these rules.

C. Gaming management persons shall be subject to a fee of \$100 as provided in the act. Those persons shall include supervisory employees empowered to make discretionary decisions that regulate gaming activities including: audit manager, casino manager, chief of security, controller, EDP manager, and slot department manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2163. Withdrawal of Temporary Gaming Employee Permit**

A. The licensee shall withdraw an applicant's temporary gaming employee permit badge upon determining that the applicant's permit has been denied by the division.

B. If an applicant's temporary gaming employee permit is withdrawn, the applicant is not permitted to work for the riverboat gaming operation until and unless the division issues a permit to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2165. Display of Gaming Employee Permit**

A. A gaming employee permit as required by these rules shall be worn by all employees during work hours. The gaming employee permit shall be clearly displayed.

B. A fee of \$15 shall be paid to the division for any necessary replacement(s) or modifications of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### **§2167. Procedure for Hearing after Denial by the Division**

A. If the division denies an application for a permit and the applicant requests a hearing pursuant to the act, the supervisor shall schedule a hearing as soon as practicable after receipt of the request.

B. At the hearing, the supervisor shall present any evidence supporting his reasons for denial and the applicant shall then present any evidence controverting the division's reasons. The burden of proof shall be upon the prospective employee in all such hearings.

C. Each party may cross-examine all witnesses and may subpoena witnesses to testify or produce evidence at the hearing. The hearing officer shall issue subpoenas upon the request of a party, but may limit or quash any subpoena issued for good cause.

D. No discovery shall be permitted except upon a finding of the supervisor of good cause justifying the discovery sought.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

### §2169. Fees for Issuance of Licenses and Permits

As prescribed pursuant to the act, R.S. 4:550 the scheduled fees for licenses and permits shall include:

1. The annual fees for gaming employee, manufacturer, supplier, and other permits issued under the provisions of this Chapter shall be as follows:

- |   |         |
|---|---------|
| a. manufacturer of slot machines  | \$5,000 |
| b. manufacturer of gaming devices or equipment, or equipment other than slot machines | \$2,500 |
| c. supplier of gaming devices or equipment  | \$1,500 |
| d. supplier of goods or services other than gaming devices or equipment               | \$ 250  |
| e. gaming employee or other permit  | \$ 100  |
| f. permit to conduct racehorse wagering   | \$1,000 |

2. The license fee to conduct gaming activities on a riverboat shall be the total of the following:

a. \$50,000 for each riverboat for the first year of operation which commences with approval of license and \$100,000 per year per riverboat thereafter.

b. an amount equal to 3 1/2 percent of net gaming proceeds.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

## Chapter 23. Compliance, Inspections and Investigations

### §2301. Applicability and Resources

This regulation is applicable to inspections and investigations relative to compliance with the regulations and the act. The supervisor is empowered to employ such personnel as may be necessary for such inspections and investigations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### §2303. Inspections and Observations

The division is empowered to make periodic inspections of premises where gaming is conducted or where gaming will be conducted, and where gaming equipment or gaming devices are manufactured, sold or distributed, during construction and thereafter. The division shall further observe gaming activities and operations and inspect gaming equipment and supplies upon and destined for riverboats to ensure compliance with the act and regulations. Such inspections and observations may or may not be made known to the applicant, licensee or permittee. All requests for access to premises and production of records and documents in connection with any inspection must be granted in accordance with the provisions of the act and division regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### §2305. Inspections During Construction

The supervisor may designate one or more agents of the division to inspect the construction of the riverboat and dockside facility. Upon presentation of identification, any designated agent of the division may demand and shall be given immediate access to any place where construction of the riverboat or any of its component parts is underway. The supervisor shall certify in writing to the applicant or licensee, as the case may be, that the designated gaming area has been inspected at least twice during construction and that said area:

1. complies with the plans and specifications and any applicable change orders; or
2. does not comply with the plans and specifications or applicable change orders, in which event a description of such non-compliance will be included.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### §2307. Investigations

All investigations of any alleged violations of the act or regulations by an applicant, licensee or permittee must be conducted by the division and may or may not be made known to the applicant, licensee or permittee before being completed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### §2309. Investigative Powers of the Division

In conducting an investigation, the division is empowered to:

1. inspect and examine all premises wherein gaming activities are conducted, proposed to be conducted or gaming devices are maintained or repaired and where all papers, books, records, documents and electronically stored media are maintained;
2. summarily seize and remove gaming equipment and devices from such premises and impound any equipment for the purpose of examination and inspection;
3. have access to inspect, examine, and photocopy all papers, books, records, documents and information of an applicant, licensee, or permittee pertaining to the licensed or permitted operation or activity, on all premises where such information is maintained;
4. review all papers, books, records, and documents pertaining to the licensed or permitted operation;
5. issue subpoenas, as provided in regulation h, in connection with any investigative hearing conducted by the division;
6. conduct investigative hearings; and
7. issue written interrogatories.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:501 et seq.



HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### **§2311. Seizure and Removal of Gaming Equipment and Devices**

Gaming devices and equipment may be summarily seized by the division. Whenever the division seizes and removes gaming equipment or devices:

1. an inventory of the equipment or devices seized will be made by the division, identifying all such equipment or devices as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or devices will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the licensee or permittee will be notified in writing by the division at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or device is to be impounded. A copy of the inventory of the seized equipment or device will be provided to the licensee or permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### **§2315. Seized Equipment and Devices as Evidence**

All gaming equipment and gaming devices seized by the division shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the division upon their seizure and may be disposed of by the division, which disposition shall be documented as to date and manner of disposal.

2. the division shall notify by certified mail each known claimant of a cheating device that the claimant has ten (10) days from the date of the notice within which to file a written claim with the division to contest the characterization of the property as a cheating device.

3. failure of a claimant to timely file a claim as provided in subsection (b) above will result in the division's pursuit of the destruction of property.

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within fifteen (15) days after final determination.

5. items seized for inspection or examination may be returned by the division without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### **§2317. Subpoenas in Connection with Investigative Hearings**

The supervisor has full power and authority to issue subpoenas and compel the attendance of witnesses for investigative hearings at any place within the state, including

subpoenas compelling production of documents, and to administer oaths and require testimony under oath. Any such subpoena issued by the supervisor will be served in a manner consistent with the service of process and notices in civil actions. The supervisor may require reasonable fees to be submitted with subpoenas, in order to pay transportation and related expenses that may occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### **§2319. Contempt**

For failure or refusal to comply with any subpoena or order issued by the supervisor and duly served, the supervisor may cite the subpoenaed party for contempt and may impose a fine as provided in the laws of the state of Louisiana. Such contempt citations and fines may be appealed to the nineteenth judicial district court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### **§2321. Investigative Hearings**

Investigative hearings shall be conducted by the division or by a hearing officer appointed by the supervisor, at such times and places, as may be convenient to the division. Investigative hearings may be conducted in private at the discretion of the supervisor or hearing officer. A transcript of the hearing shall be made by a licensed court reporter, and a copy of the transcript shall be provided to the licensee or permittee upon payment of all related transcription fees and photocopying charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

### **§2323. Interrogatories**

All interrogatories propounded by the supervisor must be in writing and must be served in the manner consistent with the service of process in civil actions. The respondent is entitled to 15 days within which to respond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

Colonel Paul W. Fontenot  
Deputy Secretary

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

#### Food Stamps (LAC 67:III.1937)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective July 1, 1993 in the Food Stamp Program.

Emergency rulemaking is necessary to effect a change in policy which revises the exclusions from educational assistance income.

Food Stamp Policy Memorandum SOE 93-69 dated June 24, 1993, directed that, effective July 1, 1993, certain exclusions from educational assistance income would be revised. This action is mandated by the Food Stamp Act, Section (e)(3)(B).

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 3. Food Stamps

#### Chapter 19. Certification of Eligible Households

#### Subchapter E. Students

#### §1937. Student Related Provisions

\* \* \*

#### 4. Exclusions from Education Assistance

a. The entire amount of the following types of educational assistance are excluded without regard to earmarking or verification of actual school expenses:

i. Title IV, Higher Education Act, for school period beginning on or after July 1, 1993;

ii. Title IV, College Work Study, Federal, for school period beginning on or after July 1, 1993. Not all federal college work studies come under Title IV; these are handled the same as state college work study funds;

iii. Title IV, Bureau of Indian Affairs, for school period beginning on or after July 1, 1993;

iv. Job Training Partnership Act (JTPA). Earnings from on the job training under Section 204(5) Title II for household members over 18 years of age are considered earned income, subject to the 20 percent earned income deduction;

v. Title XIII, Indian Higher Education Programs, effective October 1, 1992.

b. All other educational assistance will be excluded in the same manner regardless of the source of the assistance, i.e., an exclusion from educational income shall be granted based on amounts either earmarked by the institution, school program, or other grantor or verified by the student as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

c. The definition of mandatory fees includes the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved.

d. The maximum age level of students attending institutions of higher education who are prohibited from receiving food stamp assistance shall be lowered from 60 years to 50 years of age.

e. Eligible student status shall be granted to students participating in a state or federally financed work study program during the regular school year and the work incentive program under Title IV of the Social Security Act or its successor programs.

f. The funds from PASS (Plan for Achieving Self-Support) accounts will be excluded as income for the food stamp program.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273, and 278 and F.R. 51:30045 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:756 (November 1986), LR 13:91 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 19:

Gloria Bryant-Banks  
Secretary

## DECLARATION OF EMERGENCY

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

#### Plan Document

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program intends to amend Plan Document in order to accommodate Act 663 of the 1993 Louisiana Regular Session of the Legislature, as follows:

#### Amend Article 1, Section II(D)(1)(c)—Pre-Existing Condition

Add the following language:

c. If the covered person was previously covered by a group health and accident insurance policy as defined in R.S. 22:215.15, a qualified self-funded plan provided for the Employee Retirement Income Security Act (ERISA) of 1974 or by a publicly funded program, the duration of the prior coverage will be credited against the initial 12-month period used by the program to limit benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 60 days of the effective date of coverage under the program.

#### Amend Article 1, Section II(D)(2)(d)—Overdue Application

Add the following language:

d. If the covered person was previously covered by a group health and accident insurance policy as defined in R.S.

22:215.15, a qualified self-funded plan provided for by the Employee Retirement Income Security Act (ERISA) of 1974 or by a publicly funded program, the duration of the prior coverage will be credited against the initial 24-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 60 days of the effective date of coverage under the program.

**Amend Article 1, Section II(D)(4)—Transfer of Coverage from a Health Maintenance Organization (HMO)**

Add the following language:

The pre-existing condition limitation shall not apply if an individual has been covered by the HMO for a period of 12 continuous months prior to transfer of coverage. If the duration of coverage under the HMO is less than 12 months, the actual period of coverage under the HMO will be credited against the 12-month period used by the program to limit benefits for a pre-existing condition.

**Amend Article 1, Section (I)(1)—Definition of Dependent**  
Changed as follows:

2. any unmarried (never married) children from date of birth must be added to coverage within 30 days from the date acquired by completing appropriate enrollment documents in accordance with Article 1, Section IV, (A) to 21 years of age, dependent upon the employee for support;

3. any unmarried (never married) children 21 years of age, but under 24 years of age, who are enrolled and attending classes as full-time students and who depend upon the employee for support. . . .

**Amend Article 3, Section I(C)—Maximum Benefits**

Add the following language:

If a covered person, prior to coverage under the program was previously covered by a group health and accident insurance policy as defined in R.S. 22:215.15, a qualified self-funded plan provided for by the Employee Retirement Income Security Act (ERISA) of 1974 or by a publicly-funded program, any benefits paid on behalf of the covered person under the prior plan will be deducted from the lifetime maximum benefits available from the program as set forth in the schedule of benefits if the covered person's effective date of coverage under the program is within 60 days of termination of coverage under the prior plan.

James R. Plaisance,  
Executive Director

**DECLARATION OF EMERGENCY**

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

Rate Adjustment

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953 (B), notice is

hereby given that the Board of Trustees of the State Employees Group Benefits Program intends to amend its rate schedule. This rule will go into effect on July 1, 1993 and will remain in effect for 120 days, as follows:

**State Employees Group Benefits Program**  
**Schedule of Rates**  
**July 1, 1993**

	<u>Employee Share</u>	<u>State Share</u>	<u>Total Rate</u>
<b>Active Employees</b>			
Single	\$93.10	\$75.10	\$168.20
Two-Party	\$151.06	\$133.06	\$284.12
Family	\$182.54	\$164.54	\$347.08
<b>Retired Employees</b>			
Single Coverage-			
Without Medicare	\$93.10	\$285.38	\$378.48
Single Coverage-			
With Medicare	\$54.04	\$36.04	\$90.08
Two Party Coverage-			
None with Medicare	\$151.06	\$505.62	\$656.68
Two Party Coverage-			
One with Medicare	\$109.86	\$349.10	\$458.96
Two Party Coverage-			
Two with Medicare	\$102.58	\$84.58	\$187.16
Family Coverage-			
None with Medicare	\$182.54	\$625.26	\$807.80
Family Coverage-			
One with Medicare	\$138.74	\$458.82	\$597.56
Family Coverage-			
Two with Medicare	\$129.52	\$111.52	\$241.04
<b>Surviving Dependent(s)</b>			
Single Coverage-			
Without Medicare	\$168.20	\$0.00	\$168.20
Single Coverage-			
With Medicare	\$90.08	\$0.00	\$90.08
Two Party-			
None with Medicare	\$284.12	\$0.00	\$284.12
Two Party-			
One with Medicare	\$201.72	\$0.00	\$201.72
Two Party-			
Two with Medicare	\$187.16	\$0.00	\$187.16
Family Coverage-			
None with Medicare	\$347.08	\$0.00	\$347.08
Family Coverage-			
One with Medicare	\$259.48	\$0.00	\$259.48
Family Coverage-			
Two with Medicare	\$241.04	\$0.00	\$241.04
<b>COBRA Rates</b>			
Single	\$171.56	\$0.00	\$171.56
Two-Party	\$289.80	\$0.00	\$289.80
Family	\$354.04	\$0.00	\$354.04
<b>Part-Time Employees</b>			
Single	\$96.46	\$75.10	\$171.56
Two-Party	\$156.74	\$133.06	\$289.80
Family	\$189.50	\$164.54	\$354.04

**Disability Rate  
(29 Month COBRA)**

Single	\$252.32	\$0.00	\$252.32
Two-Party	\$426.20	\$0.00	\$426.20
Family	\$520.64	\$0.00	\$520.64

James R. Plaisance  
Executive Director

**DECLARATION OF EMERGENCY**

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

**1993 Wild Alligator Harvest Season**

In accordance with the emergency provisions of R.S. 49:495(B), and the Administrative Procedure Act, R.S. 49:967(D) which provides that the Wildlife and Fisheries Commission use emergency procedures to set the wild alligator season, the Wildlife and Fisheries Commission at its regular monthly meeting held July 8, 1993 in Baton Rouge, Louisiana does hereby set the 1993 wild alligator season dates as follows:

The annual wild alligator season dates shall be September 11 through October 10, 1993.

This emergency adoption is necessary to allow Department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas based on up-to-date information.

The secretary of the Department of Wildlife and Fisheries shall have the authority to close, delay, reopen or extend this season as biologically justifiable.

Bert H. Jones  
Chairman

**DECLARATION OF EMERGENCY**

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

**Spring Shrimp Closure, Zone 2**

In accordance with the emergency provisions of R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, the Wildlife and Fisheries Commission has authorized the secretary of the Department of Wildlife and Fisheries to close the 1993 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicate the need to do so. Since small white shrimp have begun to show up in department samples in Zone 2 in the central portion of the

state, the secretary of the Department of Wildlife and Fisheries hereby finds that the 1993 Spring Inshore Shrimp Season shall be closed in Zone 2 at 12:01 a.m. Saturday, July 10, 1993 (midnight Friday, July 9, 1993) except for those portions as follows:

The open waters of Lake Pelto, Terrebonne and Timbalier Bays which lie south of a line from:

1. the easternmost point of land on Isle Dernieres on the west side of Whiskey Pass northward to;
2. Caillou Boca Channel Marker No. 2; then
3. northeast to Bayou Sale Light; then
4. northeast to the southernmost Little Caillou Light; then
5. northeast to Light No. 17 on the Houma Ship Channel; then
6. east to Fornation Island Light; then
7. east to Philo Brice Light; then
8. northeast to Channel Marker at the mouth of Bayou Blue; then
9. southeast to the westernmost light on Havoline Canal; and
10. then southeast to the Belle Pass Light at the mouth of Bayou Lafourche.

Zones 1 and 3 will remain open until further notice.

Joe L. Herring  
Secretary

**DECLARATION OF EMERGENCY**

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

**Zone 2 Shrimp Closure**

In accordance with the emergency provisions of R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and pursuant to a resolution adopted by the Wildlife and Fisheries Commission on May 6, 1993 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1993 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicate the need to do so; the secretary of the Department of Wildlife and Fisheries hereby orders that the 1993 Spring Inshore Shrimp Season shall be closed in the remainder of Zone 2 at 12:01 a.m. Wednesday, July 14, 1993 (midnight Tuesday, July 13, 1993). Department samples indicate the presence of small white shrimp in Zone 2 in the central portion of the state, and these small white shrimp are expected to move into that portion of Zone 2 which remained open. That portion of Zone 2 which had remained open and is now ordered closed includes the following:

The open waters of Lake Pelto, Terrebonne and Timbalier Bays which lie south of a line from:

1. the easternmost point of land on Isle Dernieres on the west side of Whiskey Pass northward to;
2. Caillou Boca Channel Marker No. 2; then
3. northeast to Bayou Sale Light; then
4. northeast to the southernmost Little Caillou Light; then
5. northeast to Light No. 17 on the Houma Ship Channel; then
6. east to Fornation Island Light; then
7. east to Philo Brice Light; then
8. northeast to Channel Marker at the mouth of Bayou Blue; then
9. southeast to the westernmost light on Havoline Canal; and
10. then southeast to the Belle Pass Light at the mouth of Bayou Lafourche.

This action in effect closes all of Zone 2, that portion of Louisiana's inshore waters from South Pass of the Mississippi River west to the western shore of Vermillion Bay and Southwest Pass at Marsh Island.

Zones 1 and 3 will remain open until further notice.

Joe L. Herring  
Secretary

# RULES

## RULE

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

### Rice Certification Standards (LAC 7:XIII.Chapter 87)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission has amended LAC 7:XIII. 8735 and 8783.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XIII. Seeds

### Chapter 87. Rules and Regulations Pursuant to the Louisiana Seed Law

#### §8735. Seed Sampling

A. - E. ...

#### F. Resampling Policy

1. Except in special instances, as described below, only one sample shall be obtained from each certified lot:

a. When a certified seed lot fails certification requirements due to physical or mechanical purity factors, such as excess inert matter or weed seed, the seed may be

reconditioned if the contaminants are separable. A complete purity analysis and germination test will be required on the reconditioned lot of seed. Certified seed rice which fails certification due to the presence of red rice seed in the sample shall be subject to the terms of Subparagraph e below.

b. - d. ...

e. When a certified seed rice lot fails certification requirements due to the presence of one red rice seed in the original four pound sample, then a second eight pound sample may be drawn from the lot. If one or more red rice seeds are found in the second sample, the lot will be disqualified on the basis of red rice content. If no red rice seed is found in the second sample, the lot would meet certification requirements. Certified seed rice whose original sample contains the presence of more than one red rice seed may not be re-sampled.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 19: (July 1993).

#### §8783. Rice Seed Certification Standards

##### A. Isolation Requirements

1. Fields offered for certification must be clearly separated from other fields by a ditch, levee, roadway, fence, or barren strip a minimum of 10 feet if the adjoining crop is the same variety and class.

2. In addition to the preceding regulations, the following isolation distances will pertain if the adjoining crop is a different class or different variety.

##### Number of Feet From Same Variety/Different Class Planted By

Ground		Air	
Drill	Broadcast	Right Angle	Parallel
10	10	1,320	10

##### Number of Feet From Other Varieties/All Classes Planted By

Ground		Air	
Drill	Broadcast	Right Angle	Parallel
20	100	1,320	100

3. Any part of the applicant's field or fields which are closer than these distances must be harvested prior to final inspection or plowed up. Failure to comply with this requirement will disqualify the entire field.

##### B. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land requirement	1 yr.	1 yr.	1 yr.	1 yr.
Other varieties	None	None	10 plants per acre	25 plants per acre
*Harmful diseases	None	None	None	None
Noxious weeds: Red Rice (including Black Hull Rice)	None	None	None	1 plant per 10 acres
Spearhead	None	None	None	2 plants per acre
Curly Indigo	None	None	4 plants per acre	4 plants per acre
*Diseases seriously affecting quality of seed and transmissible by planting stock.				

### C. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	98.00%	98.00%	98.00%	98.00%
Inert matter	2.00%	2.00%	2.00%	2.00%
Other crops, including other varieties	None	None	None	2 seed/ lb.
Off-color grains, if of similar size, quality and maturity	None	5 seed/lb.	10 seed/lb.	20 seed/lb.
Noxious weeds: Red Rice (including Black Hull Rice)	None	None	None	None**
Spearhead, Curly Indigo and Mexican Weed	None	None	None	None
Other weeds	0.05%	0.05%	0.05%	0.10%
Germination		80.00%	80.00%	80.00%
**Four pounds shall be hulled from each lot to determine red rice content.				

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Seed Commission, LR 8:576 (November 1982), amended LR 9:201 (April 1983), LR 9:754 (November 1983), LR 10:495 (July 1984), repealed and readopted LR 12:825 (December 1986), amended LR 13:157 (March 1987), LR 13:233 (April 1987), LR 14: (September 1988), LR 14:694 (October 1988), amended LR 15:613 (August 1989), amended LR 19: (July 1993).

Bob Odom  
Commissioner

### RULE

**Department of Agriculture and Forestry  
Office of Agro-Consumer Service  
Agricultural Commodities Commission**

#### Mileage Fees (LAC 7:IX.14728)

The Department of Agriculture and Forestry has amended LAC 7:IX.14728 regarding mileage fees. This rule complies with R.S. 3:3401 et seq., and changes the fee charged for mileage by inspectors operating under the Agricultural Commodities Law to bring it in conformance with the Division of Administration Policy and Procedure Memorandum No. 49.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXVII. Agricultural Commodity Dealer and Warehouse

#### Chapter 147. Agricultural Commodities Commission Subchapter E. Assessments and Fees

#### §14728. Fees: Amount, Time of Payment

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#### C. Schedule of Fees:

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3. Mileage shall be billed at the rate of 24 cents per mile traveled.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 14:528 (August 1988), LR 19: (July 1993).

Bob Odom  
Commissioner

**RULE**

**Board of Elementary and Secondary Education**

Revised Bulletin 1191, School Transportation Handbook  
(LAC 28:I.915)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted Bulletin 1191, Revised 1993, School Transportation Handbook.

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§915. Bus Transportation Standards and Regulations**

A. Bulletin 1191, School Transportation Handbook, Revised 1993, is adopted as revised.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158; R.S. 17:160-161; R.S. 17:164-166.

Carole Wallin  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1706, School for the Deaf Alternative Placement

In accordance with the R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has adopted an amendment to Bulletin 1706, Regulations for the Implementation of the Exceptional Children's Act to add Section 716 - Louisiana School for the Deaf Alternative Placement as stated below.

**§716. Louisiana School for the Deaf Alternative Placement**

A. In compliance with Acts 433 and 911 of the 1992 Regular Session of the Louisiana Legislature, the Louisiana School for the Deaf (LSD) shall:

1. determine, not later than the second Monday in September of each year, the number of additional children who may be admitted under this placement option;

2. base the determination on the availability of all necessary resources required to provide a free appropriate public education.

B. Upon receipt from a parent (as defined in Part 900 of this Bulletin) of an application for admission of their child, LSD shall:

1. require, at a minimum, an individual evaluation which meets the requirements in Bulletin 1508 for classification as hearing impaired (deaf/hard of hearing) as a part of the application;

2. notify the school system of parent/child domicile that application has been made, in order to fulfill the provisions established in Subsection 709 of this Bulletin.

C. Within 45 operational days, LSD shall: process the application; make a determination of eligibility for admission; and develop an Individualized Education Program (IEP). In the development of the IEP, the parent shall be informed of all placement options available to meet the child's educational needs.

D. LSD shall notify the school system of parent/child domicile that a child has been admitted or rejected under the provisions of this Subsection.

E. The applicable procedural safeguards established in Part 500 of this Bulletin shall be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 - 1958.

Carole Wallin  
Executive Director

**RULE**

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

Comprehensive Toxic Air Pollutant Emission Control  
Program (LAC 33:III.Chapter 51) (AQ71)

Under the authority of the Environmental Quality Act, particularly R.S. 30:2060 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 51, (Log AQ71).

The rule amendment to LAC 33:III.Chapter 51.Subchapter A establishes new criteria for determining when public notice will be required prior to issuance of an air quality permit or approval of an air toxics compliance plan. The rule amendment also clarifies that no source will be granted more time to comply with air toxics standards than is allowed under federal law or regulation, and that emissions of toxic air pollutants must be specifically listed in the permit. The amendment also corrects Chemical Abstracts Service (CAS) numbers and other errors in the Tables of toxic air pollutants.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant  
Emission Control Program**

**Subchapter A. Applicability, Definitions, and General  
Provisions**

**§5107. Reporting Requirements, Availability of  
Information, and Public Notice Provisions**

\* \* \*

D. Public Notice Provisions

1. The administrative authority shall provide at least 30 days for public comment and shall give notice of any public



hearing at least 30 days in advance of the hearing before granting approval for construction or issuing any permit which would:

- a. allow an increase in any Louisiana toxic air pollutant by an amount greater than the minimum emission rate; or
- b. allow the addition of any new point source or emission unit which would emit a Louisiana toxic air pollutant by an amount greater than the minimum emission rate.

2. The administrative authority shall provide at least 30 days for public comment before granting approval of any compliance plan or certification of compliance submitted pursuant to LAC 33:III.5109.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19: (July 1993).

**§5109. Emission Control and Reduction Requirements and Standards**

\*\*\*

D. The following schedules for compliance will apply:

\*\*\*

4. Under no circumstance will the owner or operator of any major source under this Chapter be granted more time to comply with Maximum Achievable Control Technology requirements than is allowed under an applicable federal MACT standard established pursuant to Section 112 of the Federal Clean Air Act.

\*\*\*

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19: (July 1993).

**§5111. Permit Requirements, Application, and Review**

\*\*\*

B. Contents of Application for a Louisiana Air Permit

\*\*\*

2. Each application for a permit to construct a new major source shall include the following:

\*\*\*

c. technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of intended controls and monitoring procedures. Such technical information shall include estimation of emissions prior to and after installation of emission control equipment or adoption of control measures, calculations of emission estimates in sufficient detail to allow assessment of the validity of the calculations, and documentation of methods or sources of information used in these determinations. Emissions of toxic air pollutants shall be speciated to identify each toxic air pollutant emitted from each emission point at the source and to identify fugitive emissions of toxic air pollutants;

\*\*\*

C. Permit Review Process

\*\*\*

3. If the administrative authority determines that

operation of a stationary source for which an application was submitted will not result in violation of a standard as set forth in this Chapter, the administrative authority may issue a permit.

\*\*\*

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19: (July 1993).

**§5115. Modification of NESHAP Sources**

\*\*\*

Table 51.1 Minimum Emission Rates Toxic Air Pollutants			
***			
CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
***			
CHLORINATED DIBENZO-P-DIOXINS [2]	3268-87-9		0.0001
***			

Table 51.3 LOUISIANA TOXIC AIR POLLUTANTS SUPPLEMENTAL LIST*			
COMPOUNDS	CAS NO.	CLASS	SYNONYMS
***			
COBALT COMPOUNDS	7440-48-4	II	
***			
CYANIDE COMPOUNDS [4]	7-12-5	III	
***			
ETHYL CARBAMATE	51-79-6	II	Urethane
(Delete the compound ETHYLENE DIBROMIDE)			
***			
GLYCOL ETHERS [3]	111-46-6	II	
***			
LEAD COMPOUNDS	7439-92-1	II	
***			

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), repromulgated LR 19:45 (January 1993), amended LR 19: (July 1993).

James B. Thompson, III  
Assistant Secretary

**RULE**

**Office of the Governor  
Commission on Law Enforcement  
and Administration of Criminal Justice  
Sentencing Commission**

**Felony Sentencing Guidelines  
(LAC 22:IX.Chapters 2, 4)**

The Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission has amended the Felony Sentencing Guidelines, LAC 22:IX.Subpart 1, under the provisions of the Administrative Procedure Act, R.S.49:950, et seq. The text of this rule is identical to the rule changes published as an emergency rule in the *Louisiana Register* on March 20, 1993 with an effective date of April 1, 1993.

Adoption of the amendments described here is necessary to eliminate technical problems experienced by the courts and the Office of Probation and Parole in implementing the Felony Sentencing Guidelines as of January 1, 1992 and to make such other adjustments as are necessary to ensure the timely and expeditious sentencing of offenders in a fair and equitable manner under the sentencing guidelines without delay.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part IX. Sentencing Commission**

**Subpart 1. Felony Sentencing Guidelines**

**Chapter 2. Determining Sentences Under the Sentencing  
Guidelines**

**§205. Criminal History Index Classification System**

\*\*\*

**B. Definitions**

\*\*\*

8. *Prior conviction or prior adjudication*—for purposes of the guidelines, means a plea of guilty or nolo contendere, a verdict of guilty, a judgment of guilt, or an adjudication occurring before the conviction for the offense which serves as the basis for the current sentencing. A conviction which was set aside under the provision of C.Cr.P. 893 shall be included as a prior conviction. A plea of guilty under R.S. 40:983 shall be included as a prior conviction unless the defendant was subsequently discharged and the case dismissed.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19: (July 1993).

**§209. Departures From the Designated Sentence Range**

\*\*\*

B. *Aggravating circumstance*—means a factor which is present to a significant degree which makes the present case more serious than the typical case arising under the offense of conviction. Factors which constitute essential elements of the offense of conviction or separate offense(s) for which defendant was convicted and sentenced shall not be considered aggravating circumstances. The following factors constitute aggravating circumstances:

\*\*\*

19. The offender foreseeably endangered human life by discharging a firearm during the commission of an offense which has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and which, by its very nature, involves a substantial risk that physical force may be used in the course of committing the offense.

20. The offender used a firearm or other dangerous weapon while committing or attempting to commit an offense which has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and which by its very nature, involves a substantial risk that physical force may be used in the course of committing the offense.

21. The offender used a firearm or other dangerous weapon while committing or attempting to commit a controlled dangerous substance offense.

22. Any other relevant aggravating circumstances which distinguish the case from the typical case of the offense of conviction.

\*\*\*

**D. Special Provisions for the Use of Sanction Units in an Approved Treatment Plan**

When the sentencing court finds it appropriate to impose a sentence composed in whole or in part of sanction units requiring the defendant's participation in a program of treatment, the court may exceed the maximum number of sanction units provided in the appropriate grid cell if the court finds that additional sanction units are necessary for the satisfactory completion of the treatment program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19: (July 1993).

**Chapter 4. Louisiana Sentencing Guidelines Tables**

**§401. Criminal Seriousness Tables**

**A. Crime Seriousness Master Ranking List**

\*\*\*

Carrying a firearm by a student or non-student on school property or firearm-free zone (LRS 14:95.2): Level 4.

\*\*\*

**B. Felonies Ranked Numerically by Statute Number**

\*\*\*

Carrying a firearm by a student or non-student on school property or firearm-free zone (LRS 14:95.2): Level 4.

\* \* \*

C. Ranked Felonies in Alphabetical Order

\* \* \*

Carrying a firearm by a student or non-student on school property or firearm-free zone (LRS 14:95.2): Level 4.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19: (July 1993).

§402. Criminal History Tables

\* \* \*

D. Crime Family Table

\* \* \*

Carrying a firearm by a student or non-student on school property or firearm-free zone (LRS 14:95.2): Level 4.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19: (July 1993).

§403. Tables for Determining Designated Sentence

\* \* \*

C. Intermediate Sanction Exchange Rate Table

Sanction	Duration	Sanction Unit Value
----------	----------	---------------------

\* \* \*

Treatment-- Residential***	1 Month	3
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Treatment-- Nonresidential***	15 Hours	3
-------------------------------	----------	---

\* \* \*

\*\*\*May exceed the maximum number of sanction units in accordance with LAC 22:IX.209.D.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19: (July 1993).

Complete tables 401.A, B, C, and 402.D, including amendments, can be obtained from the Office of State Register, 1051 North Third Street, Baton Rouge, LA 70802 or from the Sentencing Commission, 1885 Wooddale Blvd., Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza  
Executive Director

RULE

Department of Health and Hospitals  
Office of the Secretary

Block Grant for Maternal and Child Health

The Department of Health and Hospitals (DHH) has applied for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1993-94 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register*, Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493. DHH will continue to administer programs funded under the MCH Block Grant in accordance with provisions set forth in Public Law 97-35 and the federal regulations. The Office of Public Health is the office responsible for program administration of the grant.

The block grant application is available for review at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA or at any regional OPH facility.

Rose V. Forrest  
Secretary

RULE

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

Hospital Neurological Rehabilitation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule providing for the reimbursement of hospital-based neurological rehabilitation care services in the Medicaid Program.

RULE

The Bureau of Health Services Financing is implementing a reimbursement methodology for an Intensive Neurological Rehabilitation Care Program in the hospital setting. This program is developed to meet the needs of Louisiana citizens who are Medicaid eligible and require intense rehabilitation care services for neurological injuries of recent onset. Hospital Intensive Neurological Rehabilitation Care services should extend throughout the post critical care recovery process not to exceed 90 days unless deemed medically necessary by the Department of Health and Hospitals.

The Intensive Neurological Rehabilitation Care Program reimbursement rates are prospective interim rates based on actual cost data. A rebasing of these initial rates shall occur, if warranted, after a full year of implementation of this program. This rebasing of the rates shall be based on actual costs as determined by on-site audits of cost reports. Subsequent rate adjustments may be made as

warranted by on-site financial audits of the facility's actual costs so that future rates will be in accordance with audit findings and the accuracy of the rate components utilized in the determination process. Annual audits are required as well as the submittal of additional cost reporting documents as required by the department.

Medicaid of Louisiana has developed the medical criteria which must be met in order for a Title XIX patient to be classified for reimbursement under a hospital Intensive Neurological Rehabilitation Care Program. The hospital intensive neurological rehabilitation care services provide intensive, comprehensive, and interdisciplinary services to persons with an injury or illness resulting in residual severe deficits and disability in addition to a need for intensive medical support. The service needs are designed to reduce the patient's rehabilitation and medical needs while restoring the person to an optimal level of physical, cognitive, and behavioral function. The services provide care for patients who present with a variety of medical/surgical concerns requiring a highly skilled level of nursing, medical, and/or rehabilitation interventions to maintain medical/functional stability. These patients are essentially too medically complex or demanding for a nursing rehabilitation setting and require the acute hospital setting.

Patients in need of hospital neurological intensive rehabilitation care services shall meet the following requirements.

1. The patient shall have an injury or condition that occurred within 48 hours prior to the date of admission for inpatient care. Patients served shall have severe loss of central nervous system functions as a result of a neurological injury or condition.

2. The patient shall have been determined, by a physician, to be appropriate for rehabilitation in the hospital setting to recover lost function or appropriate for assessment for determination of functional recovery potential.

3. The patient shall require five hours of rehabilitation therapy services, per day, as tolerable and appropriate, and a minimum of five hours of nursing care per day by licensed nurses. Rehabilitation therapy services will be available and provided, as tolerable and appropriate, at least five days per week. Examples of patients to be considered include, but are not limited to:

- a. traumatic brain injury;
- b. cerebral vascular accidents with severe neurologic insult;
- c. neoplasms of the central nervous system;
- d. neuro behavioral sequelae to the above.

4. The patient shall have complete neurological/medical/psychosocial assessments completed prior to admission to an Intensive Neurological Rehabilitation Care Program:

- a. history of current condition;
- b. presenting problems and current needs;
- c. preliminary plan of care including services to be rendered;
- d. initial goals and time frames for goal accomplishment.

These assessments shall clearly demonstrate the patient's need for this care and expected benefits.

5. The patient shall have an assigned facility case manager to monitor and measure goal attainment and functional improvement. The facility case manager will be responsible for cost containment and appropriate utilization of services. The facility case manager will coordinate discharge planning activities if it has been determined that hospital intensive neurological rehabilitation care services are no longer required or appropriate.

6. The patient shall demonstrate progress toward the reduction of physical, cognitive, and/or behavioral deficits to maintain eligibility for hospital intensive neurological rehabilitation care services funding.

The hospital seeking to provide services under this hospital Intensive Neurological Rehabilitation Care Program must meet the following requirements:

1. The hospital shall be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and by the Commission on Accreditation of Rehabilitation Facilities (CARF).

2. The hospital shall have appropriate rehabilitation services to manage the functional and psychosocial needs of the patients' services and appropriate medical services to evaluate and treat the pathophysiologic process. The staff shall have intensive specialized training and skills in rehabilitation.

3. The hospital shall have formalized policies and procedures to govern the comprehensive skilled and rehabilitation nursing care, related medical and other services provided. An interdisciplinary team approach shall be utilized in patient care. This team shall include, but is not limited to: a physician, a registered nurse (with special training/experience in rehabilitation and brain injury care/treatment), physical therapist, occupational therapist, speech/language therapist, respiratory therapist, psychologist, social worker, recreational therapist, and case manager.

4. The hospital shall have formalized policies and procedures to insure that the interdisciplinary health and rehabilitation needs of every hospital intensive neurological rehabilitation care patient shall be under the supervision of a licensed physiatrist, board certified in physical medicine and rehabilitation.

5. The hospital shall have formalized policies and procedures to insure a licensed physician visits and assess each patient's care frequently and no less than required by law, licensure, certifications and accreditations.

6. The hospital shall have formalized policies and procedures to furnish necessary medical care.

7. The hospital shall provide private rooms for patients demonstrating medical and/or behavioral needs. Dedicated treatment space shall be provided for all treating disciplines including the availability of distraction-free individual treatment rooms/areas.

8. The hospital shall provide 24-hour nursing services to meet the medical and behavioral needs with registered nurse coverage 24 hours per day, seven days per week.

9. The hospital shall provide appropriate methods and procedures for dispensing and administering medications and biologicals.

10. The hospital shall have formalized policies and

procedures for, and shall provide on a regular basis, ongoing staff education in rehabilitation, respiratory care, specialized medical services and other related clinical and non-clinical issues.

11. The hospital shall provide dietary services to meet the comprehensive nutritional needs of the patients. These services shall be provided by a registered dietician for a minimum of one hour per week.

12. The hospital shall provide patients' families and significant others the opportunity to participate in the coordination and facilitation of service delivery and personal treatment plan.

13. The hospital shall provide initial and ongoing integrated, interdisciplinary assessments to develop treatment plans which should address medical/neurological issues sensorimotor, cognitive, perceptual, and communicative capacity, affect/mood, interpersonal, social skills, behaviors, ADLs, recreation/leisure skills, education/vocational capacities, sexuality, family, legal competency, adjustment to disability, post-discharge services environmental modifications, and all other areas deemed relevant for the person.

14. The hospital shall provide a coordinated, interdisciplinary team which meets in team conference to update the treatment plan for each person at least every seven days and as often as necessary to meet the changing needs of the patient.

15. The hospital shall provide appropriate consultation and services to meet the needs of the patients, including but not limited to audiology, speech, orthotics, prosthetic, or any specialized services.

16. The hospital shall establish protocol for ongoing contact with vocational rehabilitation education, mental health, developmental disabilities, social security, social welfare, head injury advocacy groups and any other relevant public/community agencies.

17. The hospital shall establish protocol for close working relationships with other acute care hospitals capable of caring for persons with neurological trauma to provide for outpatient follow up, in-service education and ongoing training of treatment protocols to meet the needs of the traumatic brain injury patients.

18. The hospital shall document the patient's progress in meeting goals in detail. If appropriate progress is not made or if goals are attained, the patient shall not be eligible for this program and the case manager shall coordinate discharge plans.

19. The hospital shall have policies and procedures to prevent admitting a patient to this program whose needs the hospital cannot meet.

20. The hospital shall not admit a patient to this program whose needs can be met at a lesser level of care.

21. The hospital shall make certain all professional and non-professional staff requiring licenses are duly licensed by the appropriate licensing authority.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and the previous policy would then be the effective policy.

Rose V. Forrest  
Secretary

## RULE

### Department of Insurance Commissioner of Insurance

#### Regulation 41—Costs of Defense within Limits

Under the authority of R.S. 22:3 and R.S. 49:950 et seq., the Commissioner of Insurance hereby adopts Regulation 41, effective July 20, 1993. The regulation will establish guidelines for the use of "defense costs within limits" policy provisions in Louisiana.

Regulation 41 sets out the categories of liability insurance marketed in this state which will be allowed to use "defense costs within limits" provisions in their policies. "Defense costs within limits" means that the cost of defending a suit is encompassed within the limits of liability on the policy rather than a cost borne by the insurer over and above the liability limits. The categories listed in the regulation are all professional liability or errors and omissions policies. This is a fairly sophisticated market so there is little chance of the insured under such a policy not understanding that the cost of defending a suit comes out of the same pool of funds available for payment of a judgement.

#### REGULATION 41

For the purposes of this regulation, defense costs shall mean attorney's fees and other associated costs of defending an insurance liability claim. Effective with the promulgation of this regulation, policy forms of admitted companies providing for the payment of defense costs within the limits of liability of the policy shall be considered for approval for the following types of insurance:

1. liability insurance for directors and officers;
2. liability insurance for architects;
3. liability insurance for engineers;
4. liability insurance for Certified Public Accountants.

James H. "Jim" Brown  
Commissioner

## RULE

### Department of Justice Riverboat Gaming Commission

#### Riverboat Gaming (LAC 42:XIII.Subpart 1)

In accordance with R.S.4:501 et seq., and R.S.49:950-971, the Administrative Procedure Act, the chairman of the Riverboat Gaming Commission has adopted LAC 42:XIII.Subpart 1, pertaining to Riverboat Gaming.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Kenneth E. Pickering  
Chairman

## RULE

### Department of Labor Office of Workers' Compensation

#### Insurance Cost Containment (LAC 40:I:Chapter 11)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and R.S. 23:1291, the Department of Labor, Office of Workers' Compensation has adopted the following rule in the Workers' Compensation Cost Containment Program.

These rules establish and implement the "Workers' Compensation Cost Containment Act" enacted by acts 1991, No. 1026, in order to implement effective injury control measures for employers in high rate classification with insurance experience modifier rates of 1.5 or greater.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part I. Workers' Compensation Administration

#### Chapter 11. Workers' Compensation Insurance Cost Containment

##### §1101. Purpose

The purpose of these rules is to establish and implement effective injury control measures for employers in high rate classifications with insurance experience modifier rates of 1.5 or greater.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

##### §1103. Forms—Preparation and Adoption—Use

A. The Office of Workers' Compensation shall prepare and adopt such forms for use in workers' compensation cost containment as it may deem necessary and advisable. Whenever the Office of Workers' Compensation's forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to the office.

B. The following forms have been adopted by the Office of Workers' Compensation Administration for use in implementation of the workers' compensation cost containment act:

##### Forms:

LDOL-WC-Form No. 1021	Application for attendance at cost containment meeting
LDOL-WC-Form No. 1022	Certificate of Attendance
LDOL-WC-Form No. 1023	Application for Implementation of Occupational Safety and Health Program
LDOL-WC-Form No. 1024	Certificate of Satisfactory Implementation of Occupation Safety and Health Program

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

##### §1105. Cost Containment Meeting

A number of statewide meetings shall be held between June and September of each year. A notice of all the meetings

scheduled for that year shall be sent to all "eligible employers" as defined in La. R.S. 23:1176. Eligible employers who have not qualified for a reduction in the prior three years shall be sent by certified mail return receipt requested at least 30 days prior to the first scheduled meeting.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

##### §1107. Application for Attendance at Cost Containment Meeting

A verified application Form LDOL-WC-Form No. 1021 together with proof that the attendee is a person in a position of authority within the company must be received 15 days prior to the scheduled meeting to guarantee consideration. Proof may include but shall not be limited to a verified job description, annual report to secretary of state, copy of the preprinted tax form or act of partnership. Notice shall be given five days prior to the meeting if the office finds that the designated attendee is not a person in a position of authority within the company.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

##### §1109. Proof of Attendance; Certificate

In order to obtain a certificate of attendance, LDOL-WC-Form No. 1022 at a cost containment meeting, the attendee must have qualified as a designated representative as defined in R.S. 23:1176(1). At the meeting the designated representative shall submit pictured identification and sign the roles of attendance. The certificate shall thereafter be mailed to those eligible employers who have not qualified for a reduction in the prior three years. Any application received within 15 days prior to a meeting may not be considered.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

##### §1111. Failure to Attend; Fines

After the last scheduled meeting of a year the director upon verification of notice and failure to attend shall send a notice of fine to all eligible employers as provided in R.S. 23:1178(D).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

##### §1113. Application for Participation in the Occupational Safety and Health Program

Only "eligible employers" who have certificate of attendance Form LDOL-WC-Form No.1022 issued within the last four years may apply for participation in the Occupational Safety and Health program under the Cost Containment Act by submitting LDOL-WC-Form No.1023 to the Occupational Safety and Health Section of Office of Workers' Compensation Administration. In scheduling surveys the OWCA will attempt

to schedule on the basis of the date the application is received in the office but shall also consider the OSHA High Hazard list and geographical location for maximizing scheduling.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

### **§1115. Report to the Employer**

Upon completion of surveys of all existing sites of a business, OSHA shall issue to the employer an official inspection report with identified hazards and safety program deficiencies and a timetable for taking corrective actions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

### **§1117. Standard for Satisfactory Implementation**

The standards used by the Office of Workers' Compensation Administration, OSHA Section, in determining a participant's satisfactory implementation of the Occupational Safety and Health Program shall be those provided in Title 29 of the Code of Federal Regulations, Sections 1910, 1915, 1918 and 1926 and any regulations of ANSI, NEC and NFPA applicable to the participant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

### **§1119. Inspections**

When the official inspection report contains any recommendation for correction of hazards or program deficiencies the employer must submit proof of compliance. The OSHA section may require a follow up inspection to verify satisfactory implementation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

### **§1121. Certificate of Satisfactory Implementation**

A certificate of satisfactory implementation LDOL-WC-Form No. 1024 shall be issued only to those eligible employers who have not qualified for a reduction pursuant to R.S. 23:1179(C) in the prior three years.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:19 (July 1993).

Alvin J. Walsh  
Director

## **RULE**

### **Department of Labor Plumbing Board**

#### **Sign and Posting, Insurance, Death of Master Plumber (LAC 46:LV.Chapter 3)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Plumbing Board has amended its regulations to modify its penalties for non-compliance with sign and posting obligations of master plumbers and insurance obligations of master plumbers and to provide certain relief to employing entities who experience the death of a designated master plumber. The board is empowered to adopt such regulations by R.S. 37:1366(D).

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LV. Plumbers**

#### **Chapter 3. Licenses**

#### **§301. License Required**

\* \* \*

E. No employing entity shall hold itself out as engaging in the business or art of plumbing unless it employs a master plumber. No master plumber shall knowingly allow an employing entity to hold itself out as employing such master plumber at a time when it does not employ him within the meaning of R.S. 37:1368(c) and §301.G of these rules. Notwithstanding any other provision to the contrary, a journeyman plumber may repair existing plumbing independently and without the supervision of a master plumber. In the event a master plumber employed by an employing entity dies, the employing entity will be permitted to operate on the basis of the deceased master plumber's license for a period of time not to exceed six months following the death of the master plumber. The board may require proof of death. The six-month grace period provided herein must be applied for, in writing, within 30 days of the death of the master plumber. The employing entity must comply with all other regulations issued by the board during the grace period.

\* \* \*

K. The board is empowered to assess special enforcement fees on a daily basis at a rate not to exceed \$10 a day relative to any master plumber or employing entity, or both, that fails or refuses, after due notice, to comply with the sign and posting requirements established by §301.F of these regulations. The daily enforcement fees assessed by the board under this provision shall not exceed, in the aggregate, \$500. This special enforcement fee shall be in addition to any licensing fees required by law, or any other penalty or sanction assessed by a court of competent jurisdiction or by the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1366 and R.S. 37:1377.

**HISTORICAL NOTE:** Adopted by the Department of Labor, Plumbing Board, 1968, amended by Department of Employment and Training, LR 17:49 (January 1991), amended LR 19: (July 1993).

#### **§308. Insurance Requirements for Master Plumber**

\* \* \*



H. The board is empowered to assess special enforcement fees on a daily basis at a rate not to exceed \$10 a day relative to any master plumber or employing entity, or both, that fails or refuses, after due notice, to comply with the insurance requirements for master plumbers as established in §308 of these regulations. The daily enforcement fees assessed by the board under this provision shall not exceed, in the aggregate, \$500. This special enforcement fee shall be in addition to any licensing fees required by law, or any other penalty or sanction assessed by a court of competent jurisdiction or by the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1366 and R.S. 37:1377.

**HISTORICAL NOTE:** Adopted by the Department of Labor, Plumbing Board, 1968, amended by Department of Employment and Training, LR 17:53 (January 1991), amended LR 18:30 (January 1992), LR 19: (July 1993).

### §309. Fees

\* \* \*

B. The fees and charges of the board relative to master plumbers or restricted master plumbers shall be as follows:

\* \* \*

12. Special daily enforcement fee imposed under §301.K \$10 a day, not to exceed \$500 in the aggregate.

13. Special daily enforcement fee imposed under §308.H \$10 a day, not to exceed \$500 in the aggregate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1366 and R.S. 37:1377.

**HISTORICAL NOTE:** Adopted by the Department of Labor, Plumbing Board, 1968, amended by Department of Employment and Training, LR 17:53 (January 1991), amended LR 19: (July 1993).

Don Traylor  
Executive Director

## RULE

### Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

#### Anhydrous Ammonia (LAC 55:IX.Chapter 15)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce rules and regulations, the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission has amended its rules and regulations. The rule is necessary to ensure the safe handling of anhydrous ammonia and to provide updated regulations in accordance with the law as amended in 1990.

### Title 55

### PUBLIC SAFETY

#### Part IX. Liquefied Petroleum Gas

#### Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

*(Editor's Note: This Chapter applies specifically to the sale, storage, handling and transportation of anhydrous ammonia over*

Louisiana highways and the sale, construction and use of anhydrous ammonia containers and equipment.)

### Subchapter A. New Dealers

#### §1501. Prerequisite

As a prerequisite to engage in the anhydrous ammonia business in the state of Louisiana, an applicant shall first comply with the applicable rules and regulations of the commission.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### §1503. Definitions

*New Dealers*—individuals, firms or corporations that do not hold a permit to engage in the anhydrous ammonia business as of the date of their application.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### §1505. Applications

Any person, firm or corporation desiring to enter the anhydrous ammonia business in the state of Louisiana must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to date of commission meeting. Presence of applicant or representative is required at the commission meeting when the application is heard. In no case will the applicant's supplier be the authorized representative. In the case of an applicant who currently holds a permit with this commission, presence of the applicant at the commission meeting is waived when the application is heard. Application form will be furnished by the commission upon request.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### §1507. Requirements

Before any permit can be issued from the office of the director, all applicants must have complied with the following.

A. Must deposit filing fee of \$100 for Class A1; \$50 for Class A3; and \$25 for all others. This fee must accompany application.

B. Application must have been approved by the Liquefied Petroleum Gas Commission.

C. Must have on file in the office of the director a certificate of insurance signed by a Louisiana resident agent, showing kinds and amounts in force; said certificate shall be considered evidence of liability insurance coverage in the minimum sum of \$1,000,000 or \$5,000,000 depending on class; said certificate must bear the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 30 days prior to date of cancellation.

D. Where applicable, storage tank and location must be approved. Storage tanks may not be located inside corporate

limits without written permission of the governing body.

1. All sketches or drawings of proposed bottle filling plants, liquid withdrawal systems and/or installations utilizing ASME containers must be submitted to the office of the director and approved before system is put into operation.

E. Where applicable, must provide adequate transport and delivery trucks satisfactory to the commission. Each transport and/or delivery truck shall conform to CFR 49 of the DOT specifications.

F. Must have paid permit fee in the amount of \$300 to the Liquefied Petroleum Gas Commission of the state of Louisiana. For all succeeding years the permit fee shall be one-half of one percent of gross annual sales of anhydrous ammonia or \$300, whichever is greater.

G. Persons in charge of operations must furnish proof satisfactory to the commission and the director of the Liquefied Petroleum Gas Commission, that they have had experience in and are familiar with and will abide by all safety precautions necessary in the conducting of the business for which they are granted a permit.

H. All service and installation personnel, anhydrous ammonia transfer personnel, and tank truck drivers must have a card of competency from the office of the director. A card of competency will be issued to applicant upon receipt of \$10 examination fee and successfully completing the test providing applicant holds a current driver's license.

1. All certificates of competency must be renewed annually by permit holder. There will be a charge of \$5 per card. After expiration, there will be a penalty of \$3 per card. There will be a charge of \$5 for replacing a lost card; change of employer; or change of company name. A card with improper employer or company name shall not be valid.

2. All employees who are qualified by this commission and have been issued certificates of competency shall have their certificates of competency on their person while on duty. Should an employee lose his card, dealer is to notify this office within 10 days for the issuance of a new card. If an employee terminates his employment with the dealer for whom the card is issued, the card must be picked up by the dealer and returned to this office immediately.

I. Must have necessary experience in anhydrous ammonia business or have employed a recognized operator of such experience and competency. The commission reserves the right to demand that such knowledge and competency be proved by a written examination.

J. Where applicable must provide adequate switch track or tank loading and unloading facilities. All auxiliary equipment such as pumps, hose, electrical switches, etc., shall be, where possible, Underwriters Laboratory or any other nationally recognized testing agency approved for anhydrous ammonia. If equipment is not so approved, drawings and descriptions shall be submitted to the office of the director of the Liquefied Petroleum Gas Commission for his approval before installation.

K. Applications for a change of name must be on file with the commission 30 days prior to date of commission meeting and must deposit a filing fee of \$25 with application. A representative of the new firm or corporation will be required to be present when the application is considered by the

commission. All certificates of competency must be changed to new name.

L. Any permit holder who does not actively engage in business for which permit was granted, for a period of six consecutive calendar months, may have his permit revoked by the Liquefied Petroleum Gas Commission.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1509. Compliance with Rules**

Compliance with all other applicable rules and regulations will be required for all permit holders.

1. The commission may assess a civil penalty of not less than \$50 nor more than \$500 for each violation of the rules and regulations adopted by this commission. Civil penalties may be assessed only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act. The commission may institute civil proceedings to enforce its ruling in the district court for the parish in which the commission is domiciled or the district court for the parish in which the violation occurred.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1511. Re-application**

Any person, firm or corporation who has made application for a permit to enter the anhydrous ammonia business and whose request for permit has been denied, may re-submit an application 90 days after date of denial.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1513. Classes of Permits**

The Liquefied Petroleum Gas Commission will issue upon application the following classes of permits:

1. Class A1. Holders of these permits may enter any phase of the anhydrous ammonia business.

a. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be considered, listing the names and addresses of the principal owners or, in the case of a corporation, the names and addresses of the principal officers and directors, and the agent of service. The name and address of the manager must also be furnished. Presence of the applicant is required at the commission meeting when the application is heard. Only with special approval of the commission, under extenuating circumstances, will the commission allow applicant to be represented by another party. Application forms will be furnished by the commission upon request.

b. Must deposit filing fee of \$100 with application.

c. Must furnish evidence of liability insurance in the

minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;

- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

d. Storage tank and location must be approved. Storage tanks may not be located inside corporate limits without permission of the governing body.

e. Must pay permit for first year's operations in the amount of \$300 to the Liquefied Petroleum Gas Commission of the state of Louisiana. For all succeeding years the permit fee shall be one-half of one percent of the gross annual sales of anhydrous ammonia or \$300, whichever is greater.

f. Person in charge of operations must be satisfactory to the commission and the director of the Liquefied Petroleum Gas Commission.

g. All service and installation personnel, anhydrous ammonia transfer personnel, and tank truck drivers must have a card of competency from the office of the director.

h. Must have necessary experience in anhydrous ammonia business or have employed a recognized operator of such experience and competency. The commission reserves the right to demand that such knowledge and competency be proved by a written examination.

i. Must provide adequate switch track of tank loading and unloading facilities. All auxiliary equipment such as pumps, hose, electrical switches, etc., shall be, where possible, Underwriters Laboratories or any other nationally recognized testing agency approved for anhydrous ammonia. If equipment is not so approved, drawings and descriptions shall be submitted to the office of the director of the Liquefied Petroleum Gas Commission for his approval before installation.

j. No truck shall be parked on a street or highway at night in any city, town or village, except that it be for the purpose of serving a customer, then only in an emergency.

k. Compliance with all other applicable rules and regulations will be required.

1. The name of the dealer or permit holder must appear on all tank trucks, storage tank sites, and/or advertising being used by the dealer.

2. Class A2. Holders of these permits may install and service anhydrous ammonia containers, piping and appliances, but shall not deliver anhydrous ammonia.

a. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be considered. Presence of the applicant (owner, manager or officer) is required at the commission meeting when the application is heard. In no case will the applicant's supplier be the authorized representative. Application forms will be furnished by the commission upon request.

b. Must deposit filing fee of \$25 with application.

c. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following

classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

d. Must pay permit for first year's operations in the amount of \$300 to the Liquefied Petroleum Gas Commission of the state of Louisiana. For all succeeding years the permit fee shall be one-half of one percent of the gross annual sales of anhydrous ammonia or \$300, whichever is greater.

e. Person in charge of operations must be satisfactory to the commission and the director of the Liquefied Petroleum Gas Commission.

f. All service and installation personnel must have a certificate of competency from the office of the director.

g. Must have necessary experience in anhydrous ammonia business or have employed a recognized operator of such experience and competency. The commission reserves the right to demand that such knowledge and competency be proved by a written examination.

h. Compliance with anhydrous ammonia law and all other applicable rules and regulations is required.

3. Class A3. Holders of these permits may engage in the filling of approved cylinders with anhydrous ammonia on their premises, but shall not deliver anhydrous ammonia.

a. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be considered. Presence of the applicant (owner, manager or officer) is required at the commission meeting when the application is heard. In no case will the applicant's supplier be the authorized representative. Application forms will be furnished by the commission upon request.

b. Must deposit filing fee of \$25 with application.

c. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.

d. Storage tank and location must be approved. All tanks located in corporate limits must also be approved by the governing body.

e. Must pay permit for first year's operations in the amount of \$300 to the Liquefied Petroleum Gas Commission of the state of Louisiana. For all succeeding years the permit fee shall be one-half of one percent of the gross annual sales of anhydrous ammonia or \$300, whichever is greater.

f. Person in charge of operations must be satisfactory to the commission and the director of the Liquefied Petroleum Gas Commission.

g. All employees handling anhydrous ammonia must have a certificate of competency from the office of the director.

h. Must have necessary experience in anhydrous ammonia business or have employed a recognized operator of such experience and competency. The commission reserves

the right to demand that such knowledge and competency be proved by a written examination.

i. Compliance with all other applicable rules and regulations will be required.

4. Class A3-X. Holders of these permits may engage in the exchange of approved anhydrous ammonia cylinders on their premises, but shall not fill cylinders.

a. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be considered. Presence of the applicant (owner, manager or officer) is required at the commission meeting when the application is heard. In no case will the applicant's supplier be the authorized representative. Application forms will be furnished by the commission upon request.

b. Must deposit filing fee of \$50 with application.

c. Must furnish evidence of liability insurance in the minimum sum of \$1,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

i. products property damage liability;

ii. products public liability;

iii. automobile property damage liability;

iv. automobile public liability.

d. Must pay permit for first year's operations in the amount of \$300 to the Liquefied Petroleum Gas Commission of the state of Louisiana. For all succeeding years, the permit fee shall be one-half of one percent of the gross annual sales of anhydrous ammonia or \$300, whichever is greater.

e. Storage location must be approved. All tanks located in corporate limits must also be approved by the governing body.

f. Cylinder delivery trucks are to comply with CFR 49 of the DOT specifications.

g. Person in charge of operations must be satisfactory to the commission and the director of the Liquefied Petroleum Gas Commission.

h. All employees handling anhydrous ammonia must have a certificate of competency from the office of the director.

i. Compliance with all other applicable rules and regulations will be required.

5. Class A4. Holders of these permits may transport anhydrous ammonia by motor vehicle over the highways of the state of Louisiana but shall not sell product in the state. This permit may be secured from the office of the director upon receipt of the following:

a. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be considered. Presence of the applicant (owner, manager or officer) is required at the commission meeting when the application is heard. In no case will the applicant's supplier be the authorized representative. Application forms will be furnished by the commission upon request.

b. Must deposit filing fee of \$25 with application.

c. Must pay permit fee for first year's operations in the amount of \$300 to the Liquefied Petroleum Gas Commission of the state of Louisiana. For all succeeding years the permit fee shall be \$300.

d. Must furnish evidence of liability insurance in the minimum sum of \$5,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

i. automobile public liability;

ii. automobile property damage liability.

e. All trucks traveling in Louisiana shall conform to CFR 49 of the DOT specifications.

f. All transport trucks are subject to inspection and approval of the Liquefied Petroleum Gas Commission.

g. No truck shall be parked on a street or highway at night in any city, town, or village, except that it be for the purpose of serving a customer and this only in an emergency.

h. All transport and tank truck drivers must have a certificate of competency from the office of the director.

i. Compliance with all other applicable rules and regulations will be required.

6. Class A4-E. Holders of these permits may transport anhydrous ammonia over the highways of the state of Louisiana but shall not sell product in the state. These permits are valid only for 90 days from the date of issuance and may be secured from the office of the director upon receipt of the following:

a. Application must be submitted to the office of the Liquefied Petroleum Gas Commission;

b. Must deposit filing fee of \$25 with application;

c. Must pay emergency permit fee (valid for 90 days only) in the amount of \$325. In the event the applicant desires to obtain a permanent Class A4, \$300 of the emergency fee will be applicable to the current year's fee;

d. Must furnish evidence of liability insurance in the minimum sum of \$5,000,000 covering each of the following classes of insurance, covering applicant's legal liability:

i. automobile public liability;

ii. automobile property damage liability.

e. All trucks entering the state of Louisiana shall be inspected by a field inspector from the staff of the commission and certified safe.

f. All trucks traveling in Louisiana shall conform to CFR 49 of the DOT specifications.

g. Operators of the equipment must pass appropriate examination.

h. Section 1505 of the rules and regulations is hereby declared non-applicable to the Class A4-E permit.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

### **Subchapter B. Dealers**

#### **§1515. Compliance with Rules and Act**

Dealers must comply with R. S. 3:1355 of the Louisiana Revised Statutes and the rules and regulations of the Liquefied Petroleum Gas Commission in order to obtain a permit and to avoid cancellation of said permit.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the

Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1517. Fine**

The commission, after 15 days notice to appear before them for trial, and trial held, may impose a fine in lieu of cancellation of permit.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1519. Expiration of Permit**

After the expiration of permit fee date, any dealer continuing in operation without payment of the fee, as required by law, shall be considered as operating in violation of R. S. 3:1356 (A) of the Louisiana Revised Statutes and rules and regulations of the Liquefied Petroleum Gas Commission, and the commission may or may not renew, as in their judgment may decide.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1521. Qualified Personnel**

All service and installation personnel, anhydrous ammonia transfer personnel, and tank truck drivers must have a card of competency from the office of the director. Where new persons are employed, they must not be placed in charge of making installations, servicing equipment, or delivering anhydrous ammonia until they have passed the examination given by the director and a card showing their competency has been issued to them.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1523. Report Accidents**

Any accident in the anhydrous ammonia business shall be reported in writing to the office of the director within 48 hours. For example, accidents involving the transportation of anhydrous ammonia, injury to an employee, etc.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1525. Insurance**

Insurance requirements for an individual firm or corporation having a permit shall be the same as required of a new dealer.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1527. Compliance with Rules**

Compliance with all other rules and regulations will be required for all permit holders.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1529. Condemnation of Tanks**

Any anhydrous ammonia storage container corroded, pitted or worn to 20 percent of the thickness of the head, shell plate, or stand pipe shall be condemned for further storage of anhydrous ammonia, provided the shell thickness is not less than three-sixteenths inch.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

#### **§1531. Improper Installation**

A dealer shall not serve any anhydrous ammonia system which the dealer knows or should know is not installed pursuant to the Liquefied Petroleum Gas Commission regulations or is in a dangerous condition. All new installations or reinstallations must be checked by the dealer for tightness of lines, poor workmanship, use of unapproved pipe or equipment or use of poor piping design. All improper installations shall be corrected before the dealer services such installation or reinstallation with anhydrous ammonia for the first time. Any subsequent servicing dealer shall not be responsible for unauthorized changes in or failures of an existing system or connected equipment.

1. Anyone violating this section shall also be liable for all damages resulting from an accident or explosion involving that shipment. The liability imposed by this Section may not be delegated by contract or practice to any transporter or subcontractor responsible for the transportation of anhydrous ammonia.

2. A permit may be suspended or revoked by the commission whenever the commission has assessed two or more penalties against a dealer for willful violation of or failure to comply with such rules and regulations provided the second or succeeding penalty or penalties have been imposed for violations of or failure to comply with the regulations of the commission committed after the imposition of the first penalty or forfeiture, reserving to the dealer the right to resort to the courts for reinstatement of the permit suspended or revoked. The commission may suspend or revoke the permit of any person who violates the provisions of R. S. 3:1355 or who fails to pay any civil penalty imposed by the commission under the provisions of R. S. 3:1357 within 30 days after the assessment becomes final. Any dealer who continues to operate after such permit is revoked or during the period of such suspension shall be liable to prosecution under the provisions hereof in the same manner as if no such permit had ever been issued. A permit may be revoked or suspended only by a ruling of the commission based on adjudicatory hearing held in accordance with the Administrative Procedure

Act. The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or in the district court for the parish in which the violation occurred.

3. No dealer shall service an anhydrous ammonia system, tank or another dealer after having received notification by the commission that the system, tank or dealer is not in compliance with these rules and regulations. Mailing of an AD letter which states that a system, tank or dealer is not in compliance, or certified letter stating the same shall constitute notification.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

### **§1533. Customer Notification**

Each dealer shall transmit a notice once each year to each customer stating that anhydrous ammonia systems are potentially dangerous, that a leak in the system could result in an injury and that systems should be inspected periodically.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

### **§1535. Inspections**

Each dealer facility subject to the regulations of the commission shall submit to an inspection by a representative of the commission, which inspections may be conducted without prior notice by the commission or its representative.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

### **§1537. Dealer Permit Requirements**

Permits required under these general requirements shall not be transferred. All dealers, regardless of operation, must hold a permit and may not operate under a permit of another dealer.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

### **§1539. Testing of Tanks**

The director of the Liquefied Petroleum Gas Commission reserves the right to require an internal hydrostatic pressure test on bulk storage or nurse tanks.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

### **§1541. Sketches**

A. Three copies of all anhydrous ammonia installation

plans and specifications including plot plans shall be submitted to the office of the director for approval before the job is begun.

B. Such plans must show the following:

1. the distance of container from line of adjoining property, highways, main line of railroads, places of public assembly, institutional occupancy (such as hospitals, nursing homes, schools) and dug wells;

2. size and location of tank;

3. the size and location of all pipe and the length of all runs;

4. all other details as related to the proposed installation as required.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

### **§1543. Tags of Approval**

A. Dealers shall inspect their customers' nurse tanks up to 3,000 gallons annually. A report showing proof of inspection shall be mailed to the office of the director by the twentieth of the month following inspection.

The above inspection shall be good for one year only.

B. Any bulk storage container (over 3,000 gallons) shall be inspected and tagged by an inspector of the Liquefied Petroleum Gas Commission on an annual basis.

The above inspection shall be good for one year only.

C. Any system being serviced for the first time shall be inspected in accordance with the provisions of Subsection A and B above, whichever may apply.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

## **Subchapter C. Forms and Reports**

### **§1545. Installation Report**

An installation report form shall be used for all installations and reinstallations of DOT and ASME containers, and must be filed with the office of the director of the Liquefied Petroleum Gas Commission by the twentieth day of the following month (except in the case of a bulk storage installation which shall be filed at the time of installation).

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:1354.

**HISTORICAL NOTE:** Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

## **Subchapter D. Adoption of Standard**

### **§1547. National Standard**

A. The Liquefied Petroleum Gas Commission hereby adopts the American National Standards Institute, Safety Requirements for the Storage and Handling of Anhydrous Ammonia, CGA-G-2.1, ANSI K61.1 of 1989 except for Section 8 regarding systems mounted on railcar structures.

B. Any subsequent changes made to the above mentioned national standard shall become effective the date the standard is published.

C. Any published rules and regulations shall take precedence over the standard referenced in Subsection A.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

G.L. "Mike" Manuel, Jr.  
Director

## RULE

### Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

#### Classes of Permits (LAC 55:IX.113)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce rules and regulations, the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission has amended its rules and regulations. The rule waives the appearance of Class VI-X permit applicants at commission meetings.

#### Title 55

#### PUBLIC SAFETY

#### Part IX. Liquefied Petroleum Gas

#### Chapter 1. General Requirements

*Editor's Note:* This Chapter applies to all classes of permits.

#### Subchapter A. New Dealers

#### §113. Classes of Permits

A.1. - 6. ...

7. Class VI-X. Holders of these permits may engage in the exchange of approved L.P. Gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

a. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be approved. Presence of the applicant at the commission meeting is waived when the application is heard. Application forms will be furnished by the commission upon request.

b. - h. ...

i. Section 105 of the rules and regulations is hereby declared non-applicable to the Class VI-X permit.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 3:315 (July 1977), LR 7:633 (December 1981), LR 8:53 (January 1982), LR 11:557 (May 1985), LR 15:855 (October 1989), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19: (July 1993).

G. L. "Mike" Manuel, Jr.  
Director

## RULE

### Department of Public Safety and Corrections Office of Alcoholic Beverage Control

#### Caterer's Permit (LAC 55:VII.325)

Under the authority of the Louisiana Alcoholic Beverage Code, particularly R.S. 26:793 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of Alcoholic Beverage Control has adopted a rule to establish special designations on Regular Class A permits for persons who wish to service special events as caterers and serve at locations other than their regularly licensed premises.

#### Title 55

#### PUBLIC SAFETY

#### Part VII. Alcoholic Beverage Control

#### Chapter 3. Liquor Credit

#### §325. Caterer's Permits

A. The Office of Alcoholic Beverage Control may issue special caterer's permits to the holders of Class A liquor and beer retail permits to allow licensed dealers to sell and serve alcoholic beverages, on a temporary basis, limited to three days in duration, at events other than upon the premises for which the holder's regular permit is issued; but only in an area which the sale of beverages has been authorized by local option election and with written permission from the local governing authority.

1. In order to qualify for a caterer's permit, an applicant must derive 60 percent of its gross annual revenue from the sale of food or food-related product. The permit is limited in application to off-premise events of limited duration and only when providing food service amount to at least 25 percent of the gross revenue to the caterer for the event. All alcoholic beverages must be dispensed by the caterer or his employee, agent or servant.

2. The caterer's permit may be issued in conjunction with either a Class A beer or liquor permit, or both, and shall expire at the same time as the regular Class A permit. If the regular Class A permit ceases to be valid for cause, the caterer's permit ceases to be valid. Cost of the caterer's permit is \$200 per year or portion thereof; costs shall not be prorated.

3. An application for a caterer's permit shall be made on forms prescribed by the commissioner. Special designation on the duplicate Class A permits of applicants for caterer's permit shall be *caterer*.

B. A caterer must display the caterer permit on the premises of the event being catered.

C. Holders of a caterer's permit must specifically comply with provisions of LSA-R.S. 26:90, 26:91, 26:286 and 26:287 in addition to other provisions not exempted; however, exceptions are: when the holder of caterer's permit calls upon an industry member to serve an event; at events other than upon the premises for which the holders regular permit is issued, the industry member must charge the holder of the caterer's permit for all equipment used and services rendered in an amount at least equal to that listed as follows:



1. labor: at a rate equal to that required as a minimum wage under the Federal Wage and Hour Act;
2. self contained electric units in which the beer container is refrigerated with the unit: \$15 per day;
3. electric unit in which the beer container sits outside the cooling unit: \$15 per day;
4. picnic pumps: \$1 per day;
5. tubs: \$1 per day;
6. cold plates: \$2 per day;
7. trucks designed to handle packaged beer without refrigeration: \$20 per day;
8. refrigerated trucks designed to handle packaged or draught beer: \$30 per day;
9. mobile refrigerated draught units such as trailers or other vehicles: \$30 per day;
10. cups, ice, additional CO<sub>2</sub> gas and similar supplies and equipment: cost to the industry member.

D. Any violation of rules or causes enumerated in Title 26 of the Louisiana Revised Statutes shall subject the retailer to revocation, suspension or withholding of his alcoholic beverage permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19: (July 1993).

Raymond Holloway  
Commissioner

## RULE

### Department of Social Services Office of Family Support

#### Food Stamp-Deductions (LAC 67:III.1983)

The Department of Social Services, Office of Family Support has amended LAC 67:III.1983, in the Food Stamp Program.

The Family Support Act of 1988 directed that child care payments to participants in the Job Opportunities and Basic Skills (JOBS) Program, known as Project Independence in Louisiana, and the Transitional Child Care Assistance Program (TCC) be excluded as food stamp income.

Federal regulation provides that a dependent care deduction is not allowable for the amount of child care expenses reimbursed or paid for by JOBS or TCC.

#### Title 67

### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 3. Food Stamps

#### Chapter 19. Certification of Eligible Households

#### Subchapter I. Income and Deductions

#### §1983. Income Deductions and Resource Limits

\* \* \*

B. A child care expense that is paid for or reimbursed by the Job Opportunities and Basic Skills Training Program or the

Transitional Child Care Program shall not be deductible, except for that expense which exceeds the payment or reimbursement.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, 7 CFR 273.9 and 273.10 (d)(1)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:414 (March 1993), LR 19: (July 1993).

Gloria Bryant-Banks  
Secretary

## RULE

### Department of Social Services Office of Rehabilitation Services

#### Sign Language Interpreter (LAC 67:VII.1301)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Rehabilitation Services, Commission for the Deaf is adopting revisions to the rules affecting the certification of sign language interpreters.

The purpose of this rule is to provide revisions to the rules governing the procedures/standards used in the evaluation and certification of sign language interpreters and list the qualifications of individuals who are eligible for certification at various skill levels.

#### Title 67

### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

#### Chapter 13. State Sign Language Interpreter Certification Standards

#### §1301. Certification Standards

A. Certification Statement. All individuals who use the title "Sign Language Interpreter" must be certified by and registered with the Louisiana Commission for the Deaf.

1. Recognition of situational specialties will require action of the appropriate subcommittees of the Interpreter Certification Board.

##### a. Qualifications for Certification

- i. be at least 18 years of age; and
- ii. possess a high school diploma/GED; and
- iii. submit completed application forms and required documentation; and

iv. pass appropriate examination(s); and

v. abide by state laws, rules and regulations; and

vi. abide by the Registry of Interpreters for the Deaf, Inc. (RID) Code of Ethics; and

b. in addition, applicants shall agree to:

i. sign a release of information form allowing LCD to gain examination results from examining agency(ies); and

ii. pay membership and related application fees to contracted examining agency(ies).

c. Application. An individual interested in certification must contact the Louisiana Commission for the Deaf (LCD).

B. Examinations. The State Certification Program includes the following:

1. Screening. To begin the certification process, the candidate must rate an intermediate level or higher of Sign Language skills, as measured by the Sign Language Proficiency Interview or Sign Communication Proficiency Interview.

2. Written/Verbal/Performance Components. Upon successful completion of screening, the candidate will be eligible for the written examination(s), which will assess knowledge of the general field of deafness including deaf culture; the profession of Sign Language interpreting and application of the RID Code of Ethics.

a. Upon successful completion of the written examination(s), the candidate will be eligible for the verbal and/or performance examination(s).

b. The verbal examination(s) may include but not be limited to assessing knowledge of the general field of deafness including deaf culture, the profession of Sign Language interpreting and application of the RID Code of Ethics.

c. The performance examination will assess the candidate's ability to render the following:

i. American Sign Language into spoken English and spoken English into American Sign Language; and

ii. Sign English into spoken English and spoken English into Sign English.

d. Factors examined include, but are not limited to, clarity of signs and fingerspelling; appropriateness of English structure and register; inflection of signs and voice to depict affect and conceptual accuracy.

3. Examination Instrument. The Interpreter Certification Board will determine the examination(s) to be administered as approved by the Louisiana Commission for the Deaf.

4. Examination Dates. Administration of examination(s) will be scheduled by the Interpreter Certification Board.

5. Notification of Examination(s) Results. Individual candidates will be notified of results. Results of any part of the examination(s) will be maintained in confidential files, however, successful completion will be a matter of public record.

6. Re-application. Persons who do not successfully pass any section(s) of the examination may apply for re-examination of said section(s) after a waiting period as outlined in the procedures manual of the Interpreter Certification Board.

7. No Shows. Failure to appear at an examination site at the appropriate time, for other than just cause as determined by ICB, will result in being placed at the bottom of the waiting list for the next available date.

#### C. Certificates

1. Certificate Criteria. The candidate:

a. must successfully complete the written examination(s); and

b. must successfully complete the verbal and/or performance examination(s);

c. must successfully complete a standardized minimum score/rating as determined by the provider of the examination instrument(s).

d. will be awarded:

i. Level V

ii. Level IV

iii. Level III

iv. Level II

v. Level I

e. A Level V certificate indicates the candidate possesses master level skill in both interpreting and transliterating.

2. Certificate Duration/Maintenance. Certificates shall be continuous as long as the individual interpreter meets certificate maintenance requirements as outlined in the procedures manual of the Interpreter Certification Board. Certificate maintenance requirements shall include but not be limited to professional growth and development, and field work.

a. Certificates shall be terminated when maintenance requirements are not met, but may be restored as outlined in the procedure manual of the Interpreter Certification Board.

3. Reciprocity. Reciprocity of Sign Language interpreting certificates is outlined in the procedure manual of the Interpreter Certification Board.

4. Appeals. Individuals who disagree with the examination procedure and/or decisions of the Interpreter Certification Board have the right of appeal as outlined in the procedure manual of the Interpreter Certification Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2351-2354 and 46:2361-2374.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 17:389 (April 1991), amended LR 18:968 (September 1992), LR 19:304 (March 1993), LR 19: (July 1993).

Gloria Bryant-Banks  
Secretary

## RULE

### Department of Social Services Office of Rehabilitation Services

#### Sign Language Interpreters' Grandfather Provision (LAC 67:VII.1303)

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, the Department of Social Services, Rehabilitation Services, Commission for the Deaf is revising the rules effecting the certification of sign language interpreters.

The purpose of this rule is to provide revisions to the rules governing the procedures/standards used in the evaluation and certification of sign language interpreters and list the qualifications of individuals who are eligible for certification at various skill levels.

The rule was published as an emergency rule in the March 1993 register, pages 305-306.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Rehabilitation Services**

**Chapter 13. State Sign Language Interpreter Certification Standards**

**§1303. Grandfathering**

Upon this rule becoming effective, for a period of three months candidates may receive a certificate according to the following:

1. Level V. Individuals must provide documentation and proof of Louisiana Commission for the Deaf Interim Certificate A or B, or current or past Registry of Interpreters for the Deaf certification of:

a. Specialist Certificate: Legal SC:L (formerly LSC),

or

b. Specialist Certificate: Performing Arts (SC:PA), or

c. Master Comprehensive Skills Certificate (MCSC),

or

d. Comprehensive Skills Certificate (CSC), or Reverse Skills Certificate (RSC), or

e. Certificate of Interpretation (CI) and Certificate of Transliteration (CT).

2. Level IV. Individuals must provide documentation and proof of Louisiana Commission for the Deaf Interim Certificate C, or current or past Registry of Interpreters for the Deaf certification of:

a. Certificate of Interpreting (CI), or Certificate of Transliterating (CT);

b. Expressive Interpreting Certificate (EIC); and

c. Expressive Translating Certificate (ETC); or

d. Interpreting Certificate (IC); and

e. Transliterating Certificate (TC).

3. Level III. Individuals must provide documentation of a Louisiana Commission for the Deaf Interim Certificate D or past Registry of Interpreters for the Deaf certification of:

a. Expressive Interpreting Certificate (EIC); or

b. Expressive Translating Certificate (ETC); or

c. Interpreting Certificate (IC); or

d. Transliterating Certificate (TC).

4. Level II. Individuals must provide documentation and proof of four or more Louisiana Registry of Interpreters for the Deaf Situational Specialties\* and an intermediate or higher rating as measured by the Sign Language Proficiency Interview, or a Louisiana Commission for the Deaf Interim Certificate E.

5. Level I. Individuals must provide documentation and proof of one to three Louisiana Registry of Interpreters for the Deaf Situational Specialties\* and an intermediate or higher rating as measured by the Sign Language Proficiency Interview.

\* Religious interpreting as a Situational Specialty will not be accepted.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2351-2354 and R.S. 46:2361-2374.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR

17:389 (April 1991), amended LR 18:968 (September 1992), LR 19:305 (March 1993), LR 19: (July 1993).

Gloria Bryant-Banks  
Secretary

**RULE**

**Department of Transportation and Development  
Board of Registration for Professional Engineers and  
Land Surveyors**

Engineering Branches (LAC 46:LXI.902, 1103)

In accordance with R.S.49:950 et seq., notice is hereby given that the Board of Registration for Professional Engineers and Land Surveyors has amended LAC 46:LXI.902 and 1103 as follows:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors**

**Subpart 1. Rules**

**Chapter 9. Branches of Engineering**

**§902. Branches Added**

\* \* \*

B. Environmental - 1993

C. Control Systems - 1993

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:693.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 17:273 (March 1991), amended LR 19:

**§1103. Other Curricula**

\* \* \*

D. Related technology curricula shall be those four-year technology curricula which correspond to the approved branches of engineering listed in §901 and §902 which are approved by the board. Such curricula shall be accredited by the Technology Accreditation Commission of the Accreditation Board for Engineering and Technology (TAC/ABET) or equivalent to such curricula.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:693.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended 7:647 (December 1981), LR 10:805 (October 1984), LR 19: (July 1993).

Paul L. Landry, P. E.  
Executive Secretary

**RULE**

**Department of Treasury  
Louisiana Housing Finance Agency**

**Home Investment Partnership Program  
(LAC 16:II.Chapter 1)**

The board of the Louisiana Housing Finance Agency has adopted the following Home Investment Partnership Program rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and under authority of the Louisiana Housing Finance Act, R.S. 40:600.1, et seq. The agency has adopted the form of HOME Investment Partnership Program Application Package in connection with the administration and allocation of HOME Program funds. The following rule and policies govern the allocation and award of HOME Program funds made available pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1990.

**Title 16**

**COMMUNITY AFFAIRS**

**Part II. Louisiana Housing Finance Agency**

**Chapter 1. Home Investment Partnership Program**

**§101. Home Program Application Fees**

**A. Rehabilitation**

Project Size	Application Fee
1 to 4 units	\$ 200
5 to 16 units	\$ 500
17 to 32 units	\$ 1,000
33 to 60 units	\$ 1,500
61 to 100 units	\$ 2,000
Over 100 units	\$ 200

**B. Home Buyer Assistance**

Single family dwellings (1-4 units)	\$ 200
-------------------------------------	--------

**AUTHORITY NOTE:** Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19: (July 1993).

**§103. Aggregate Pools**

Name	% of Available Funds
A. Allocation to Jurisdictions to Become Eligible to Administer HOME Program Directly	4%
B. Administrative Expenses	5%
C. CHDO Operating Support	5%
D. CHDO General Fund	15%
E. Special Needs Set Aside	24%
F. Rehabilitation Programs	31%
G. Home Buyer Assistance	16%

**AUTHORITY NOTE:** Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19: (July 1993).

**§105. Selection Criteria to Award Home Funds to Rehabilitation Projects**

	Points
A. Project Located In Comprehensive and Concentrated Neighborhood Revitalization Area	25
B. Project to be Owned, Developed or Sponsored by Community Housing Development Organization (CHDO)	25
C. Leverage Ratio for Each HOME Dollar Minimum Other Dollars	
\$1	5
\$2	10
\$3	15
\$4	20
\$5	25
D. Project to Rehabilitate Substandard Housing Units to Minimum Quality Standards with Total Funds Per Unit Not Exceeding:	
\$ 2,500	25
\$ 5,000	20
\$ 7,500	15
\$10,000	10
\$15,000	7
\$20,000	5
\$25,000	2
E. Project to Rehabilitate Housing Units of Historic or Architectural Significance	25
F. Project to Rehabilitate Housing Units Serving Special Needs Groups	50
G. Project Promotes Cooperative Housing	25
H. Project to Expend HOME Funds by June 30, 1993	50
I. Project to Establish Lease-Purchase Turnkey Program	25

**AUTHORITY NOTE:** Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19: (July 1993).

**§107. Selection Criteria to Award Home Funds to Local Governmental Units (Sub-Recipients)**

	Points
A. Jurisdiction Proposes Comprehensive and Concentrated Neighborhood Revitalization Area	25
B. Jurisdiction Proposes to Use Community Housing Development Organization ("CHDOs") to Own, Sponsor or Develop Units to be Rehabilitated	25
C. Leverage Ratio for Each HOME Dollar Minimum Other Dollars	
\$1	5
\$2	10
\$3	15
\$4	20
\$5	25
D. Jurisdiction Proposes to Rehabilitate Substandard Housing Units to Minimum Quality Standards with Total Funds Per Unit Not Exceeding:	
\$ 2,500	25
\$ 5,000	20
\$ 7,500	15

\$10,000	10
\$15,000	7
\$20,000	5
\$25,000	2

E. Jurisdiction Rehabilitate to HQS Following Percentage of Substandard Units in Rehabilitation Area:

90 - 100%	50
80 - 90%	40
70 - 80%	30
60 - 70%	20
50 - 60%	10
less than 50%	0

F. Jurisdiction Proposes to Rehabilitate Housing Units of Historic or Architectural Significance 25

G. Jurisdiction Proposes to Rehabilitate Housing Units Serving Special Needs Groups 50

H. Jurisdiction Proposes to Promote Cooperative Housing 25

I. Jurisdiction Proposes to Commit HOME Funds by June 30, 1993 50

J. Jurisdiction Proposes to Establish Lease-Purchase Turnkey Program 25

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 19: (July 1993).

V. Jean Butler  
President

**RULE**

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

**Black Bass on Eagle Lake (LAC 76:VII.169)**

The Louisiana Wildlife and Fisheries Commission hereby adopts the following rule on black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, LA.

**Title 76**

**WILDLIFE AND FISHERIES**

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

**Chapter 1. Freshwater Sports and Commercial Fishing  
§169. Black Bass Regulations, Eagle Lake**

The size regulation for black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana is as follows:

It shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 14 inches total length on Eagle Lake, located east of the Mississippi River in Madison Parish, Louisiana. This rule will expire at midnight, April 2, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (C), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife

and Fisheries, Wildlife and Fisheries Commission, LR 19: (July 1993).

Bert H. Jones  
Chairman

**RULE**

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

**1993-94 Hunting Regulations**

In accordance with the Notice of Intent published in the March 1993 *Louisiana Register*, the Wildlife and Fisheries Commission, at its regular monthly meeting in July ratified regulations on open hunting season dates, bag limit, methods of taking, and rules and regulations on department operated wildlife management areas for the period September 1, 1993-August 31, 1994. Authority to establish regulation is vested in the commission by §115 of Title 56 of the Louisiana Revised Statutes of 1950. A synopsis of season dates is made part of this rule.

**Summary of 1993-94 Resident Game Hunting Season**

**Dates and Bag Limits**

Quail:	Nov. 25 - Feb. 28—Daily Bag Limit 10, Possession 20
Pheasant:	Nov. 25 - Dec. 19 (Cock Pheasant Only)—Daily Bag Limit 2, Possession 4
Squirrel:	Oct. 2 - Jan. 30—Daily Bag Limit 8, Possession 16
Rabbit:	Oct. 2 - Feb. 28—Daily Bag Limit 8, Possession 16
Deer:	Dates Vary - See Schedule Below—Bag Limit: One per day, 6 per season by all methods of taking
Archery:	Oct. 1 - Jan. 20
Muzzleloader:	Dec. 6 - Dec. 10 (Areas 1-5, 7) Nov. 29 - Dec. 3 (Area 6)

Area 1 - 59 days	Days
Nov. 20 - Dec. 5	16 (still hunt only)
Dec. 6 - 10	5 (still hunt, muzzleloader only)
Dec. 11 - Jan. 6	27 (with or without dogs)
Jan. 7 - 17	11 (still hunt only)
	59
Area 2 - 68 days	Days
Oct. 30 - Dec. 5	37 (still hunt only)
Dec. 6 - 10	5 (still hunt, muzzleloader only)
Dec. 11 - Jan. 5	26 (with or without dogs)
	68
Area 3 - 68 days	Days
Oct. 30 - Dec. 5	37 (still hunt only)
Dec. 6 - 10	5 (still hunt, muzzleloader only)
Dec. 11 - Jan. 5	26 (still hunt only)
	68

Area 4 - 51 days	Days
Nov. 20 - Dec. 5	16 (still hunt only)
Dec. 6 - 10	5 (still hunt, muzzleloader only)
Dec. 11 - Jan. 9	<u>30</u> (still hunt only) 51
Area 5 - 14 days	Days
Nov. 20 - 28	9 (still hunt only)
Dec. 6 - 10	<u>5</u> (still hunt, muzzleloader only)
Area 6 - 59 days	Days
Nov. 20 - 28	9 (still hunt only)
Nov. 29 - Dec. 3	5 (still hunt, muzzleloader only)
Dec. 4 - Jan. 17	<u>45</u> (with or without dogs) 59
Area 7 - 68 days	Days
Oct. 30 - Nov. 14	16 (still hunt only)
Nov. 20 - 28	9 (still hunt only)
Dec. 6 - 10	5 (still hunt, muzzleloader only)
Dec. 11 - Jan. 17	<u>38</u> (with or without dogs) 68

Turkey - 1994 Season Dates Vary - See Schedule Below -  
Limit: One per day, 3 per season

Area A	Days
March 26 - April 24	30
Area B	
March 19 - April 24	37
Area D	
April 9 - April 24	16
Area E	
March 26 - April 3	9

CITATION: None - Changes annually

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19: (July 1993).

For those interested, a more detailed copy of the rules and regulations is available from the Office of the State Register, Room 512, 1051 North Third Street, Baton Rouge, LA 70802.

Bert H. Jones  
Chairman

## RULE

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

#### Terrebonne Barrier Island Refuge (LAC 76:III.321)

The secretary of the Department of Wildlife and Fisheries does hereby adopt a rule which establishes regulations

governing the management and use of the Terrebonne Barrier Islands Refuge as set by the Wildlife and Fisheries Commission. Authority for adoption of this rule is included in R.S. 56:6(18), 56:761 and 56:785.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part III. State Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves and Commissions

#### §321. Terrebonne Barrier Islands Refuge

The Department of Wildlife and Fisheries does hereby establish regulations for the management of the Terrebonne Barrier Islands Refuge. The refuge has the greatest number and species diversity of nesting waterbirds of any privately owned barrier island in the state and represents one of the three historical nesting sites presently utilized by the brown pelican. The administrative responsibility for this refuge shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Fur and Refuge Division.

##### A. Regulations for Raccoon and Wine Islands

1. Trespassing is strictly prohibited. Both islands are restricted to the public. The secretary shall have the authority to provide limited public access in the future if biologically justified and recommended by the Fur and Refuge Division.

2. Boat traffic is allowed in the surrounding waterways except for those waterways on the interior of the islands.

3. Disturbing, injuring, destroying, collecting or attempting to disturb, injure, destroy, or collect any plant or animal is prohibited.

4. Littering is prohibited.

5. The destruction, injury, defacement, disturbance or the unauthorized removal of any public property including natural objects is prohibited.

6. Surf fishing from boats is allowed. Trespassing beyond low tide zone (exposed land area) is prohibited.

7. Special permits to allow access to the refuge will be considered while providing for protection of colonial nesters.

8. Mineral activities will be considered on a case-by-case basis due to the dynamic nature of this refuge and the existing mineral provisions included in the surface lease between the department and Louisiana Land and Exploration Company. Coordination will occur with the landowner to assure compliance with all provisions of the surface lease.

##### B. Regulations for Whiskey Island

1. Bird nesting colonies are restricted areas. Such areas will be posted by the department and trespassing in these restricted areas is prohibited.

2. Disturbing, injuring, destroying, collecting or attempting to disturb, injure, destroy or collect any plant or animal is prohibited.

3. Littering is prohibited. All trash must be removed from the refuge upon departure.

4. Alcoholic beverages and controlled dangerous substances (drugs) are prohibited.

5. Carrying, possessing, or discharging firearms, fireworks, or explosives is prohibited.

6. Travel in or use of any motorized or other vehicle is prohibited.

7. The destruction, injury, defacement, disturbance, or

the unauthorized removal of any public property including natural objects is prohibited.

8. Use of the refuge will be allowed from official sunrise to official sunset. Sightseeing, bird watching and fishing is allowed in non-restricted areas.

9. Overnight camping is prohibited.

10. Special permits to allow access to the refuge will be considered while providing for protection of colonial nesters.

11. Mineral activities will be considered on a case-by-case basis due to the dynamic nature of the refuge and the existing mineral provisions included in the surface lease between the department and Louisiana Land and Exploration Company. Coordination will occur with the landowner to assure compliance with all provisions of the surface lease.

C. Violation of the provisions of these regulations is a class 2 violation as described in Title 56:115 (D), 56:764 and 56:787.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:6(18), R.S. 56:761 and R.S. 56:785.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19: (July 1993).

Bert H. Jones  
Chairman

## NOTICES OF INTENT

### NOTICE OF INTENT

Department of Agriculture and Forestry  
Office of Agro-Consumer Service  
Agriculture Commodities Commission

LACC Technical Changes  
(LAC 7:XXVII.Chapter 147)(LAC 37:IX.Chapter 1)

The Department of Agriculture and Forestry advertises its intent to amend rules revising LAC 7:IX.Chapter 1 and LAC 37:IX.Chapter 1. These amendments represent a general updating of those parts and consist of technical corrections which reflect changes in the Agricultural Commodity Dealer and Warehouse Law, repeal obsolete rules and eliminate misspelled words and references to obsolete rule numbers.

These rules comply with R.S. 3:3401 et seq.

## Title 7 AGRICULTURE AND ANIMALS Part XXVII. Agricultural Commodity Dealer and Warehouse Law Chapter 147. Agricultural Commodities Commission §14701. Definitions

\* \* \*

*Agricultural commodities* or *commodities*—sugar, all agricultural products commonly classed as grain, including rice, rough rice, corn, wheat, oats, rye, soybeans, barley, milo, and grain sorghum, and any other agricultural commodity or farm product, other than cotton, which the commission may declare to be an agricultural commodity subject to regulation under the Act.

\* \* \*

*Adjudicatory proceeding*—an open public hearing by the commission to determine whether violations of the act or these regulations have occurred. Such proceedings are conducted in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950, et seq.).

\* \* \*

*Authorized agent* with reference to the authorized agent of a warehouse, warehouseman, or grain dealer—any representative thereof whose name has been filed with the commission as required under R.S. 3:3408.

\* \* \*

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

\* \* \*

*Current financial statement*—a financial statement containing all of the documents listed in LAC 7:XXVII.14707.B and presenting financial position as of the close of the applicant's or licensee's most recent fiscal year.

\* \* \*

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

\* \* \*

*Farm products*—products employed directly in the cultivation, production, or harvesting of any agricultural commodities or containers for agricultural commodities or other farm products.

\* \* \*

*Grain dealer*—any person who purchases any agricultural commodities from producers or represents producers in the purchase or sale of agricultural commodities. The term does not include producers who purchase grain commodities for their own use as feed or seed.

\* \* \*

*Person*—any individual, partnership, company, firm, association, cooperative association, corporation, or any other legal entity engaged in any of the activities regulated under the Act.

\* \* \*

*Warehouse*—any building, structure, or any other protected enclosure required to be licensed by the commission in which agricultural commodities or other farm products are stored for the public for a fee. The term includes facilities which commingle commodities belonging to different owners and



facilities which preserve the separate identities of different lots of agricultural commodities.

**Warehouse operator**—any person or other entity operating a warehouse.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3403, R.S. 3:3404, R.S. 3:3406 and R.S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:287 (May 1983), amended 12:287 (May 1986), amended LR 19:

**§14705. Agricultural Commodities and Other Farm Products Regulated by the Commission**

A. - C.2. ...

C. Whenever commission warehouse receipts are issued to cover any of the following farm products while in storage, the following farm products shall be regulated by the commission:

1. - 2. ...

3. Containers for agricultural commodities listed in LAC 7:XXVII.14705.A and LAC 7:XXVII.14705.B and farm products listed in this rule.

D. ...

E. Commodities and farm products enumerated in LAC 7:XXVII.14705.B, C and D shall be subject to all requirements set forth in these regulations whenever commission warehouse receipts are issued.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3402 and R.S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:288 (May 1983), LR 19:

**§14707. Application for License (Initial and Renewal); Time for Filing; Contents; Fees; Style of Document**

A. Applications for renewal of warehouse and grain dealer licenses must be filed no later than April 30 of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information must be furnished on the application form provided by the commission:

1. - 10. ...

11. Names and address of the owner of the business, if not shown under LAC 7:XXVII.14707.A.7, 8 and 9. Owner must be identified.

\* \* \*

B. 1. - 3.e. ...

f. Whenever the certificate required under LAC 7:XXVII.14707.B.2.e is executed by a representative of the applicant other than the owner or president, a resolution of the board of directors authorizing such representative to execute the certificate.

\* \* \*

C. Each licensee must file a financial statement conforming to the requirements of LAC 7:XXVII.14707.B above within 90 days after the close of the licensee's fiscal year.

\* \* \*

D. Each applicant must also provide the following information, in addition to completing the required application form and providing a financial statement:

1. ...

2. Bond which meets the requirements set forth in LAC

7:XXVII.14715 (warehouse license applicants) or LAC 7:XXVII.14723.G (grain dealer license applicants).

3. Evidence of provisional stock insurance which meets the requirements set forth in LAC 7:XXVII.14717 (warehouses) or LAC 7:XXVII.14723 (grain dealers).

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:289 (May 1983), amended LR 10:75 (February 1984), LR 11:229 (March 1985), amended LR 12:287 (May 1986), amended LR 19:

**§14711. Requirements Applicable to All Warehouses**

A. No person shall operate a warehouse subject to regulation under the Act unless licensed by the commission or under the U.S. Warehouse Act. The following types of warehouses are specifically defined as warehouses subject to regulation under the Act:

1. Any facility offering storage as defined in LAC 7:XXVII.14701 hereof.

\* \* \*

H. All warehouse licenses issued by the commission shall expire on June 30th following date of issue.

I. For initial and continuing licensure, the facility must meet all requirements of LAC 7:XXVII.14713.

J. The warehouse must meet all bonding and insurance requirements set forth in LAC 7:XXVII.14715 and renumber LAC 7:XXVII.14717 hereof prior to issuance of the license. Failure to maintain the required bond and insurance in full force and effect for six months beyond the license period shall subject the licensee to revocation of his license.

\* \* \*

N. Provisions Relative to the Schedule of Tariffs or Charges

1. Each warehouse must file its current tariff with the commission for the commission's approval as to form.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3409, R.S. 3:3410, R.S. 3:3411, R.S. 3:3420 and R.S. 3:34305.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:294 (May 1983), amended LR 11:229 (March 1985), amended LR 19:

**§14715. Bond Required for Warehouse License; Provisions Relative to Licensed Capacities**

A. - C.1. ...

C. The amount of the bond shall be established on the basis of the capacity to be licensed:

1. ...

2. All facilities which commingle agricultural commodities must bond 100 percent of their available capacity, subject to the exemptions contained in LAC 7:XXVII.14715.C.5 and LAC 7:XXVII.14715.C.6.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3410 and R.S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:282 (May 1983), amended LR 10:75 (February 1984), amended LR 19:

**§14719. Amendment to License Required When Change of Status Occurs**

A. - C. ...

D. Whenever the licensed capacity of a facility changes, the bond required under LAC 7:XXVII.14715 must be changed within 45 days to conform to the new capacity. Failure to amend the bond as required herein will subject the licensee to revocation of his license.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3410 and R.S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:299 (May 1983), amended LR 19:

**§14721. Repealed.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3409, R.S. 3:3410 and R.S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:300 (May 1983), repealed LR 19:

**§14725. Risk Position Requirements**

A. - C. ...

D. Any grain dealer who does not adhere to the risk position requirement imposed for such grain dealer by the commission shall be subject to the penalties set forth in LAC 7:XXVII.14749.

E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:3413 and R. S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:302 (May 1983), amended LR 19:

**§14727. Assessments: Amount, Time of Payment, Payment Under Special Conditions**

A. Assessments shall be due and payable from the producer at the first point of sale as defined in LAC 7:XXVII.14701.

B. Each grain dealer shall deduct the assessments set forth in this rule and in R.S. 3:3422 from the proceeds to be paid to producers at the time of sale of commodities, and, where no assessable sale has previously occurred, each warehouse shall collect the assessments set forth in this rule and in R.S. 3:3422 when commodities or farm products are removed from storage.

C. Commodities placed in CCC storage shall be subject to the assessment provided under this rule and under R.S. 3:3422, and said assessment shall be due and payable on the date such commodities are placed under CCC loan or purchased by CCC.

D. The statutory assessment must be paid on agricultural commodities covered by a Payment-in-Kind (PIK) certificate, and such assessment shall be due and payable at the first point of sale as defined in LAC 7:XXVII.14701.

E. Assessments on commodities normally weighed by hundredweight and on commodities normally weighed by bushels shall be as set forth in R.S. 3:3422. The weight of commodities normally weighed in barrels shall be converted to bushels by multiplying the barrel weight times 3.6.

F. Rates of Assessments

1. Assessments on regulated commodities listed in LAC 7:XXVII.14705.B and LAC 7:XXVII.14705.D and farm products listed in LAC 7:XXVII.14705.C shall be at rates

comparable to the rates set forth in LAC 7:XXVII.14727.E above. The exact assessment on each commodity and farm product shall be promulgated in the *Louisiana Register* and when so promulgated shall remain in full force and effect until changed by subsequent promulgation in the *Louisiana Register*. Such assessments may be collected as soon as promulgated in the *Louisiana Register* and shall be collected in the same manner as the assessments listed in LAC 7:XXVII.14727.E above.

2. Rates of assessments to be levied at the first point of sale of agricultural commodities:

Rough Rice	\$.008 per hundredweight
Rice	\$.008 per hundredweight
Sugar	\$.008 per hundredweight
Corn	\$.005 per bushel
Soybeans	\$.005 per bushel
Oats	\$.005 per bushel
Milo or sorghum	\$.005 per bushel
Wheat	\$.005 per bushel
Cotton	\$.10 per bale, first 5,000 bales \$.05 per bale, all over 5,000 bales
Canned/ frozen fruits/ juices/ vegetables	\$.015 per case/carton
Molasses/syrup	\$.05 per 100 gallons
Oil	\$.10 per 100 gallons
Pecans	
Shelled	\$.01 per 300 lb. carton
Unshelled	\$.20 per 130 lb.
Peppers	
Barrels	\$.24 per barrel
Cisterns	\$.20 per cistern

3. - 4. ...

G. - H. ...

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:3422 and R. S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:303 (May 1983), amended LR 9:459 (June 1983), amended LR 19:

**§14733. Warehouse Receipt: Issuance; Open Storage; Partial Delivery; Duplicate Receipts; Delivery of Commodities Covered by Receipts; Cancellation; Receipts on Company-owned Commodities; Non-negotiable Receipts; Cessation of Business; Other Applicable Laws**

A. Issuance of Receipts

1. ...

2. No warehouse shall issue a warehouse receipt covering commodities which are already covered by an outstanding and uncanceled warehouse receipt, except as provided by LAC 7:XXVII.14733.D.

\* \* \*

D. Issuance of Duplicate Negotiable Warehouse Receipt

1. - 2. ...

3. A duplicate negotiable warehouse receipt issued to replace a lost or destroyed receipt must:

b. be distributed as required under LAC 7:XXVII.14731.C.

c. ...

d. bear on its face the number and date of the warehouse receipt which it replaces.

E. - F.2. ...

3. No warehouse receipt shall be canceled unless:

a. the commodities have been removed from storage, by sale or otherwise; or

b. a new warehouse receipt has been issued to replace a lost or destroyed warehouse receipt, as provided under LAC 7:XXVII.14733.D.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3416, R.S. 3:3417, R.S. 3:3418, R.S. 3:3419 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:306 (May 1983), amended LR 11:229 (March 1985), amended LR 19:

**§14743. Reports Required**

A. - B. ...

C. Subsequent to initial licensure under the Act, each grain dealer and each warehouse shall file a financial statement, containing all of the information required under LAC 7:XXVII.14707.B hereof, no later than 90 days after the last day of the warehouse's or grain dealer's fiscal year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3419 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:310 (May 1983), amended LR 19:

**§14749. Adjudication Required Prior to Suspension/Revocation of License or Imposition of Other Penalties; Amount of Penalties; Surrender of License**

A. - C. ...

D. The commission may suspend or revoke a license for any of the grounds set forth in LAC 7:XXVII.14709 hereof, or any other violation of the Act or these regulations, whenever proof thereof is made at any adjudicatory proceeding noticed and conducted as required by the Administrative Procedure Act.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3407, R.S. 3:3410, R.S. 3:3411, R.S. 3:3417, R.S. 3:3424 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:211 (May 1983), amended LR 12:288 (May 1986), amended LR 19:

**§14753. Voluntary Inspection Service**

A. ...

B. Voluntary inspection of facilities and contents, and verification thereof, on a schedule which shall be mutually agreed upon between the warehouse applying for voluntary inspection services and the commissioner, shall be made for a fee of \$.008 per cwt for commodities normally weighed by hundredweight, \$.005 per bushel (or barrel weight converted to bushels as provided by R.S. 3:3422 and LAC 7:XXVII.14727.E for commodities normally weighed by bushel, or such other fee as may be promulgated by the commission as an assessment fee on other agricultural commodities or farm products.

C. ...

D. The total fee for each voluntary inspection of facilities and contents shall be determined by multiplying the total amount of commodities under warehouse receipt at the time of voluntary inspection services times the fee set forth in LAC 7:XXVII.14753.B.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3406, R.S. 3:3422 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:312 (May 1983), amended LR 19:

**§14759. Repealed and repromulgated as LAC 37:127**

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 17:955 (October 1991), repealed and re-promulgated as LAC 37:IX.127 LR 19:

**§14761. Agricultural Commodities Commission; Self-insurance fund**

The commission has promulgated regulations governing the self-insurance fund which may be found in LAC 37:IX. Chapter 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 19:

**Title 37  
INSURANCE**

**Part IX. Agricultural Commodities Commission**

**§101. Definitions**

As used in this part:

\* \* \*

*Claim*—a written notice and/or proof of loss which is filed with the Agricultural Commodities Commission Self-Insurance Program.

*Claimant*—any person or entity who in writing alleges a loss covered under the Agricultural Commodities Commission Self-Insurance Program.

\* \* \*

*Self-insurance fund*—that special fund created in the state treasury for the Agricultural Commodities Commission fees or assessments collected by the commission for participation in the self-insurance fund.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 13:234 (April, 1993), amended LR 19:

### §103. The Fund

There is hereby created, pursuant to the authority granted in R.S. 3:3410.1, a fund to be used for the purposes described in the following subsection hereof and said fund shall be known as the Agricultural Commodities Commission Self-Insurance Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 13:234 (April, 1993), amended LR 19:

### §105. Purpose

The self-insurance fund is established to guarantee the faithful performance of all duties and obligations of licensed grain dealers and licensed warehouses to agricultural producers and holders of state warehouse receipts for agricultural commodities and previous holders of state warehouse receipts released in trust in order to have commodities shipped (open storage), included but not limited to Commodity Credit Corporation, banks and lienholders, provided however that this fund does not apply to federal warehouses with regard to the requirements for federal warehouse license and bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 13:234 (April, 1993), amended LR 19:

### §107. Fees

A. - F. ...

G. The commission may require applicants who are participating in the self-insurance fund for the first time to pay two times the normal fee assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 13:234 (April, 1993), amended LR 19:

### §111. Claim Provisions

A. The monies in the Agricultural Commodities Commission Self-Insurance Fund shall be used solely for the administration and operation of this program of self-insurance.

B. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 13:234 (April, 1993), amended LR 19:

### §119. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 13:235 (April, 1993), repealed LR 19:

### §127. Pending Litigation; Stay of Claims

Where the commission finds that litigation is pending which could determine whether payment of a claim is due or to whom payment of a claim is due, the claim in question may be stayed until the judgment in said litigation has become final

and definitive. The commission shall give notice of the stay to any claimants whose claims have been stayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.1.

HISTORICAL NOTE: Promulgated as LAC 7:XXVII.14759 by the Department of Agriculture and Forestry, Agriculture Commodities Commission, LR 17:955 (October 1991), repealed and re-promulgated in this title LR 19:

Interested persons may submit opinions, suggestions or data through Friday, August 27, 1993 to Manning Broussard, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Bob Odom  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: TECHNICAL CHANGES

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No costs or savings to state or local governmental units are anticipated to result from implementation of the proposed rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue to state or local governmental units is anticipated to result from implementation of the proposed rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
No impact on receipts or income to persons affected by the proposed rule changes is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition or employment is anticipated.

Richard Allen  
Assistant Commissioner

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Agriculture and Forestry and Department of the Treasury

Linked Deposit Loan Programs (LAC 7:V.Chapter 14)

In accordance with R.S. 3:4276, the Department of Agriculture and Forestry and the Department of the Treasury propose to adopt rules and regulations regarding the "Agricultural Production and Agricultural Product Processing Linked Deposit Loan Programs," the full text of which can be viewed in the emergency rule section of this July, 1993 *Louisiana Register*.

A public hearing is scheduled to be held on Tuesday, August 24, 1993 at 10 a.m. in the second floor conference

room of the Department of Agriculture and Forestry Headquarters at 5825 Florida Boulevard, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: LINKED DEPOSIT LOAN PROGRAMS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No costs are anticipated to result from the implementation of these programs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The programs involve "linked deposits" - the state deposits funds in a bank at an interest rate three percent lower than it would ordinarily receive on a normal deposit. The three percent is then passed on to a qualified borrower's loan. The law authorizes \$10 million of such deposits for farmers, plus \$10 million for agriculture products processors, therefore, total revenue reduction by the state would be three percent of \$20 million or \$600,000 per year for the life of the program. The deposit and the state's ability to make this deposit is by law subject to the judgment of the state treasurer.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Eligible agricultural products processing business may obtain \$200,000 of linked deposits and eligible farmers may obtain \$100,000 under the programs. The benefits would be equal to \$6,000 and \$3,000, respectively. Banks making loans under the program, along with eligible farmers and businesses, shall have to complete a one page application form (front and back). Banks shall be required to have records connected to this loan identified for easy access. The individuals receiving the loan will be required to furnish all information necessary to complete the one page application form.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The effect on competition will be minimal since the amount each business receives and the beneficiaries will be spread across the spectrum of agriculture. The effect on employment should be greater since one of the criteria for awarding this benefit will be the ratio of state funds to be deposited to the number of jobs sustained or created.

Richard Allen  
Assistant Commissioner

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Economic Development  
Office of Financial Institutions**

Capital Companies Tax Credit Program  
(LAC 13:I.701-717)

Pursuant to the authority of R.S. 51:1921 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Financial Institutions gives notice that rulemaking procedures have been initiated to amend LAC 13:I.701-717, entitled "Louisiana Capital Companies Tax Credit Program."

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this July, 1993 *Louisiana Register*.

This rule provides for the transfer of administration of the program from the Office of Commerce and Industry to the Office of Financial Institutions.

This rule places more stringent guidelines on and provides greater guidance to those groups interested in becoming Certified Capital Companies.

Clarification provided in the proposed rule will enhance the regulation of the Certified Louisiana Capital Companies and should promote investment in such companies, since the terms of the statute are clarified in a more objective and measurable manner.

These proposed rules are scheduled to become effective on October 20, 1993, or upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed rules no later than 4:30 p.m., August 31, 1993, to Sidney E. Seymour, Chief Examiner, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095 or 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809.

Sidney E. Seymour  
Chief Examiner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: LOUISIANA CAPITAL COMPANIES TAX  
CREDIT PROGRAM**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs or savings, since the proposed rule amends and replaces the existing rule applicable to Certified Louisiana Capital Companies.
- 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)  
This rule places more stringent guidelines on and provides greater guidance to those groups interested in becoming Certified Louisiana Capital Companies. The proposed rule neither raises nor lowers the costs or fees associated with the

application, renewal, or examination process. Clarification provided in the proposed rule will enhance the regulation of the Certified Louisiana Capital Companies and should promote investment in such companies, since the terms of the statute are clarified in a more objective and measurable manner.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition or employment in the public or private sectors.

Larry L. Murray  
Commissioner of Financial Institutions

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Department of Economic Development Office of Financial Institutions

#### Licensed Lender Application (LAC 10:VII.101,103,105)

In accordance with R.S. 49:950 et seq., R.S. 9:3554(B) and 3558(A), notice is hereby given that the Commissioner of Financial Institutions intends to amend the rule, published in the *Louisiana Register*, Vol. 17, No. 6, Pp. 578 through 586 (June 20, 1991), to better provide for information pertaining to the financial responsibility, character, and fitness required of applicants for licenses to make supervised loans or engage in insurance premium financing under the Louisiana Consumer Credit Law, R.S. 9:3510 et seq.

The existing rule, originally adopted as a multiple item form, as it is to be amended, will provide as follows:

#### Title 10

#### Banks and Savings and Loans

#### Part VII. Consumer Credit

#### Chapter 1. Application for Supervised Loan License or Insurance Premium Financing License

#### §101. General

The commissioner shall prescribe a form which will make provision for an applicant to furnish the information required by statute and this rule to enable the commissioner to evaluate and determine the financial responsibility, character, and fitness of applicants to engage in the business of either making supervised loans or financing insurance premiums for the general public.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 9:3554(B) and R.S. 9:3558(A).

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:587 (June, 1991), amended LR 19:

#### §103. Public Section

A. Applications submitted by all applicants shall contain the following information:

1. the name of the person or entity applying for the license;
2. the applicant's physical address and telephone number;
3. the applicant's mailing address, if different from the physical address;

4. the permanent physical address at which consumer loans or insurance premium financing will be made;

5. the legal status or characterization of the applicant (e.g., natural person, limited liability company, corporation, partnership, association, joint venture, syndicate, etc.);

6. the complete name (no initials) of each person who will exercise managerial authority;

7. a description of the work experience which the applicant relies on to believe that each proposed managerial person is qualified for the position;

8. the name and physical address of the depository institution at which the applicant will maintain the business accounts if licensure is granted;

9. if the applicant, applicant's parent company, subsidiary, or affiliated company is also licensed as an insurance company or insurance agency, applicant must state its relationship to such insurance company or agency in all states which have licensed the insurance company or agency;

10. provide the complete name and physical address where the person who is signing the application can be contacted during the hours of 8 a.m. through 5 p.m. during the time the application is being processed;

11. state whether the applicant, any person having an ownership interest in the applicant, any affiliated company, or subsidiary of the applicant has operated or is operating any finance company or insurance premium finance company in Louisiana or any other state or a territory of possession of the United States, and, if answered in the affirmative, state the date of licensure, the name under which the business is or was licensed, the name and complete address of the licensing authority, and the complete physical address of each licensee;

12. state whether the applicant, if an individual, or any director, officer, partner, limited liability company member, or association member of a legal entity has ever filed for protection under the National Bankruptcy Act, and, if answered affirmatively, state sufficient details to enable the commissioner to determine the identity of the individual or entity which sought bankruptcy protection, the judicial district in which the petition was filed, the docket number of the bankruptcy proceeding, the date the petition in bankruptcy was filed, and the date of discharge, if any;

13. state whether the applicant, any of its principals, or its subsidiary or parent company intends to conduct or permit another to conduct any business other than making supervised loans or making insurance premium financing loans at the licensed location. If answered in the affirmative, the other business activities to be conducted or permitted must be listed and described in detail;

14. identify all other business, professional, or occupational licenses, including those issued by any regulatory authority, which have been issued to the applicant or any of its principals, affiliates, or subsidiaries;

15. state whether the applicant owns any interest in any corporation, limited liability company, or other business entity which has a financial or business relationship with the applicant. If the answer is affirmative, state the name, federal tax identification number, complete physical address, date the corporation, limited liability company, or other business entity was established, and, if applicant is a corporation or limited

liability company, the state of incorporation or organization, and the ownership interest of applicant, stated as a percentage;

16. any other information which the commissioner needs to make his finding that the financial responsibility, character, and fitness of the applicant, and of the members thereof (if the applicant is a limited liability company, a partnership, association, joint venture, or syndicate), and of the officers and directors thereof (if the applicant is a corporation), are such as to warrant his belief that applicant's business will be operated honestly and fairly within the purposes of the Louisiana Consumer Credit Law, R.S. 9:3510 et seq.; and

17. a declaration by the person signing the application that he is aware that any false or misleading statement made in the application will be grounds for denying, revoking, or suspending the license when the statement is determined to have been false and misleading.

B. A corporation or limited liability company which applies for a license must:

1. state whether it is a domestic or foreign entity;
2. provide certified copy of:
  - a. the Certificate of Incorporation or Certificate of Organization, as applicable;
  - b. Articles of Incorporation or Articles of Organization, as applicable, including any amendments;
  - c. the most recent annual report made to the Secretary of State or, if not a domestic corporation or limited liability company, the authority with whom such annual report must be filed;

3. if chartered for more than one calendar year before submitting its application for licensure, the limited liability company must also furnish a Certificate of Good Standing issued by the Secretary of State or, if a foreign limited liability company, by the authority with whom Articles of Organization or Articles of Incorporation, as applicable, must be filed, dated no more than 90 days before its application is submitted;

4. identify each manager of the limited liability company or director of the corporation, as applicable, and, as to each manager or director, supply that person's complete name, physical address, including zip code, date and place of birth, Social Security number, and telephone number, including area code;

5. identify each officer, by name and office held, supplying as to each person the complete name, physical address, including zip code, date and place of birth, Social Security number, and telephone number, including area code; and

6. state whether it is a subsidiary of a limited liability company, corporation, partnership, association, syndicate, joint venture, or other legal entity, and if the applicant answers affirmatively, the legal status (e.g., limited liability company, corporation, association, etc.) and its complete name and physical address, the state in which it was incorporated and the year of incorporation, the full name and street address of the parent entity's agent for the service of legal process.

C. A partnership which applies for a license must:

1. state what type of partnership it is (e.g., general, limited, in commendam, limited liability partnership, or other, and if known by some other name by the law of the state, United States territory or possession, or foreign country in

which it is filed with the Secretary of State or other appropriate authority, explain and include a certified copy of the statute authorizing its creation;

2. state the full name (no initials), physical address, including zip code, date and place of birth, Social Security number, and telephone number, including area code, of each partner; and

3. furnish a certified or true copy of the articles of partnership, including any amendments.

D. An association which applies for a license must:

1. state the nature and purposes of the association;
2. list the members of the association; and
3. furnish a certified or true copy of the association agreement, including any amendments.

E. An individual who applies for a license to operate as a sole proprietorship must state his complete name, physical address, date and place of birth, Social Security number, and the telephone number, including area code, at which he can be contacted between 8 a.m. and 5 p.m. during the time the application is being processed.

F. If the applicant is a limited liability company, corporation, partnership, association, joint venture, or syndicate, the applicant must:

1. designate an individual or other legal entity, residing or authorized to do and doing business in Louisiana, as agent for service of process. The designated agent shall be the person upon whom written notifications from the Office of Financial Institutions shall be made. The complete physical address of the agent shall be stated;

2. if a limited liability company or a corporation, attach a resolution of the applicant's managing board, designating and authorizing the person or persons executing the application to do so;

3. if a partnership, attach a certified copy of a resolution approved by a majority of the partners, designating and authorizing the person or persons executing the application to do so; and

4. if an association, attach a resolution adopted by a majority of its members, designating and authorizing the person or persons executing the application to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554(B) and R.S. 9:3558(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:587 (June, 1991), amended LR 19:

### **§105. Confidential Section**

A. Applications submitted by all applicants shall contain, or attach to the application, as appropriate, the following information:

1. a current certified financial statement;
2. a letter from applicant's depository institution certifying that applicant has, for each license applied for, at least \$25,000 unencumbered cash in the depository institution, identifying the account by number, name, and date the account was opened;

3. notwithstanding the requirement as set forth in Paragraph 2, applicant will be required to submit a two-year business plan based on the type and volume of financing to be provided;



4. for those individuals who will exercise managerial authority, including applicant's proposed manager and each principal, e.g. individual, sole proprietor, partner, corporation director, limited liability company manager or member, officer, association member, trustee, etc., include each person's complete name (no initials), date and place of birth, Social Security number, physical address, complete with zip code, residence telephone number, complete with area code;

5. state whether the applicant, any principal, or any person who will possess power to direct the management or policies of the applicant, has been arrested, indicted, charged by bill of information or affidavit, convicted, pleaded guilty or nolo contendere with a finding of guilt by the court, of any criminal offense, other than a misdemeanor traffic violation, prescribed by the law of any state of the United States, the United States, or any territory or possession of the United States, or a foreign country, within 10 years of the submission of the application. If answered affirmatively, applicant shall state the complete name, Social Security number, date and place of birth of an individual, or the name of the legal entity, its federal tax identification number, the judicial district in which the criminal proceeding was filed and prosecuted, the caption and docket number of the proceeding, and the date the adjudication of guilt was made or the plea of guilty was accepted by the court;

6. state whether the applicant, any principal, or any person who will possess power to direct the management or policies of the applicant, has been found liable for fraud in a civil proceeding in any court of any state or of the United States, its territories or possessions, or of a foreign country. If answered affirmatively, applicant shall state the complete name, Social Security number, date and place of birth of an individual, or the name of the legal entity and its federal tax identification number, the judicial district in which the civil proceeding was filed and prosecuted, the caption and docket number of the proceeding, and the date judgment was entered, and, if the case was appealed, the date the judgment became final;

7. state whether the applicant, the parent entity, or subsidiary entity, any principal, the manager, or any person with power to direct the management or policies of the applicant:

a. has, within 10 years of the date the application is submitted, been denied a license to engage in any trade, occupation, business, or profession by any governmental authority, or whether a license which was granted has been suspended or revoked;

b. is, to applicant's knowledge, currently being investigated by any federal or state regulatory authority or law enforcement agency, or a similar agency of a foreign country;

c. has, within 10 years of the date the application is submitted, been subjected to any regulatory action, including but not limited to liquidation or receivership by any state or federal agency, or of a foreign country, or its license to engage in the business of making consumer loans has been suspended or revoked, or its application to engage in such business has been denied by the primary regulatory agency responsible for enforcing the consumer credit laws of any other state, or country;

8. the applicant's Social Security number, if an individual, or the federal tax identification number if applicant is a legal entity;

9. a statement sworn to and subscribed before a notary public stating that the person who signed the application has been authorized to complete and file the application, and that all statements and representations of fact contained in the application are true and correct, thereby subjecting the signer of the application to punishment for the offense of false swearing;

10. a statement sworn to and subscribed before a notary public stating that the individual-applicant, or a legal entity's designated representative, waives his or its entitlement to financial records privacy for the limited purpose of authorizing the Office of Financial Institutions to make inquiries to any depository institution and law enforcement agency during the processing of the application, and at any time thereafter, for the purpose of determining initially, and continually monitoring the financial responsibility, character, and fitness to engage in the business of making supervised loans or engage in the business of insurance premium financing.

B. If the stock of the corporation-applicant is not traded on a recognized public stock exchange, the application shall state the total number of authorized and issued shares and provide, as an attachment to the application, a list of all its stockholders, providing the physical address of each stockholder and specifying the number of shares owned by each stockholder.

C. In addition to the requirements stated in Subsections A and B of this Section, an applicant shall:

1. state whether all or any portion of applicant's "start up" cash was acquired by loans or the issuance of notes, debentures, or other evidence of investment or indebtedness. If answered affirmatively, the applicant shall provide complete details, including the name and physical address of each lender/purchaser or holder of indebtedness, the total amount of indebtedness owed each person or entity, the complete name and physical address of each person who sold each indebtedness, and the relationship, if any, between each lender/purchaser of indebtedness and the seller/borrower;

2. furnish an opinion letter issued by an attorney at law licensed by the state in which any indebtedness was issued, stating whether the form and issuance of the indebtedness is in compliance with federal securities laws and with state securities laws of each state in which debentures were sold; and

3. state whether the sellers of any such indebtedness in Louisiana are registered in Louisiana. If not registered in Louisiana, the attorney opinion letter referred to in Subsection C.2 above, shall be accompanied by a letter from the Office of Securities, Louisiana Office of Financial Institutions, stating that exemption from registration has been granted by the Office of Securities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554(B) and R.S. 9:3558(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:587 (June, 1991), amended LR 19:

Written comments concerning the proposed rule may be sent

to Clarissa Mercer, Consumer Credit Division, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095. Comments will be accepted through the close of business on August 31, 1993.

Larry L. Murray  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: SUPERVISED LENDER/INSURANCE  
PREMIUM FINANCING LICENSE APPLICANTS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs or savings, since the proposed rule amends and replaces the existing rule applicable to those applicants seeking a Supervised Lender License or Insurance Premium Financing license.
- 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)  
The proposed rule neither raises nor lowers the costs or fees associated with the application process. Applicants will save time by not having to read and answer questions that do not apply to their organizational structure.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule will have no impact on competition or employment in the public or private sectors.

Larry L. Murray  
Commissioner

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 741—BESE Honors Curriculum**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, Louisiana Handbook for School Administrators, to delete from the BESE Honors Curriculum, the required credit in computer literacy, but retained the requirement for computer science.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 17:6(A)(10)(11)(15).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., September 7, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: BESE HONORS CURRICULUM**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The only cost would be \$100 for the cost of printing and distributing the policy changes in Bulletin 741.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There would be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There are no estimated costs or economic benefits to directly effected persons or groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There would be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
for Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1508—Pupil Appraisal Handbook**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, revised Bulletin 1508, Pupil Appraisal Handbook.

Bulletin 1508 is a guide for the conduct of pupil appraisal services. It includes procedures, standards, and criteria for identifying children eligible for special education and/or related services. Bulletin 1508 may be seen in its entirety in the Office of the State Register, located on the Fifth Floor of the Capital Annex, in the Office of Special Educational Services, State Department of Education, and in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, Louisiana.

Bulletin 1508 was also published as an emergency rule in the May 20, 1993 issue of the *Louisiana Register*, since the Bulletin was required to be submitted to the United States Department of Education by May 3, 1993 in order for the Federal funds to be received by July 1, 1993. Effective date of this emergency rule was July 1, 1993.

**AUTHORITY NOTE:** IDEA-Part B, Section 1400, Sub-chapter II-(CFDA 84:027A) and Section 1419 of IDEA-B, Section 619, P. L. 102-119 (CFDA 84.173); R. S. 17:1941 - 1958

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., September 7, 1993 to: Eileen Bickham,

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: BULLETIN 1508, PUPIL APPRAISAL  
HANDBOOK**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated increased implementation costs or savings to State or Local governmental units. Although several exceptionality definitions were revised, it is not anticipated that this will result in an increased number of students in special education. The revisions were mainly for clarification. The one exception could be in the category of Other Health Impaired (OHI). The federal office, OSERS, has included ADD/ADHD as a condition under OHI. As a result, there may be some students identified as OHI who have not been previously identified. Because of the nature of this condition, however, it is expected that these students, though classified as OHI, will be served through modifications and adaptations within the regular classroom.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated 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)**

There is no estimated cost nor economic benefit to directly affected persons or non-governmental groups. Local governmental units, local special education personnel, and the general public were given many opportunities, through public hearings, and advertisements for comments, to offer suggestions and criticism on the proposed revisions. Although the SDE received many comments, there were no concerns raised pertaining to an increase or decrease in costs.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There is no anticipated effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
for Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1706—Exceptional Children**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, revised Bulletin 1706, Regulations for

**Implementation of the Exceptional Children's Act.**

Bulletin 1706 contains statewide rules and regulations enforcing the requirements of state and federal laws which assure a free, appropriate public education to all exceptional children, ages 3 through 21 years. Responsibilities of state and local public and nonpublic educational agencies are given. Bulletin 1706 may be seen in its entirety in the Office of the State Register, located on the Fifth Floor of the Capital Annex, in the Office of Special Educational Services, State Department of Education, and in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, Louisiana.

Bulletin 1706 was also published as an emergency rule in the May 20, 1993 issue of the *Louisiana Register*, since the Bulletin was required to be submitted to the United States Department of Education by May 3, 1993 in order for the Federal funds to be received by July 1, 1993. Effective date of this emergency rule was July 1, 1993.

AUTHORITY NOTE: R.S. 1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., September 7, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: BULLETIN 1706**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Proposed are revisions to Bulletin 1706, *The Regulations for Implementation of the Exceptional Children's Act*. Most of the revisions clarify timelines, unclear or outdated verbage. Many of the revisions allow more flexibility to local governmental units in setting up pupil/teacher ratios. Many revisions formally change the special education regulations to be in compliance with federal law. LANSER has been incorporated into the regulations for which the school systems currently budget so this will not increase cost. Mediation has been incorporated into the bulletin which may allow a reduction in local costs. The continuation of existing pupil/teacher ratios for special education may require school systems to incur costs for additional students and some school systems may not receive additional funding from the MFP for them. Estimated implementation costs to state governmental unit for the first year is \$20,000 for printing and postage.

**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)**

No costs or benefits are estimated from this proposed change.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition or employment from this proposed change.

Marlyn Langley  
Deputy Superintendent  
for Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1822—Competency Based Postsecondary Curriculum Outlines**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, the following amendments to Bulletin 1822, Competency Based Postsecondary Curriculum Outlines.

**CURRENTLY APPROVED**

<b>TITLE</b>	<b>LENGTH</b>
Process Technician	1350 hrs., 12 mos.
Jewelry Technology	2025 hrs., 18 mos.
Masonry	1800 hrs., 16 mos.
Carpentry	2025 hrs., 18 mos.
Appliance Repair	1350 hrs., 12 mos.
Outdoor Power Equipment Technician	2025 hrs., 18 mos.
Electronics (Basic Core)	1350 hrs., 12 mos.

**PROPOSED REVISION**

Process Technician	1352 hrs., 13 mos.
Jewelry Technology	1872 hrs., 18 mos.
Masonry	1872 hrs., 18 mos.
Carpentry	2184 hrs., 21 mos.
Appliance Repair	1248 hrs., 12 mos.
Outdoor Power Equipment Technician	1872 hrs., 18 mos.
Basic Electronics	1248 hrs., 12 mos.

**NEW CURRICULA (outlines only)**

<b>TITLE</b>	<b>LENGTH</b>
Hotel/Hospitality Operations	1248 hrs., 12 mos.
Microcomputer Software Specialist	936 hrs., 9 mos.
Microcomputer Specialist	1248 hrs., 12 mos.
Microcomputer Programmer	1872 hrs., 18 mos.
Fitter-Fabricator	624 hrs., 6 mos.

Interested persons may submit comments on the proposed revisions until 4:30 p.m., September 7, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: AMENDMENTS TO BULLETIN 1822**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

In 1983, the Board of Elementary and Secondary Education adopted the implementation of uniform course titles and time requirements. These amendments to this bulletin are updates on title names, course lengths and content. The cost to implement this change would be approximately \$300. This would be for printing and postage to mail out the revisions. This amount also includes extra cost for the implementation of a new course.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This amendment is an update to Bulletin 1822, "Competency-Based Postsecondary Curriculum Outlines." When updates occur, the length of attendance for various courses may be increased or decreased. As courses are increased, the technical institutes will realize additional revenue and as they are decreased, will realize a decrease in revenue. As new courses are added, the potential for greater enrollment is better thus providing additional revenue for the technical institutes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

As courses are increased or decreased in length, the technical institute students will realize an increase or decrease in the amount of tuition costs. However, a more adequately trained worker will be available for employment in business and industry.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

All technical education students will receive the same minimum curriculum from each technical institute attended. If a student transfers from one institute to another, there will be no lost time. The technical institutes will be producing better products as a result of up-to-date curricula.

Marlyn Langley  
Deputy Superintendent for  
Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Composition of Parish Superintendents Advisory Council  
(LAC 28:I.105)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, the revised composition of the Parish Superintendents Advisory Council, which is also an amendment to the Administrative Code, as stated below:

**Title 28  
EDUCATION**

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

**Chapter 1. Organization**

**§105. Board Advisory Councils**

\* \* \*

**B. Composition**

\* \* \*

**1. Parish Superintendents Advisory Council**

The Parish Superintendents Advisory Council shall consist of 23 members to include 22 members appointed by the board and one additional member who shall be the president of the Louisiana Association of School Superintendents who shall serve as chairman of the council. Each member of the board shall appoint two members, with at least one member, if possible, coming from a rural school system. Eight members shall constitute a quorum. Any appointed member, including the chairman, who cannot attend a meeting may appoint another superintendent from his district to represent him. The proxy shall have the same voting privileges as the appointed member. Members of the Parish Superintendents Advisory Council shall not receive reimbursement for travel expenses from the board.

\* \* \*

**D. Officers**

Unless otherwise provided by state or federal law or board policy, each advisory council shall select from among its membership a chairperson and a vice-chairperson. Elections shall be annually at the first meeting in a calendar year, and the councils shall report election results to the board.

\* \* \*

F. All members of the advisory councils, including salaried public employees, shall be entitled to reimbursement for actual travel expenses unless specifically prohibited by statute or board policy. Members may submit requests for reimbursements for expenses in accordance with the regulations promulgated by the state commissioner of administration. The board will abide by the rules set forth by the state Ethics Commission which allows salaried public employees to receive per diem payments as long as they are on annual leave.

\* \* \*

**H. Quorum**

Unless otherwise provided, a quorum is a majority of the appointed membership. In the absence of a quorum, the advisory council may take action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum being present.

I. Any person serving on an advisory council who cannot attend a scheduled meeting may appoint a person to attend as his proxy. Unless otherwise provided herein, no proxy shall have voting privileges. Any council member who is absent from regular meetings for three consecutive times may not be represented by proxy. A proxy, in order to receive reimbursement for travel and other expenses, must present a letter signed by the council chairman to the board's staff director.

**AUTHORITY NOTE:** Promulgated in accordance with Louisiana

Constitution Article VII, Section 10.1; R.S. 17:6(9), 17:11, 17:24.4, 17:415.1, 17:1954, 17:3762, 17:3801, 42:4.1-12; 20 USC 1413 (Sec. 613) and 20 USC 3474 (Sec. 112).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m., September 7, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: COMPOSITION OF PARISH  
SUPERINTENDENTS ADVISORY COUNCIL**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The only estimated costs to implement this revised advisory council will be approximately \$4478.10 per year to cover the cost of postage and printing required for providing the additional 11 members of the council with material referred to them by the board for their recommendations.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There is no estimated effect on revenue collections of state or local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**  
There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
There is no estimated effect on competition and employment.

Carole Wallin  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**State Plan For Adult Education**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the indicators of program quality for the statewide Adult Education Program. The eight indicators, along with performance standards, are printed below and will appear in the Appendix of the Louisiana State Plan for Adult Education, 1989-1993.

**Indicators of Program Quality**  
Louisiana Adult Education Program

**Educational Gains**

**Indicator 1:** Learners demonstrate progress toward attainment of basic skills and competencies that support their educational needs and satisfy a selected goal that improves their quality of life.

Programs support learners' educational needs by promoting progress toward attainment of linguistic, mathematics, communication, and problem-solving competencies. Progress is demonstrated by improvement in participants' abilities to understand, speak, read, and write English, perform basic computations, and function more effectively in the home, community, workplace, and society. Provisions are made for students to work toward goals that improve their quality of life.

**Sample Measures:**

- Standardized test score gains
- Competency-based test score gains
- Attainment of student goals specifically selected by student upon entry into program
- Instructor reports of gains/improvements in basic skills and communication competencies
- Alternative assessment methods (e.g., portfolio assessment, student report of attainment, or improvement in specific employability or life skills)

**Performance Standards:**

- All students have an identifiable goal documented in their records.
- Student progress is based upon pre-test and post-test scores
  - Growth in grade level per number of hours of instruction
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student progress is based upon portfolios of work which document improved performance.
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student progress is based upon documented improvement of employability/life skills. (Instructional module completed toward student goals)
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student progress is based upon documented improvement of ESL learners to understand, speak, read, and write English, perform basic computations, and function more effectively in the home, community, workplace, and society (e.g., portfolio assessment, student report of attainment, or improvement in specific employability or life skills)
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student progress is based upon documented student reports of accomplishments (e.g., read a book, got a drivers license, got a job or a better job, voted for first time, etc.)
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Summary data for this indicator (This standard should reflect an unduplicated count; all previous performance standards of this indicator may be a duplicated count.)

Total number of students served this program year  
Number of students showing growth out of the total enrollment

Percentage of students showing growth out of the total enrollment

**Indicator 2:** Learners advance in the instructional program or complete program educational requirements that allow them to continue their education or training.

Programs promote progression to higher levels of learning within the adult education program or promote the attainment of skills required for learners to advance to other education or training opportunities. Progress is demonstrated by participants' attainment of a credential or movement into other programs or skill levels.

**Sample Measures:**

- Student advancement to a higher level of skill or competency in the adult education program
- Attainment of a high school equivalency diploma through the GED testing program
- Attainment of a competency certificate
- Student is referred to or enters other education or training programs

**Performance Standards:**

- Student masters skills required to pass the GED test and qualify for a high school equivalency diploma.
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
  - Percentage of students who passed GED test out of the number recommended
- Student masters skills required to pass any section of GED.
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student masters competencies necessary for self-sufficiency in ESL.
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student masters skills to progress to a higher level of learning within adult education program.
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student masters skills to be referred to or enters other education or training (e.g., college, vo-tech, proprietary school, apprenticeship programs, etc.)
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student masters ABE proficiencies related to survival skills (e.g., decoding, sight vocabulary, reading simple sentences, and comprehension of basic level texts).
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student masters ABE proficiencies related to life skills (e.g., reads, writes, communicates, and performs math functions needed for daily living).
  - Number of students showing growth by this standard
  - Percentage of students showing growth by this standard
- Student masters ABE proficiencies related to academic skills (e.g., reads and understands paragraphs and has mastered functional literacy skills needed for GED).

Number of students showing growth by this standard.

Percentage of students showing growth by this standard.

Student masters ABE proficiencies related to workforce skills (e.g., has mastered functional literacy skills and has upgraded critical thinking skills needed for job performance).

Number of students showing growth by this standard

Percentage of students showing growth by this standard

Summary data for this indicator (This standard should reflect an unduplicated count; all previous performance standards of this indicator may be a duplicated count.)

Total number of students served this program year.

Number of students showing growth out of the total enrollment.

Percentage of students showing growth out of the total enrollment.

### **PROGRAM PLANNING**

**Indicator 3:** Program has a planning process that is ongoing and participatory, guided by evaluation, and based on a written plan that considers community demographics, needs, resources, and economic and technological trends, and is implemented to its fullest extent.

Planning begins with a written plan that evolves from the program's mission statement. The planning process is ongoing with mechanisms for revising plans on a regular basis, drawing input from program evaluations. Planning is responsive to the needs of learners and the community through input from staff, students, and other appropriate programs and organizations in the community.

#### **Sample Measures:**

A planning document that contains the mission statement, program goals, and objectives.

Community input through mechanisms such as an advisory board, staff meetings, student questionnaires, and public hearings, and frequency with which these sources are consulted.

Program plan matches community needs regarding location of classes, skills taught, and type of program services offered (e.g., sufficient ABE, basic literacy instruction, or ESL).

Program evaluation component and evidence that evaluation feeds into the planning process.

Congruence between planned program activities and actual activities.

#### **Performance Standards:**

Evidence of a written plan describing the basic skills needs of the service area, and the goals and objectives for meeting the needs of the target population through local program activity.

Evidence of use of documents in the planning process that have data on community needs (e.g., census data, needs assessments, demographic data, etc.)

Evidence that the advisory council/participatory planning group has met on an ongoing basis to advise the local program (e.g., minutes, bylaws, strategic plans, etc.)

Evidence of use of previous year's performance report.

Evidence that scheduling of classes, skills taught, and types of services offered meet with needs of community.

Evidence of staff meetings.

Evidence of local evaluation plan.

Availability of annual audit/financial records.

Availability of state monitoring/evaluation reports.

Availability of job descriptions.

### **CURRICULUM AND INSTRUCTION**

**Indicator 4:** Program has curriculum and instruction geared to individual student learning styles and levels of student needs.

Learners are provided Individualized Prescription Instruction (IPI) documents to make them aware of their present academic skills and provide a plan for progress toward their documented goals. Curriculum and instruction should meet the educational needs of students with diverse educational and cultural backgrounds. Since students have different learning styles and goals, instruction includes a variety of instructional approaches and strategies.

#### **Sample Measures:**

All learners have an Individualized Prescription Instruction (IPI) document on file and available to the teacher and student for consultation and planning.

Use of student assessment information to enhance the instructional process.

Student goal-setting process linked to decisions on instructional materials, approaches, and strategies.

Instructional content which addresses educational needs of individual students

Instructional strategies implemented and measured through observation and self-evaluation .

#### **Performance Standards:**

Evidence of Individualized Prescription Instruction (IPI) for each learner on file at the site of instruction and available to the student and teacher.

Evidence of use of assessment information to improve and enhance the instructional process.

Evidence of student goal setting linked to selection of instructional materials, approaches, and strategies.

Evidence that needs of individual students are considered in the selection of instructional content.

Evidence that a current list of curricula provides a variety of materials reflecting various instructional level of students.

Evidence of congruence between planned program activities and actual activities.

### **STAFF DEVELOPMENT**

**Indicator 5:** Program has an ongoing staff development process that considers the specific needs of the staff and provides appropriate training that meets those needs.

Staff development is designed to enable teachers to improve their teaching skills and therefore improve the quality of instruction. Staff development begins with an orientation to the goals and philosophy of the program and continues with periodic training that meets the needs of the program staff. Input from staff is significant.

#### **Sample Measures:**

Preservice and inservice staff development opportunities that include a program overview, philosophy and goals of the program, staff input, and topics appropriate to adult learning.

Process for identifying staff development needs .

Staff needs considered when selecting training activities .

Staff access to training activities provided by the state adult



education office, universities, and professional organizations.

**Performance Standards:**

Evidence of preservice and inservice staff development activities.

Evidence of amount of time devoted to preservice and inservice training activities.

Evidence of process for identifying staff needs.

Evidence of identified staff needs met through training activities.

Evidence of the extent to which specific staff development activities requested by staff has been addressed.

Evidence of staff participation in regional and state training provided by state adult education office, universities, and professional organizations.

**SUPPORT SERVICES**

**Indicator 6:** Program identifies students' needs for support services and makes the services available to students either directly or through referral to other educational and service agencies.

Programs identify support service needs that affect participation in the program and promote student access to these services by referral to other agencies or direct provision of service. The program has formal and/or informal coordination linkages with other service providers to facilitate referral.

**Sample Measures:**

Referral process for student support services available to students.

Staff awareness of available support services within the community, dissemination of information, and appropriate referrals of students.

Process for identifying student support service needs.

Agreement or linkage between the program and child care and transportation providers.

Number of students obtaining specific services through the program or through referral.

**Performance Standards:**

Evidence of a process for identifying student need for support services .

Evidence that staff is aware of available support services within the community, provides information, and makes appropriate referrals .

Evidence of student awareness of support services available to them.

Evidence of agreements or linkages between the program and child care, transportation providers, and other providers of support services.

Evidence of the number of agencies providing student support services by referral.

Evidence of the number of students receiving student support services by referral.

Evidence of percentage of students receiving student support services by referral.

Evidence of the number of students provided support services by program.

Evidence of the percentage of students provided support services by program.

**RECRUITMENT**

**Indicator 7:** Program recruits undereducated adults in the population area with particular emphasis on those identified in the Adult Education Act as needing literacy services.

The program recruits and enrolls undereducated adults in the population area in need of literacy services as identified by needs assessments or demographic data.

**Sample Measures:**

Results of campaign designed to recruit undereducated adults  
Effective types of recruitment activities

Target populations enrolled compared to documented needs of service area

Target populations enrolled compared with state average

**Performance Standards:**

Evidence of a successful campaign to recruit undereducated adults

Evidence of a recruiting plan describing the types of activities the program performs

Documentation of a plan establishing specific goals for recruiting specific groups into particular instructional programs

Documentation of the use of a variety of recruitment strategies such as:

Print media (e.g., newspapers, flyers, brochures, posters)

Electronic media (e.g., radio, TV PSA's)

Speaking engagements (e.g., other agencies, clubs, PTA, civic groups, churches, graduations, etc.)

Displays/booths

Open House

Number of students enrolled in specific programs (e.g., ABE, GED, ESL, etc.) as a result of a recruiting effort

Percentage of students enrolled in specific programs (e.g., ABE, GED, ESL, etc.) as a result of a recruiting effort

Number of target population served in your population area

Percentage of target population served in your population area

Percentage of target population served in a population area compared to percentage of same target population served statewide/or a comparable neighboring service area

Number of students enrolled with specific characteristics targeted by a recruiting campaign

Percentage of students enrolled with specific characteristics targeted by a recruiting campaign

Number of students enrolled in program that are a direct result of recruiting efforts

Percentage of students enrolled in program that are a direct result of recruiting efforts

**RETENTION**

**Indicator 8:** Students remain in the program long enough to meet their educational goals.

Retention is measured by student progress toward meeting their educational needs by time in program. Retention benchmarks are established that consider type of program and learning gains expected for a given number of hours in the program.

**Sample Measures:**

Student progress measured by hours in program and learning gain achieved

Students returning to the program within specified time or program year

Retention activities performed by program staff

Students meeting educational objectives

Students qualifying for high school equivalency diploma

Total student contact hours related to the total number of students

**Performance Standards:**

Documentation of efforts and follow-up activities that were made to return dropouts or absentees to instructional programs (e.g., phone call, family contact, personal contact, correspondence, vocational rehabilitation counselor, probation officer, juvenile judge, motor vehicle officer, child welfare and attendance supervisor, etc.)

Number of student contact hours divided by number of students

Number of students remaining in program until they complete objectives or qualify for a high school equivalency diploma

Percentage of students remaining in program until they complete objectives or qualify for a high school equivalency diploma

Number of students who meet their goals or complete a level of instruction

Percentage of students who meet their goals or complete a level of instruction

Number of students experiencing progress in the same or higher level of instruction

Percentage of students experiencing progress in the same or higher level of instruction

Documentation of efforts made to use other agencies' resources as support services to meet student needs other than instruction

Number of students attending classes for a selected number of hours of instruction within a program year

Percentage of students attending classes for a selected number of hours of instruction within a program year

Number of student dropouts or absentees who return to the program within a specified time

Percentage of student dropouts or absentees who return to the program within a specified time

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:14.

**HISTORICAL NOTE:** Promulgated by Board of Secondary Education LR 19: (July, 1993).

Interested persons may comment on the proposed rule until 4:30 p.m., September 7, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: STATE PLAN FOR ADULT EDUCATION**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Louisiana State Plan for Adult Education, 1989-93, as amended must be amended this year to comply with the provisions of the National Literacy Act, Public Law 102-73, enacted July 25, 1991, as amended by Public Law 102-103, enacted August 17, 1991. Section 461.3 of the Act stipulates that each state must "develop and implement indicators of program quality to be used to evaluate adult education programs assisted under the basic grant program. The indicators must be developed and implemented in consultation with a widely representative group of appropriate experts, educators, and administrators. The indicators must be used to determine whether the programs are effective, including whether the programs are successfully recruiting, retaining, and improving the literacy skills of the individuals served under those programs." Local adult education administrators attending a statewide meeting in April did not indicate that any additional cost would be involved in the implementation of the indicators.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Department of Education is expected to continue to receive approximately \$4.7 million in federal funds annually.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

A total of 45,000 students will be served annually through the statewide adult education program. In FY 91-92, each student was provided services at an average cost of \$183.37. A total of 942 full-time and part-time personnel are employed in the program.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The adult education program provides opportunities for undereducated adults to continue their education through activities at local education agencies and at public and private non-profit agencies. Those students who receive a high school equivalency diploma become more employable, productive, and responsible citizens. There is no estimated effect on competition.

M.Langley  
Deputy Superintendent  
Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

Emissions Control (LAC 33:III.919) (AQ 74)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2060 et seq., and in accordance with

the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.919, (Log AQ74).

This notice of intent replaces the original notice published on pages 677-679 of the May, 1993 *Louisiana Register*.

The rule requires the submittal of emission inventories and the certification of the submittal. The rule defines applicability, minimal data requirements and the requirements for the certification statement. The technical amendments are to clarify the requirements of the rule.

These proposed regulations are to become effective on October 20, 1993, or upon publication in the *Louisiana Register*.

### Title 33

## ENVIRONMENTAL QUALITY

### Part III. Air

## Chapter 9. General Regulations on Control of Emissions and Emission Standards

### §919. Emission Inventory

\* \* \*

A. Applicability. The owner or operator of the following facilities in the state of Louisiana shall submit emissions inventories to the Louisiana Department of Environmental Quality.

1. Any facility in an attainment area or unclassified area that emits or has the potential to emit 100 tons per year (TPY) or more of any contaminant [including volatile organic compounds (VOC)] for which a National Ambient Air Quality Standard (NAAQS) has been issued or any facility in an ozone nonattainment area that emits or has the potential to emit 10 tons per year (TPY) volatile organic compounds (VOC), 25 TPY nitrogen oxides (NO<sub>x</sub>), or 100 TPY carbon monoxide (CO), or any facility that emits or has the potential to emit 50 TPY or more of VOC in an area designated as an ozone adjoining area. (Potential to emit refers to the "allowables" or permitted emission limits in a facility's permit.) The designated ozone nonattainment and adjoining parishes are listed in Table 1. If any pollutant meets the criteria above, then all other pollutants must be included in the report regardless of level of emissions.

\* \* \*

#### B. Types of Inventories

1. Annual Emissions Statement (AES). Stationary sources as identified in Subsection A of this Section, shall submit an Annual Emissions Statement (AES) for all criteria pollutants including VOC and hazardous air pollutants. The AES shall consist of an inventory of actual emissions and the allowable (permitted) emission limits of VOC, NO<sub>x</sub>, CO, sulfur dioxide (SO<sub>2</sub>), lead (Pb), and particulate matter of less than 10 microns in diameter (PM<sub>10</sub>) from stationary sources and emissions of all hazardous air pollutants identified in Section 112(b) of the FCAA, and the certifying statement. Methane, ethane, and CFCs are not included in VOCs and are not reportable. The emission inventory may be an initial emission inventory (IEI) for facilities submitting their first emission inventory or an annual emission inventory update (AEIU) for facilities which have previously submitted

an emission inventory. For purposes of this Section, the term "actual emission" is the actual rate of emissions (annually and hourly) of a pollutant from an emission point for the calendar year or other period of time if requested by the department. Actual emission estimates shall also include fugitive emissions (e.g., wastewater treatment; treatment, storage and disposal facilities; etc.) excess emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime to parallel the documentation of these events in the emission inventory and must follow emission calculations as identified in Subsection C of this Section. Excess emission is defined as an emission quantity greater than normal operations. Where there is an enforceable document, such as a permit, establishing allowable levels, the AES shall include the allowable emission level as identified in the permit Maximum Allowable Emission Rate Table and the allowable tons per year.

2. Statewide Annual Emission Inventory Update. Facilities as identified in Subsection A of this Section shall submit an Annual Emission Inventory Update (AEIU) which consists of actual and allowable emissions from the facility identified in Subsection A.1 of this Section, if any of the following criteria are met:

\* \* \*

b. any change in the values currently in the emission reporting system for operating conditions including start-ups, shutdowns, or process changes at the source that results in a 5.0 percent or greater increase or reduction in total annual emissions of individual pollutant: VOC, NO<sub>x</sub>, CO, SO<sub>2</sub>, Pb, or PM<sub>10</sub>. VOCs that are also hazardous air pollutants are to be viewed as total VOC for the purpose of determining significant change.

\* \* \*

3. Ozone Nonattainment Area Statement. Stationary sources in ozone nonattainment areas that emit or have the potential to emit 10 TPY of VOC, 25 TPY of NO<sub>x</sub>, or 100 TPY of CO shall submit an annual statement. The statement shall consist of actual, annual emissions and typical weekday emissions that occur during the three-month period of greatest or most frequent ozone exceedances as provided by the department in the annual instructions for completing and submitting emissions inventories. "Typical weekday" emissions are defined as an "average" of two actual daily emissions rates (one at the lowest emission rate and one at the highest emission rate) during a seven-day period.

4. Special Inventories. Upon request by the administrative authority, any facility subject to any rule of the Air Quality Division shall file additional emissions data with the department. The request shall specify a reasonable time for response, which shall not be less than 60 days from receipt of the request.

5. Minimum Data Requirements. The minimum data requirements are listed below. Operating and process rate information are for the purposes of information gathering only, and do not constitute permit limits. Subsection A.1 of this Section states that submittal of a report of increased emissions above allowable limits under this regulation does not replace the need for compliance with LAC 33:III.505.A which requires a permit request to initiate or increase

emissions. Format and submittal requirements will be published annually by the department. Any new or modified data requirements will be included in the annual requests for updates. Any substantive changes will be established in accordance with the Administrative Procedure Act. The minimum data requirements apply to initial submittals only. Data requirements for updates require that only those data elements which have changed be submitted:

\* \* \*

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), amended LR 19:

A public hearing will be held on August 25, 1993 at 1:30 p.m. in the Maynard Ketcham Building, Third Floor Hearing Room, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 28, 1993, at 4:30 p.m. to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810. Commentors should reference this proposed regulation by Log AQ74.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: EMISSION INVENTORY AQ74**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The estimated implementation costs to the state or local governmental units are none.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There will be no costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary

John R Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Fee System for Air Quality Control Program  
(LAC 33:III.6511 and 6523) (AQ76)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2014 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.6511 and 6523, (Log AQ76).

The change to this rule will generate approximately \$1,000,000 in order to allow the Air Program to provide additional funds for 14 positions and necessary support facilities and equipment. These additional positions will provide the necessary resources to comply with the Federal Clean Air Act Amendments of 1990 which require the development of the operating permit program.

These proposed regulations are to become effective on October 20, 1993, or upon publication in the *Louisiana Register*.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 65. Rules and Regulations for the Fee System  
of the Air Quality Control Programs  
§6511. Methodology**

\* \* \*

**B. Fee Methodology**

\* \* \*

7. Annually, the Air Quality Division (AQD) shall reevaluate the permit fee schedule based upon the previous fiscal year's reasonable costs involved in the operation of the permit system and submit such revised schedule to the secretary for approval.

8. A permit fee exempt list shall be presented to the administrative authority annually for approval. The permit fee exempt list shall be in the offices of the Air Quality Division and shall be available for public inspection. Any person may request permit fee exemption for a source class by application to the administrative authority. Sources listed in the permit fee exempt list shall be exempt from the permit fee (Fee Schedule) and from having to obtain a permit. The administrative authority may grant initial approval and denial of the class exemption pending consideration by the administrative authority. No Part 70 source shall be exempt under this Chapter.

\* \* \*

16. For permits issued under LAC 33:III.507 the following applies:

a. no application fee shall be charged for initial permit provided no modifications are being made at the facility; and

b. no application fee shall be charged for renewals of permits issued provided no modifications are being made at the facility.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:

**§6523. Fee Schedule Listing**

\* \* \*

ADDITIONAL PERMIT FEES AND ADVF FEES		
Fee Number	Fee Description	Amount
	* * *	
2300 *NOTE 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis: Nitrogen oxides (NO <sub>x</sub> ) Sulfur dioxide (SO <sub>2</sub> ) Non-toxic organic (VOC) Particulate (PM <sub>10</sub> )	9.00/ton
	* * *	

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:

A public hearing will be held on August 25, 1993, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 26, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810 or to fax number (504)765-0486. Commentors should reference this proposed regulation by the Log AQ76.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: AIR QUALITY CONTROL PROGRAM  
(AQ76)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no costs (savings) accruing to the state government as fee collection resources are currently in place. There will be an estimated annual direct costs to the municipalities of Jennings (\$117), Alexandria (\$1,025), Franklin (\$2), Houma (\$1,320), Minden (\$720) and Lafayette (\$2,784); totaling \$5,968. These latter costs would be offset by a modest rate adjustment.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed fee adjustment would augment annual revenues by approximately \$1,000,000. These monies will fund the operating permits program mandated by Title V of the Clean Air Act Amendments of 1990 (Public Law 101-549). Rulemaking to implement Title V requirements is proceeding through amendments to LAC 33:III.Chapter 5 (AQ-70). Fee revenue will be generated through promulgation of rule changes to LAC 33:III.Chapter 65, relative to DEQ's Air Program fee system, sufficient to fund the costs associated with implementation of the federally mandated operating permit program. Fee generated revenues are estimated to be \$1.0 million for FY 1994-1995. DEQ estimates that, upon implementation of the proposed fee increases, total fees collected will be equivalent to approximately \$22 per ton per year. This estimate is based upon total known statewide emissions of all regulated pollutants and total fees projected under Chapter 65 with proposed amendments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The greatest share of the fee augmentation (99.4 percent) would be contributed by the non-government regulated community. Examples of the largest estimated increase would be:

	Existing \$7.00/ton	Proposed \$2.00/ton	Total After Increase
Citgo Refinery, Lake Charles	\$ 70,000	\$ 20,000	\$ 90,000
Big Cajun Utility, New Roads	\$ 58,034	\$ 16,581	\$ 74,615
LP&L Utilities	\$ 93,327	\$ 26,665	\$119,993

A 4000 ton "cap", is part of this submission and, \$9/ton, amounts to \$36,000. This "cap" applies to each criteria pollutant emitted from each facility.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There isn't any anticipated effect on competition and employment. An increase in funds for State Air Pollution programs is expected for all states as a result of Public Law 101-549.

William Kucharski  
Deputy Secretary

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

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

#### Permitting Procedures (LAC 33:III.Chapter 5) (AQ70)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 5.

The proposed rule amendment to LAC 33:III.Chapter 5 will update the state's permitting procedures to meet the requirements mandated by title V of the Clean Air Act Amendments of 1990. Title V provides for a national air quality permitting system. Under title V, the governor of each state must submit to the United States Environmental Protection Agency (EPA), no later than November 15, 1993, a state permitting program. EPA has promulgated federal regulations, 40 CFR Part 70, establishing the criteria which each state program must meet. The state submittal must include finalized state permitting regulations. Under the new system, all emissions of regulated air pollutants and all federal standards and requirements which apply to a source must be documented in an operating permit. The permit will help to ensure compliance with all standards, and will provide information regarding the types and quantities of pollutants being released and what steps the owner or operator is taking to minimize emissions. The operating permit will also set forth requirements for the monitoring and reporting of emissions and for annual certification by the owner or operator that all terms and conditions of the permit are being met. The requirements of the federal program will apply to all major stationary sources in the state, and may also apply to specified minor sources designated by EPA.

DEQ is proposing a revision to the state air quality permitting program which will incorporate the required permit review and issuance procedures for Part 70 operating permits into the existing state preconstruction permit review and issuance procedures. Part 70 sources would submit a permit application prior to construction, just as they are currently required to do under the existing state program. The permit application will be enhanced to ensure that it addresses all information required by Part 70. DEQ will review the application and will generally issue the permit prior to construction or modification, as is currently the case. The review and issuance procedures will be redefined, by this proposed regulation revision, to ensure that all public notice, affected state, and EPA review requirements are met and that all timeframes for issuance required by Part 70 are achieved. Thus the preconstruction permit issued by DEQ will also serve as the Part 70 operating permit.

Integration of the federal Part 70 operating permit program requirements with the existing state permitting program requirements has required this proposed rewrite of LAC 33:III.Chapter 5. The proposed rule provides for a state

permitting program which incorporates the title V permitting requirements as well as permitting requirements for federal preconstruction programs and requirements that apply at the state level. The proposed rule is available for public review along with other background information, including a table which correlates specific proposed Chapter 5 provisions with the existing Chapter 5 provisions and with required federal Part 70 provisions.

These proposed regulations are to become effective on October 20, 1993, or upon publication in the *Louisiana Register*.

A public hearing will be held on August 25, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Thursday, August 26, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504)765-0486. Commentors should reference this proposed regulation by the Log AQ70.

In addition, DEQ will publish a notice of availability in the *Louisiana Register* after submittal by the governor of the complete Louisiana Part 70 Operating Permits program package to EPA. The complete program submittal will include the final permit regulation and other elements such as a complete program description, copies of relevant state laws, and a demonstration of adequate personnel and funding. Copies of the entire submittal will be made available for public review by DEQ upon its submittal to EPA, which is required on or before November 15, 1993.

Check or money order is required in advance for each copy of AQ70. This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804 and the following DEQ locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

Gus Von Bodungen  
Assistant Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: PERMITTING PROCEDURES

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

## NOTICE OF INTENT

### Department of Environmental Quality Office of Solid and Hazardous Waste Solid Waste Division

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Fee revenue will be generated through promulgation of rule changes to LAC 33:III.Chapter 65, relative to DEQ's Air Program fee system, sufficient to fund the cost associated with requirements to be implemented by this rule. Fee generated revenues to be \$1 million for FY 1994-1995.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

In addition to the increase in fees proposed under separate rulemaking (LAC 33:III. Chapter 65) (AQ 76), costs of complying with the proposed permitting rule changes would include the administrative burden of obtaining and revising permits, and of meeting increased compliance certification, monitoring, recordkeeping, and reporting requirements. According to the corresponding federal Regulatory Impact Analysis, EPA estimates that the costs resulting from the administrative burden to comply with this program over the first five years after implementation is \$22,594/yr for a large source and \$11,373/yr for a small source. Based on those figures and a total of approximately 775 large and 500 smaller affected sources, DEQ estimates the total statewide impact of the administrative burden costs to be \$23,196,850/yr over the first five year of program implementation. DEQ has also obtained costs estimates directly from two large sources which will be impacted by the proposed rule, DOW and Union Carbide Corporation. DOW Corporation has estimated the administrative cost over the first five year cycle to be \$15,700/yr per plant, or \$314,000/yr for the entire DOW Plaquemine facility. Similarly, Union Carbide at Taft has estimated the administrative cost to be \$16,700/yr for each permitted site, or \$200,400/yr for the entire UCC Taft facility.

DEQ has designed the proposed program to minimize costs to industry by incorporating the new federal operation permit requirements into the already existing state preconstruction permitting program, thus requiring one round of permitting procedures to satisfy all state and federal requirements for a given source construction or modification. In addition, the proposed rule offers streamlined permitting through general permit provisions and minor modification procedures.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment. An increase in funds for state air pollution programs is expected for all states as a result of Public Law 101-549.

Gustave Von Bodungen  
Assistant Secretary

David W Hood  
Senior Fiscal Analyst

#### Regulated Medical Waste (LAC 33:VII.Subpart 4) (SW06)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2180 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste Division Regulations, LAC 33:VII.Subpart 4.

The proposed rule establishes operation and performance standards for the transportation, commercial treatment, commercial incineration and disposal of regulated medical waste in Louisiana. In addition, the rule establishes permitting procedures, reporting requirements, storage requirements and facility closure requirements for commercial facilities that treat or dispose of regulated medical waste.

These proposed regulations are to become effective on October 20, 1993, or upon publication in the *Louisiana Register*.

A public hearing will be held on August 25, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 26, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504)765-0486. Commentors should reference this proposed regulation by the Log SW06.

This proposed regulation is available for inspection at Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804 and the following DEQ locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

Glenn A Miller  
Assistant Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: REGULATED MEDICAL WASTE

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)



There will be no implementation costs (savings) to state or local governments since the proposed regulations will be implemented under the existing requirement, fee structure and staffing levels provided by the current Louisiana solid waste rules and regulations.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state or local government will not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Affected persons and non-governmental groups will not accrue costs or economic benefits since existing solid waste regulations contain the same substantive requirements and impact the same facilities/persons.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will have no effect on competition or employment since existing solid waste regulations contain the same substantive requirements and impact the same facilities/persons.

Glenn A Miller  
Assistant Secretary

David W Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Office of the Governor  
Office of Elderly Affairs**

**State Plan on Aging (LAC 4:VII.1301-1321)**

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 (GOEA) intends to repeal LAC 4:VII.1301 through 1327 and re promulgate LAC 4:VII.1301 - 1321 in order to adopt the FY 1994 - FY 1997 Louisiana State Plan on Aging, effective October 1, 1993 to September 30, 1997.

The state plan on aging is the document submitted by the state to the U.S. Department of Health and Human Services, Administration on Aging, to receive grants from its allotments under Title III of the Older Americans Act of 1965, as amended (the Act). Title III authorizes formula grants to state agencies on aging to assist states and local communities to develop comprehensive and coordinated systems for the delivery of services to older persons. The plan contains all provisions required by Section 307 of the act and commitments that the state agency will administer or supervise the administration of activities funded under Title III in accordance with all federal requirements. It includes goals and objectives to be pursued by the state agency during the plan period. A state may expend Older Americans Act funds only under an approved state plan. The current plan expires September 30, 1993.

Inquiries concerning the proposed State Plan on Aging may be directed in writing to the Governor's Office of Elderly

Affairs, Attention: Betty Johnson, Box 80374, Baton Rouge, LA 70898-0374.

Copies of the proposed state plan may be obtained by writing to the address above or to Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804.

GOEA will conduct a public hearing to receive comments on the proposed state plan on Tuesday, August 24, 1993. The hearing will be held in the State Police Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA. The hearing will begin at 1 p.m. All interested parties will be afforded an opportunity to submit oral or written comments at the hearing.

Written comments must be received at the address above by 5 p.m., August 31, 1993.

James R. Fontenot  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: STATE PLAN ON AGING**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The rule adopting the four year plan on aging continues the programs currently being provided through the Governor's Office of Elderly Affairs (GOEA). The added expenses amount to \$485,807 in FY 1994 and \$533,554 in FY 1995. The increases reflect estimated additional funding from federal grants. It is anticipated that federal awards will increase by 3 percent per year.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will not affect revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The proposed rule will allow supportive and nutrition services currently provided through GOEA to continue for another four years. There will be no additional costs to GOEA contractors or subcontractors, including area agencies, parish councils on aging and other service providers.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Older Americans Act Title V and Job Training Partnership Act Title II-A and Title III program participants will be placed in subsidized or unsubsidized paid positions.

James R. Fontenot  
Executive Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Chiropractic Examiners

Solicitation Letters (LAC 46:XXVII.310)

Pursuant to R.S. 49:951 et seq., the Department of Health and Hospitals, Board of Chiropractic Examiners intends to adopt an additional rule relative to the mailing of solicitation letters by chiropractors.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXVII. Chiropractors

#### Chapter 3. Practice and Procedure

#### §310. Solicitation Letters

A. On the outside of each envelope in 10-point bold type at the bottom left hand corner of the envelope, there will be printed in red, capital letters, *THIS IS AN ADVERTISEMENT*.

B. On the body of the letter, in the same type size as the letter, shall be contained the following paragraph in red lettering:

*NOTICE: THIS IS AN ADVERTISEMENT. Your name and address and information relative to the accident in which you were involved were acquired from police documents. You are under no obligation to respond to this letter. Recipients of this advertisement should understand the importance of employing a health care provider and inquiry into the doctor's qualifications and experience is recommended.*

C. No solicitation letters shall be sent to minors.

D. All solicitation letters shall be submitted to the board before publication to assure compliance with this rule and all other applicable board regulations. The board has six weeks to respond to this request.

E. A sample copy of each different solicitation letter shall be retained by the sender for a period of one year.

F. No solicitation letter to an accident victim should be sent before at least seven days have elapsed since the date of the accident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 19:

Inquiries regarding this proposed rule may be made to Dr. John Booth, Board of Chiropractic Examiners, 5800 One Perkins Place, Suite 5-C, Baton Rouge, LA 70808.

Interested persons may present their views at a public hearing on August 26, 1993 at 10 a.m. at the above address in Baton Rouge, LA.

Dr. John Booth  
President

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: SOLICITATION LETTERS

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no estimated implementation costs other than the costs of printing and publication.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
The general public will be benefitted by the advertising regulation because solicitations will be more clearly identified and subjected to more stringent review by the Board of Examiners.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

John Booth  
President

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

Formal Adjudications (LAC 46:XXXIII.Chapter 9)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751 et seq., and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII, Chapter 9, Formal Adjudications.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 9. Formal Adjudication

#### §901. Scope of Chapter

The rules of this Chapter govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension, revocation, imposition of probation on or other disciplinary action against persons holding licenses, permits, certifications, or registrations issued by the board or applicants therefor. The rules of this Chapter are promulgated in order to supplement the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry LR 19:

### §903. Initiation of Proceedings

A. When determined by the president that a formal adjudication is warranted, proceedings to adjudicate an administrative enforcement action shall be initiated by providing notice of the charges against the licensee in accordance with §905 of this Chapter by service provided by any means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure. This notice may be signed by either the president or a board member or employee designated by the president. Said notice shall name the accused licensee as respondent.

B. Prior to the initiation of formal proceedings, the board shall send correspondence to the licensee setting forth facts constituting legal cause under law for administrative action and the statutory and/or regulatory provisions alleged to have been violated by the licensee. The correspondence shall be sent by certified, return-receipt requested mail as well as by regular first class mail, or by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure at the licensee's most current address as reflected in the official records of the board advising the licensee that he is being offered an opportunity to participate in an informal conference with a dentist(s) board member(s) to show compliance with all lawful requirements for the retention of his license in conformity with R.S. 49:961(c), that he may request a record be made at his expense, and that he has a right to counsel. The licensee shall have 15 calendar days from receipt of notice to advise the board whether he wishes to participate in such a meeting, and whether he wishes a record be made of such a meeting. Said meeting shall be held no less than 10 days nor more than 30 days following receipt of said request by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry LR 19:

### §905. Complaint

The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the board including the facts giving rise to the board's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a description of the administrative sanctions or other relief which may be imposed by the board and shall bear the name, address and telephone number of complaint counsel engaged by the board to prosecute the adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry LR 19:

### §907. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §§903 and 905 of this Chapter, the board shall schedule the complaint for hearing before the committee not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board

determines may be necessary or appropriate to protect the public interest or upon motion of the complaint counsel or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), formal adjudication of the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by certified, return-receipt-requested mail, as well as by regular first class mail, or by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure, at the most current address for the respondent reflected in the official records of the board. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §909. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the committee, on motion of the respondent may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proved and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in this state. Upon receipt of service of a complaint pursuant to this Chapter, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §911. Pleadings, Motions; Service

A. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall, certify that, by the same method of delivery, the same be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. All such pleadings, motions or other papers shall be submitted on plain white, letter size (8 1/2" by 11") bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the caption of the case as it appears on the complaint and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Paragraph A of this Section.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §913. Prehearing Motions

Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the board president's, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the board president's position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §915. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §907 of these rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the disciplinary hearing committee chairman (chairman) only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, safety and welfare. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive director of the board, the board president or the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) & (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §917. Disposition of Prehearing Motions

A. Any prehearing motion for continuance of hearing shall be referred for decision to the chairman for ruling. The chairman, in his discretion, may refer any prehearing motion to the entire hearing panel for disposition, and any party aggrieved by the decision on a prehearing motion may request judicial review by the Civil District Court for the Parish of Orleans.

B. Prehearing motions shall ordinarily be ruled upon by the chairman or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the chairman may grant opportunity for hearing, by oral argument, on any prehearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §919. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and in compliance with the requirements of this Section, the president, a board member or the executive director shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the hearing panel with reference to the value of the time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §921. Prehearing Conference

A. In any case of adjudication noticed for hearing, counsel for respondent and complaint counsel may agree, or the chairman may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §923(D) of this Chapter, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, reduce to writing a prehearing stipulation which shall include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §923. Conduct of Hearing; Record

A. Unless otherwise requested by the respondent, adjudication hearings shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the chairman, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During and before an adjudication hearing, the chairman shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire hearing panel in executive session. At any such time, the hearing panel may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or hearing panel is attended by such counsel, the chairman may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;

2. evidence received or considered at the hearing;

3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions, if any;

6. the decision, opinion, report or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §925. Evidence

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or hearing panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's dental knowledge. The board's dental experience, technical competence and technical knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as chairman in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, may direct the parties to appear and confer to consider simplification of the issues, and shall rule upon all motions filed by respondent or the board after the filing of the initial complaint upon respondent.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the board shall be governed by the Administrative Procedure Act insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### §927. Informal Disposition

The hearing panel may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it. A consent order agreement, or settlement shall be evidenced by a document which shall be reduced to writing, signed by the licensee, before two witnesses, and thereafter submitted to the board president for his signature. The approval of the agreement shall thereafter be placed on the agenda of the next board meeting, considered for ratification, and, if so ratified, be given full force and effect and become a final action by the board, as set forth in R.S. 37:780(B). If not ratified, it shall have no force and effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

#### §929. Decisions; Notice

A. The final decision of the board in an adjudication proceeding shall be in writing, include findings of fact and conclusions of law, and signed by the chairman on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of complaints in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

#### §931. Rehearings

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §911 and shall set forth the grounds upon which such motion is based, as provided by Paragraph B of this Section.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to the law and the evidence;

2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

3. other issues not previously considered ought to be examined in order to properly dispose of the matter; or

4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953 (A) (2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: FORMAL ADJUDICATIONS

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation of costs or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the Louisiana State Board or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Department of Health and Hospitals Board of Dentistry

#### Informal Disposition of Complaints (LAC 46:XXXIII.Chapter 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751 et seq., and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.Chapter 11, regarding informal disposition of complaints. This Notice of Intent replaces, in their entirety, notices previously published in the November 20, 1992 *Louisiana Register*, page 1300 and in the April 20, 1993 *Louisiana Register*, page 531.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 11. Provisions for Informal Disposition of Complaints

#### §1101. Implementation of the Dental Practice Act to the extent that it affects administrative procedures of the State Board of Dentistry pertaining to informal disposition of complaints.

The Dental Practice Act (R.S. 37:751 et seq.) mandates the Louisiana State Board of Dentistry to regulate the practice of dentistry in the state of Louisiana. Included within the powers and duties of the board is the provision that it shall investigate

complaints of illegal practice when evidence is presented to the board, (R.S. 37:760(7)). The board has utilized the Administrative Procedure Act (R.S. 49:951 et seq.) and sections of the Dental Practice Act (R.S. 37:778) in conducting formal disciplinary hearings. The board now wishes to adopt certain rules pertaining to informal resolution of complaints (as provided in R.S. 49:953 et seq.)

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### **§1103. Initial Review of Complaints**

After receiving and reviewing the initial complaint against the dentist or dental hygienist, the board president may select informal resolution as opposed to formal adjudication of the complaint, which may include any grounds recited in R.S. 37:776 and 37:777 or any other section of the Dental Practice Act, as amended.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### **§1105. Procedures**

The president may elect among the following informal resolution procedures:

A. Informal disposition number one (correspondence between board and licensee).

1. A letter is mailed to the licensee from the board, outlining the nature of the complaint and inviting the licensee's response. Upon evaluation of that response, the board, through its president and one other board member, may thereafter investigate the matter further or consider the matter unworthy of further investigation; however, the board is at no time prohibited by these rules from taking, at any time, whatever additional actions it deems appropriate.

2. If the matter is resolved then the disposition thereof shall be kept in the board's office for future reference purposes and the disposition may be treated as a final action by the board, as set forth in R.S. 37:780(B).

B. Informal disposition number two (conference between board members and licensee on a "dentist-to-dentist" basis).

1. The board shall send correspondence to the licensee outlining the nature of the complaint. The letter will inform the licensee that there is to be a conference, conducted informally, on a personal "dentist-to-dentist(s)" basis. The correspondence will also inform the licensee that his appearance is voluntary, that no record will be made of the conference, which records, if any, he is to produce at the conference and the date, time and location of the conference.

2. If the matter is not resolved to the satisfaction of all parties, then, after the board member(s) assigned to conduct the conference have reported to the president of the board, the latter may then recommend whatever further action, if any, he deems necessary.

3. If the matter is resolved, then the disposition thereof shall be kept at the board's office for future reference purposes and the disposition may be treated as a final action by the board, as set forth in R.S. 37:780(B).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

### **§1107. Consent Decree**

After the commencement of informal resolution proceedings or formal adjudication proceedings, at any time, the board and the licensee may agree to settle or dispose of the matter by way of consent decree, evidenced by a document which shall be reduced to writing, signed by the licensee, before two witnesses, and thereafter submitted to the board president for his signature. The approval of the agreement shall thereafter be placed on the agenda of the next board meeting, considered for ratification, and, if so ratified, be given full force and effect and become a final action by the board, as set forth in R.S. 37:780(B). If not ratified, it shall have no force and effect.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: INFORMAL DISPOSITION OF COMPLAINT**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation of costs or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director

David W. Hood  
Senior Fiscal Analyst



## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

#### Rulemaking (LAC XXXIII.Chapter 14)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751 et seq., and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to adopt LAC 46:XXXIII.Chapter 14, Rulemaking.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 14. Rulemaking

#### §1401. Scope of Chapter

The rules of this Chapter govern the board's process to consider petitions from interested persons relative to the adoption, amendment, or repeal of a rule in accordance with the Administrative Procedure Act.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

#### §1403. Forms

A. All petitions requesting the adoption, amendment, or repeal of a rule shall be submitted on plain white, letter size (8 1/2" x 11") bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the name, address, and phone number of the person requesting the action, and shall also state the complete and full name of each person(s), organization, or entity the requestor represents along with sufficient information to identify and fully describe said person(s), organization, or entity.

B. The petition shall fully and succinctly state the reasons for the requested action, and what results, if any, would be expected from such action, and an estimate of any expenditures or increases in revenue reasonably expected if said rule is adopted, amended or repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

#### §1405. Exceptions

The board may refuse to accept for filing any petition not conforming to the requirements of this Section, except upon a showing of good cause by the requestor at the time the requestor's petition is received by the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be

submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: RULEMAKING

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation of costs or savings to the Louisiana State Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Embalmers and Funeral Directors

#### Right of Care of Remains (LAC 46:XXXVII.113)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Embalmers and Funeral Directors (board), pursuant to the authority vested in the board by R.S. 37:840, intends to adopt a rule to alleviate possible disputes which can arise between families and funeral homes in regard to who has the legal right to arrange for the care of remains by a funeral establishment through final disposition.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXVII. Embalmers and Funeral Directors

#### Chapter 1. General Provisions

#### §113. Right of Care of Remains

Should any dispute between the family and a funeral home

arise as to the care of the remains by a funeral establishment through final disposition, the licensed funeral establishment shall look to the provisions of R.S. 8:655 as a guide line to determine the order of preference in dealing with representatives of the deceased.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:840.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:

Inquiries concerning the proposed amendments may be directed in writing to Dawn P. Scardino, Executive Director, at the address below. Interested persons may submit written comments, data, views, or arguments no later than 60 days from the date of this notice to the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011-8757. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn P. Scardino  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Right of Care of Remains  
(LAC 46:XXXVII.113)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No costs or savings to the board are expected.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed addition to the rule will have any effect on the board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Funeral establishments may avoid costly litigation by having a definitive orderly listing in order to determine the individual or individuals a funeral director must deal with in connection with the funeral services.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that the proposed addition to the rule will have any material impact on competition or employment in either the public or private sector.

Dawn P. Scardino  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

Clinical Neuropsychology Specialty (LAC 46:LXIII.1707)

The Board of Examiners of Psychologists hereby gives notice in accordance with R.S. 49:950 et seq. that it intends to amend the following:

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

**Chapter 17. Specialty Titles**

**§1707. List of Specialties**

A. ...

B. Those specialties which are currently recognized by the board are: clinical, clinical neuropsychology, counseling, school, educational, developmental, experimental, industrial-organization, and social.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 27:2353.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:602 (October 1980), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

Interested persons may submit written comments within 30 days of the publication of this notice to: Brenda Rockett, 11853 Bricksome Avenue, Suite B, Baton Rouge, LA 70816.

Ronald A. Goebel, Ph.D.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: CLINICAL NEUROPSYCHOLOGY**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

A one-time cost of approximately \$1325 may be experienced in the LSBEP's self-generated funds in order to write, publish and implement this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will have no effect on revenues collected by the LSBEP.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

No additional costs and/or economic benefits to any persons or non-governmental groups will result with the implementation of this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Psychologists are already required to practice only within their area(s) of competence. Those psychologists who, by virtue

of their formal educational training experiences, are qualified to practice in this area, will be unaffected by the additional of this rule.

Brenda C. Rockett  
Executive Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Examiners of Psychologists

#### Supervision (LAC 46:LXIII.Chapter 7) (and Repeal of LAC 46:LXIII.Chapter 11)

The Board of Examiners of Psychologists hereby gives notice in accordance with R.S. 49:950 et seq. that it intends to amend LAC 46:LXIII.Chapter 7 and repeal LAC 46:LXIII.Chapter 11.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXIII. Psychologists

#### Chapter 7. Supervision

##### §701. Preface

A. The board shall enforce minimal standards for the supervised practice of psychology by unlicensed individuals who provide service functions of a psychological nature. These regulations establish the legal, administrative, and professional responsibilities of the licensed psychologist designated as supervisor. Under these regulations, supervision shall be provided in one of three areas which are distinguished by the purpose for which supervision is provided, the types of psychological service functions supervised and the level or frequency of supervision required. These three areas of supervision shall be:

1. supervision of candidates for licensure;
2. supervision of assistants/technicians; and
3. supervision of students or interns who, as part of their curriculum, provide supervised psychological services to the public. All persons so supervised are subject to the requirements of R.S. 37:2351ff.

B. The supervisory function may serve a multiplicity of needs dependent on the purposes of that supervision. In general, supervision provides guidance in administrative issues in the practice setting, continues and expands education and skills training, provides evaluation for purposes of the supervisee's growth and, in the case of candidates for licensure, provides administrative judgment relative to candidate's capacity for autonomous professional function. The supervising psychologist assigns work, sets realistic standards for achievement and offers evaluation of the supervisee's performance. The supervisor offers a perspective on the relationship between the supervisee's assignment, the rest of the setting and the facilities available outside of the setting in order that the supervisee's interventions are placed within the context of all systems affecting and influencing the

patient or client. In addition, the supervising psychologist must address those personal characteristics or behaviors of the supervisee which can either enhance or interfere with service delivery. The private behaviors and personal characteristics of the supervisee which are not relevant to or impact upon psychological service delivery nor expressed in the work setting shall not be addressed within the context of the supervisory relationship. The supervising psychologist shall limit supervision to those areas in which he/she has particular professional expertise and shall develop the specialized skills necessary to render competent supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

#### §703. Supervision of Candidates for Licensure

##### A. Required Length of Supervision

1. To be credited toward the two calendar years full-time supervision requirement, each assignment in a setting or integrated program shall be of at least six months duration and at least half-time. Any half-time assignment shall extend the period of supervision proportionately beyond two calendar years. This requirement must be completed within five calendar years unless, for cause shown, the board specifically grants an extension.

2. A predoctoral internship may be credited toward the required two years of supervised experience if that experience was required as part of the doctoral program and meets the board requirements under LAC 46:LXIII.305.

3. Academic and/or administrative activities may not be credited toward the required supervision requirement for candidates seeking licensure in an applied clinical specialty.

4. A supervision plan must be filed with the board within 30 days of the commencement of supervision.

##### B. Responsibilities of Supervising Psychologist

1. Responsibility for the overall supervision of the supervisee's professional growth resides with the licensed psychologist. Supervising psychologists shall have the appropriate training, demonstrable expertise and ongoing clinical experience in the specific areas of practice in which they are offering supervision. Specific skills training may be assigned to other specialists, under the authority of the supervising psychologist. The non-psychologist specialist shall have clearly established practice and teaching skills demonstrable to the satisfaction of both the supervising psychologist and the supervisee.

2. The supervising psychologist shall limit the number of persons supervised so as to be certain to maintain a level of supervision and practice consistent with professional standards insuring the welfare of the supervisee and that of the patient or client.

3. The supervising psychologist shall not be a member of the supervisee's immediate family.

##### C. Amount of Supervisory Contact

1. There shall be one hour per week as a minimum for general professional supervision. Exceptions to this

requirement must have prior approval of the board. Specific case discussion and skills training require additional supervisory contact. Supervision is to be conducted on a one-to-one basis, and group seminars or consultation cannot be substituted for this individual supervision. More than one hour per week of supervision may be required based on the candidate/supervisee's experience and level of competence, as determined by the supervising psychologist.

#### D. Conduct of Supervision

1. The board recognizes that the variability in preparation for practice of the trainee will require individually tailored supervision. The specific content of the supervision procedures will be agreed upon between the individual supervising psychologist and the supervisee, though the psychologist is responsible for ensuring that the content is appropriate and adequate to meet the needs of the supervisee.

2. The licensed psychologist who provides supervision for the candidate for licensure must have legal functioning authority over and professional responsibility for the work of the supervisee. The supervisor's relationship with the supervisee shall be clearly differentiated from that of the consultant, who may be called upon at the discretion of the consultee and who has no functional authority over nor none of the legal or professional accountability for the services performed or the welfare of the patient or client.

3. The licensed psychologist is responsible for the delivery of services, the representation to the public of those services, and the supervisor/supervisee relationship.

a. All patients or clients will be informed of the availability or possible necessity of meetings with the supervising psychologist at the request of the patient or client, the supervisee, or the psychologist. The supervisor will be available for emergency consultation and intervention, and shall make provisions to ensure ready accessibility of the supervising psychologist to the candidate/supervisee.

b. All written communication will clearly identify the licensed psychologist as responsible for all psychological services provided. Public announcements of services and fees, and contact with the public or professional community shall be offered only by or in the name of the licensed psychologist. It is the responsibility of both the supervising psychologist and the supervisee to inform the patient or client, to whatever extent is necessary for the patient or client to understand, of the supervisory status and other specific information as to the supervisee's qualifications and functions.

c. Billing and receipt of payment is the responsibility of the licensed psychologist or employing agency. The setting and the psychological work performed shall be clearly identified as that of the licensed psychologist. The physical location where services are delivered may not be owned, leased or rented by the supervisee.

d. The supervising psychologist must be paid by either the patient/client or by the agency employing the supervisee. The supervisee may not pay the supervisor for supervisory services, nor may the supervisee or his/her immediate family have any financial interest in the employing agency.

e. The supervising psychologist is responsible for the maintenance of information and records relevant to the patient

or client. The patient or client shall be fully informed, to whatever extent is necessary for the patient or client to understand, that the supervising psychologist or the employing agency is to be the source of access for this information in the future.

#### E. Evaluation and Accreditation of Supervised Practice

1. At the completion of the term of required supervision the board shall require submission of information by the supervisor(s) which will enable it to evaluate and credit the extent and quality of the candidate's supervised practice. The form requesting such information shall cover the following:

- a. name of the candidate/supervisee;
- b. educational level of candidate/supervisee;
- c. supervising psychologist's name, address, license number, date and state in which granted, and area of specialization;
- d. name and nature of setting in which supervised practice took place;
- e. dates of practice covered in this report;
- f. number of supervised practice hours during this period;
- g. candidate/supervisee's duties;
- h. number of individual supervisory hours provided.

#### 2. Assessment of Supervisee's Performance

a. The board may also require the candidate/supervisee to submit work products or documentation of training experiences.

b. Supervised time during which the supervising psychologist deems the candidate's performance to have been unacceptable shall not be credited toward the required supervised practice hours.

F. Failure to comply. In the event that supervision is not conducted according to these regulations, the board may rule that any such supervised experience is not commensurate with ethical standards and is thus not admissible as experience toward licensure. The board may further rule that any psychologist providing supervision not meeting these requirements is in violation of ethical standards which may result in disciplinary action, including suspension or revocation of license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

### §705. Supervision of Assistants or Technicians

#### A. Use of Assistants or Technicians

1. The appropriate, ethical use of unlicensed persons functioning as assistants/technicians in assisting the licensed psychologist to deliver psychological services is recognized as legitimate by the board.

2. Assistants or technicians providing psychological services must be under the direct and ongoing supervision of a licensed psychologist who, in order to maintain the ultimate legal and professional responsibility for the safety and welfare of the patient or client, must be vested with the functional authority over the psychological services provided by the assistant/technician.

3. There must exist a formal professional relationship between the psychologist and the patient or client in order that the psychologist can effectively plan, prescribe, direct and monitor any services performed by the assistant/technician.

4. All work assignments or duties must be commensurate with the demonstrated skill level of the assistant/technician.

5. In all instances, work assignments or duties shall be limited to clearly defined and circumscribed technical functions which are prescribed by and carried out under the specific direction of the supervising psychologist. Such technical functions may include, but are not limited to, the administration and scoring of psychologic or neuropsychologic test procedures, the observation and collection of behavioral data, the implementation of prescribed behavioral intervention techniques, the collection of psychophysiologic data, the implementation of prescribed biofeedback intervention procedures and the implementation of prescribed neuropsychological or cognitive rehabilitation strategies.

6. Assistants/technicians shall not be given work assignments or duties which involve professional functions. Such professional psychological functions may include, but are not limited to, the diagnosis of mental or emotional disorders, the interpretation and written preparation of psychologic or neuropsychologic test results, mental status examinations, treatment plan development, hypnosis, psychotherapy, psychoanalysis, counseling and consultation.

7. Public announcement of services and fees, as well as contact with the lay or professional public, shall not be offered in the name of the assistant/technician.

8. Billing for psychological services shall not be in the name of the assistant/technician.

#### B. Responsibilities of the Supervising Psychologist

1. The supervising psychologist shall have sufficient training, experience and competence in the area of practice and the specific psychological service functions for which supervision is provided, and shall be responsible for the planning, course and outcome of all psychological services performed by the assistant/technician.

2. The supervising psychologist accepts responsibility for ensuring that the assistant/technician is properly trained and adequately experienced in all work assignments and duties performed.

3. The supervising psychologist, if required, must be able to document for the board the training and experience of an assistant/technician for a given psychological service function.

4. Supervision shall be conducted in such a way so as to ensure both the welfare of the patient or client and the ethical and legal protection of the assistant/technician. In so doing, the supervising psychologist shall establish and maintain a level and frequency of supervision which is consistent with the complexity of the psychological service functions provided, the experience and competence level of the assistant/technician and prevailing professional and ethical standards.

5. Provisions shall be made to ensure that the assistant/technician has ready access to the supervising psychologist in the case of an emergency.

6. Supervision of assistant/technician shall occur in the service delivery setting, unless otherwise approved by the board.

C. Failure to Comply. Any psychologist who utilizes assistants/technicians in a manner which is inconsistent with these regulations shall be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended LR 13:180 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

### §707. Supervision of Students or Interns in Applied Areas of Psychology

A. Definitions. A student in an applied area of psychology is defined as any student or intern matriculated in a psychology curriculum, program or course which involves the direct delivery of any psychological services to any member of the public.

1. The term student is defined as a graduate student in an applied field of psychology.

2. Applied areas of psychology are designated by the board as those specialty areas of psychology which involve the direct delivery of any psychological services to the public.

3. Psychological services to the public are defined in the definition of the "Practice of Psychology" contained in R.S. 37:2352(5).

B. Responsibilities of the Supervising Psychologist. All students matriculated in any curriculum, program or course in an applied area of psychology which involves the direct delivery of any psychological services to the public must be properly supervised by a licensed psychologist.

1. The licensed psychologist is ethically and legally responsible for the overall supervision of the student, and, in order to maintain the ultimate legal and professional responsibility for the safety and welfare of the patient or client, is vested with the functional authority over the psychological services provided by the student or intern.

2. The supervising licensed psychologist shall be held accountable for ensuring the psychological service functions assigned to the student or intern are consistent with prevailing professional and ethical standards of practice.

3. Supervision of students or interns shall occur either in the service delivery setting or academic setting of the supervising psychologist, unless otherwise approved by the board.

4. Public announcement of service and fees, as well as contact with lay or professional public shall not be offered in the name of the student or intern.

5. Billing for psychological services shall not be in the name of the student or intern.

6. The board shall not routinely require the supervising psychologist to provide the board with documentation of supervision for supervised students or interns each semester or academic year. However, the supervising psychologist, if required, must be able to document for the board the training, the necessary experience level and appropriate training goal for any given psychological service function performed by a student or intern under his/her supervision.

#### C. Conduct of Supervision

1. Supervision may be provided for technical and/or professional psychological service functions depending on the education, experience and competency level of the student or intern and established training goals. As noted above, in all instances, supervised experiences shall be consistent with prevailing professional and ethical standards of practice.

2. The supervising psychologist shall establish and maintain a level of supervisory contact consistent with professional standards ensuring the welfare of patients or clients seen by the student or intern, as well as sufficient contact so as to be accountable in the event that ethical or legal issues arise.

a. There shall be one hour per week as a minimum for supervisory contact. Exceptions to this requirement must have prior approval of the board.

b. It is anticipated that more than this minimum level of supervision would be required for students or interns of lesser experience.

c. In order to ensure adequate and competent supervision, the supervising psychologist shall limit the number of students or interns supervised.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 37:2353.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

**§709. Repealed.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2353.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

**§711. Repealed.**

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 37:2353.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

**Chapter 11. Repealed in its entirety.**

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 37:2353.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:250 (August 1979), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

Interested persons may submit written comments within 30 days of the publication of this notice to: Brenda Rockett, 11853 Bricksome Avenue, Suite B, Baton Rouge, LA 70816

Ronald A. Goebel, Ph.D.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: SUPERVISION**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule would result in no cost to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenues collected by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No additional costs and/or economic benefits to any persons or non-governmental groups will result with the implementation of this rule, as the intent of this rule is to upgrade standards and to bring into compliance with state law the delivery of psychological services; to eliminate past abuses in the delivery of services, i.e. counseling services by untrained individuals, i.e., testing services by inadequately trained individuals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Supervision of unlicensed individuals who provide service functions of a psychological nature to the public is currently covered by the LSBEP statutes. This proposed rule is an extension and clarification of what is already in existence, and will have no impact on competition and employment in the public and private sectors.

Brenda C. Rockett  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Training and Credentials (LAC 46:LXIII.Chapter 3)**

The Board of Examiners of Psychologists hereby gives notice in accordance with R.S. 49:950 et seq. that it intends to amend LAC 46:LXIII.Chapter 3.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXIII. Psychologists**

**Chapter 3. Training and Credentials**

**§305. Specialty Areas**

A. If the emphasis of the major in psychology is an applied area such as clinical psychology, counseling psychology, clinical neuropsychology, school psychology, or industrial-organizational psychology, the training shall include a set of coordinated practicum and internship training experiences.

B. In applied areas such as counseling, clinical, clinical neuropsychology, and school psychology, preparation normally shall include early and continuing involvement of students in applied settings. Such experiences should occur at two levels: practicum and internship.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2353 and 37:2356.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists LR 19:

### **§307. Clinical Neuropsychology**

A. **Statement of Purpose.** As each of the other specialty areas of psychology such as clinical psychology, counseling psychology, school psychology, and industrial-organizational psychology typically have their own clearly defined doctoral programs and curriculum, no separate guidelines beyond those established by these programs are deemed necessary to declare these particular specialty designations. Clinical neuropsychology has evolved into a specialty area as defined by LAC 46:LXIII.Chapter 17 in that it has become identified as having its own "history and tradition of service, research, and scholarship (and) to have a body of knowledge and set of skills related to that knowledge base, and which is discriminably different from other such specialties" (LAC 46:LXIII. 1705.B). However, the evolution of clinical neuropsychology has cut across several applied areas, most notably clinical, counseling, and school psychology, resulting in the need for guidelines defining the minimal education and training requirements necessary for specialization in this area of clinical practice.

B. **Definition of practice.** As implied by the term, clinical neuropsychology involves the application of both neurological and psychological knowledge and clinical skills in the assessment, treatment or intervention with individuals with known or suspected brain injury or disease.

1. Clinical neuropsychology differs from the general cognitive, perceptual, sensorimotor, intellectual or behavioral assessments of clinical, counseling, school or industrial-organizational psychology. Its purpose is to make clinical judgments regarding the functional integrity of the brain and of the specific effects of known brain pathology based on assessment and analysis of these functions.

2. Other psychologists, licensed under this law (R.S. 37:2356) and possessing appropriate education and training in the area of health care delivery, may also assess individuals with known or suspected brain pathology for the purpose of defining levels of academic or intellectual development; determining areas of relative strengths or weaknesses in cognitive, perceptual or psychomotor skills; identifying and categorizing behavioral or personality problems and their psychological origins; and making differential psychiatric diagnoses.

3. Clinical neuropsychologists, however, have as their purpose to assess and analyze cognitive, perceptual, sensorimotor and behavioral functions in order to identify and isolate specific, elementary neurobehavioral disturbances; differentiate neurological from possible psychological, cultural or educational contributions to the observed deficits; and finally, to clinically integrate this information into a neuroanatomically and/or neuropathologically meaningful syndrome. These impressions are then compared with the patient's known medical, psychiatric and neurological risk factors and personal and behavioral history to arrive at a neuropsychological diagnosis. Because of their appreciation of specific neurobehavioral deficits and neurobehavioral

syndromes in general, clinical neuropsychologists, as part of the evaluation process, are also called upon to make specific recommendations for the treatment and management of cognitive and neurobehavioral deficits resulting from brain injury or disease.

4. Clinical neuropsychological intervention includes, but is not limited to, developing strategies and techniques designed to facilitate compensation for or recovery from these various organically induced deficits based on the clinical neuropsychologist's understanding of brain-behavior relationships and the underlying neuropathology. It is also recognized that other psychologists, licensed under this law (R.S. 37:2356) and possessing appropriate education and training in the area of health care delivery, may also provide traditional psychotherapeutic intervention in assisting patients adjust to the emotional, social or psychological consequences of brain injury.

5. These regulations recognize the overlapping roles in certain aspects of clinical neuropsychological assessment and intervention of other professionals, such as behavioral neurologists, speech pathologists, and learning disability specialists, and are not meant to constrain or limit the practice of those individuals as affirmatively set forth in their relevant enabling statutes.

C. **Training and educational requirements.** The guidelines for licensure as a psychologist, as defined in LAC 46:LXIII.301 and 303, are also applicable as minimal requirements for consideration for the practice of clinical neuropsychology. However, in addition to one's basic training as a psychologist, specialty education and training is considered essential. The International Neuropsychological Society (INS) and Division 40 of the American Psychological Association (APA) have developed guidelines for specialty training in clinical neuropsychology. These guidelines represent the current recommendations for the education and training of psychologists who will engage in the delivery of clinical neuropsychological services to the public. It is recognized that many current practitioners of clinical neuropsychology were trained well before such specialty guidelines were devised and such educational and training opportunities were readily available. Additionally, it is recognized that there are many psychologists, who were not initially trained as clinical neuropsychologists, but who would like to respecialize and practice in this field. The purpose of these regulations is also to address the circumstances of these individuals. The minimum requirements set forth in the Louisiana Administrative Code for Psychologists will also apply to all candidates seeking a specialty designation in clinical neuropsychology.

1. Doctoral training in clinical neuropsychology after 1993. Because of the diversity of training programs in clinical neuropsychology, some discretionary judgment as to the adequacy of any educational and training program must be left to the board. However, the basic model for training in clinical neuropsychology will be in keeping with the guidelines developed by INS/APA Division 40. These are as follows:

a. a basic core psychology curriculum as defined in LAC 46:LXIII.303.D.11.

b. a clinical core that includes psychopathology;



didactic and practicum experiences in the assessment of individual differences (psychometric theory, interviewing techniques, intelligence and personality assessment); didactic and practicum experiences in psychotherapeutic intervention techniques; and professional ethics.

c. specific courses relating to training in clinical neuropsychology including, but not limited to: basic neurosciences such as advanced physiological psychology; advanced perception and cognition; research design and/or research practicum in neuropsychology; psychopharmacology; functional human neuroanatomy; neuropathology; didactic and practicum experiences in clinical neuropsychology and clinical neuropsychological assessment; and principles of clinical neuropsychological intervention.

d. specialty internship in clinical neuropsychology, followed by the completion of a formal post-doctoral fellowship (one year minimum) in clinical neuropsychology, or the equivalent of one full year (1800 hours) of post-doctoral experience in clinical neuropsychology under the supervision of a qualified clinical neuropsychologist (as defined here and in LAC 46:LXIII.307.C.2,3, and 4). The majority of these hours must involve clinical neuropsychological assessment, and some portion of the remaining hours should be related to rehabilitation of neuropsychological deficits. The supervision, as defined above, should involve a minimum of one hour of face-to-face supervision a week, though additional supervisory contact may be required during training phases and case discussions. The 1800 total hours must be obtained in no more than two consecutive years.

e. as with any specialty area of psychology, being licensed to practice with a specialization in clinical neuropsychology will depend on the successful completion of both written and oral examinations as defined by the board.

2. Respecialization for psychologists with other designated specialty areas.

a. The requirements for any given individual may vary depending on his or her previous education, training, supervised practica, and clinical experiences. Documentation of one's relevant training and clinical experience, along with a formal plan for respecialization in clinical neuropsychology, will be submitted to the board for approval.

b. Continuing education in clinical neuropsychology, regardless of its nature and content, will not be considered, in and of itself, sufficient for respecialization. Any such educational experiences must be supplemented by formal applied clinical experiences under the supervision of a qualified clinical neuropsychologist.

c. While a formal course of post-doctoral graduate training in clinical neuropsychology may be considered ideal, matriculation in such a graduate program may not be essential for someone already trained in an area of health care delivery psychology. Such an individual may undertake an informal course of studies outlined by the supervising clinical neuropsychologist. Such a program of studies should be designed to supplement whatever may be lacking from the basic educational requirements listed under LAC 46:LXIII.307.C.1.c. and must be submitted to the board for prior approval.

d. In addition to whatever remedial didactic training is

necessary, the candidate for respecialization in clinical neuropsychology, will complete either a formal, one year post-doctoral fellowship training program, or the equivalent of one full year (1800 hours) of supervised experience in clinical neuropsychology as defined in LAC 46:LXIII.307.C.1.d.

e. Following the completion of this program, the candidate for respecialization will be required to pass an oral examination administered by the board or a committee of its choosing relating to the practice of clinical neuropsychology.

3. Psychologists trained prior to 1993 with demonstrated expertise in clinical neuropsychology.

a. Those psychologists whose training and experience qualify them as having particular expertise in this field, may petition for a specialty designation in clinical neuropsychology. The following may be offered as evidence of such expertise:

i. diplomat status (ABPP/ABCN or ABPN) in clinical neuropsychology;

ii. formal training and supervised practicum experiences in clinical neuropsychology as defined in LAC 46:LXIII.307.C.1;

iii. extensive clinical practice in the area of clinical neuropsychology, such that one has a regional or national reputation among his or her peers as having competence in this field;

iv. in addition to the clinical practice of neuropsychology, one has significant scholarly publications in the area or teaches courses in clinical neuropsychology at a graduate level in an accredited psychology program.

b. These credentials would be subject to review and approval by the board.

c. After having met all other requirements for licensure under this Chapter, the candidate may be required to pass an oral examination administered by the board or a committee of its choosing relating to the practice of clinical neuropsychology.

4. Grandfather Clause (Senior psychologists engaging in the practice of clinical neuropsychology prior to January 1, 1994).

a. It is incumbent upon both the board and the individual practitioner to insure that all services rendered by psychologists are well within their defined areas of competence. The board recognizes that as clinical neuropsychology evolved and the demands for such services increased, many practicing clinicians expanded their practice to include clinical neuropsychological assessment and/or intervention. Similarly, it recognizes that even before clinical neuropsychology developed into an independent specialty within psychology, clinicians were making predictions about the integrity of the brain from various psychometric measures.

b. A grandfathering period will be in effect until January 1, 1995, for those psychologists licensed under R.S. 37:2356 who wish to declare a specialty in clinical neuropsychology in addition to their present designation.

c. Those psychologists who believe they meet the following criteria have until January 1, 1995 to notify the board in writing that they so qualify and wish to declare a specialty designation in clinical neuropsychology. The board will

review all such requests and reserves the right to request supporting documentation.

i. The individual should have had either formal course work or extensive continuing education in all or most of the areas listed under LAC 46:LXIII.307.C.1.c. Specifically, one should be familiar with functional neuroanatomy; the basics of clinical neurology and neuropathology, including the natural history of the major neurological disorders; the theory and practice of clinical neuropsychology; psychopathology; and the potential impact of individual differences on behavior and the assessment of mental status. Over the last five years, at least one-third of one's continuing education and one third of one's clinical practice should have been devoted to the practice of clinical neuropsychology to maintain competence in the area (continuing education is considered an essential, but not sufficient, basis for competency in clinical neuropsychology). One should have had the opportunity for regular peer review and/or discussion of neuropsychological cases, issues or questions. Additionally, membership and participation in neuropsychological organizations and/or neuropsychological research can also be offered as evidence of ongoing professional development in clinical neuropsychology, or

ii. Diplomat status (ABPP/ABCN or ABPN) in clinical neuropsychology.

5. All other psychologists, licensed under R.S. 37:2356, wishing to declare a specialty in clinical neuropsychology after January 1, 1995, must meet the criteria outlined in LAC 46:LXIII.307.C.1, 2, and 3 as specified above.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2353 and 37:2356.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:

Interested persons may submit written comments within 30 days of the publication of this notice to: Brenda Rockett, 11853 Bricksome Avenue, Suite B, Baton Rouge, LA 70816.

Ronald A. Goebel, Ph.D.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: CLINICAL NEUROPSYCHOLOGY**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

A one-time cost of approximately \$1,325 may be experienced in the LSBEP's self-generated funds in order to write, publish and implement this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will have no effect on revenues collected by the LSBEP.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

No additional costs and/or economic benefits to any persons or non-governmental groups will result with the implementation of this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Psychologists are already required to practice only within their area(s) of competence. Those psychologists who, by virtue of their formal educational training experiences, are qualified to practice in this area, will be unaffected by the addition of this rule.

Brenda C. Rockett  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Rules of Professional Conduct  
(LAC 46:LXXXV.Chapter 10)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Board of Veterinary Medicine intends to amend §1003, §1023, §1025, §1031, §1033, §1049, and §1055, to delete §1027 and §1043, and to adopt §1065 of Chapter 10.

The proposed changes have the intent of removing outdated provisions, inserting new regulations reflective of the current standards of practice within the veterinary community and to reword language where needed for clarity of purpose and intent.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 10. Rules of Professional Conduct**

**§1003. Conflicting Interest**

It is unprofessional and a violation of these Rules to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this Rule, a member represents conflicting interests if, when employed by a buyer to inspect an animal for soundness, he accepts a fee from the seller. Acceptance of a fee from both the buyer and seller shall be deemed prima-facie evidence of fraud.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19:

**§1023. Degree of Treatment**

Veterinarians shall exercise the same degree of care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.

**HISTORICAL NOTE:** Promulgated by the Department of Health

and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19:

**§1025. Display of Degree**

A licensed veterinarian shall not use or display any college degree, certificate, or title granted by any institution not approved by the American Veterinary Medical Association (AVMA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19:

**§1027. Repealed**

**§1031. Direct Supervision of Laypeople, Preceptees, Unlicensed Veterinarians, and Technicians**

Licensed veterinarians employing and/or supervising persons in any or all of these categories shall make themselves familiar with and strictly adhere to the definitions and limitations as defined in Chapter 7 of these Rules. Failure to observe the restrictions, definitions, and/or limitations of this Rule shall be considered a breach of the Rules of Professional Conduct and may result in the suspension or revocation of the license of the supervising veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19:

**§1033. Certificate of Health**

A licensed veterinarian in this state shall not issue a certificate of health unless he shall know of his own knowledge by actual inspection and appropriate tests of the animal that said animal meets the requirements for the issuance of such certificate. Only a licensed veterinarian can sign the certificate of health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19:

**§1043. Repealed**

**§1049. Sanitation Requirements**

A. A licensed veterinarian is required to maintain his entire premises in such state of sanitation as to comply with the public health requirements of the city and/or parish in which located and/or the public health laws of the state of Louisiana.

B. Sanitary methods for the disposal of deceased animals shall be provided and maintained in compliance with all local and state health regulations.

C. Contaminated waste such as syringes, needles, surgical blades, and any contaminated materials shall be disposed of in accordance with local, state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19:

**§1055. Controlled Substances**

It is unprofessional conduct for a licensed veterinarian to fail to observe and/or comply with any and all provisions of Chapter 7 concerning the prescribing and dispensing of drugs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March, 1990), amended LR 19:

**§1065. Other Governmental Agencies**

It shall be considered unprofessional conduct for a veterinarian to violate any ordinance, regulation, rule, and/or law of any local, state or federal government or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

Interested parties may submit written comments to Vikki Riggle, executive director at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on August 15, 1993. A public hearing on the proposed changes will be held on August 25, 1993 at the office of the Board of Veterinary Medicine at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki Riggle  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: RULES OF PROFESSIONAL CONDUCT**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs are anticipated by the amendments proposed.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
No impact is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact is anticipated.

Vikki Riggle  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**State Board Examination Changes  
(LAC 46:LXXXV.303)**

In accordance with the provisions of R.S. 49:950 et seq., and 37:1518 and 37:1523 et seq., the Board of Veterinary Medicine proposes to amend and the following Sections of Chapter 3.

This rule change will extend the period of time for which a score on the state board examination is valid. In addition, the scope and name of the regulatory component of the examination as been redefined. This rule change will also change the method of determining a passing score and eliminate the use of "conditioned" scoring mechanisms.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 3. Licensure Procedures**

**§ 303. Examinations**

\* \* \*

D. The state examination may be prepared, administered and graded by the members of the Board of Veterinary Medicine or may be prepared, administered and/or graded, in whole or in part, by any person, firm, corporation or other entity selected, requested or designated to do so by the Board of Veterinary Medicine.

E. The state examination shall be administered at least once annually in the spring of each year. Additional administration of the state examination may be given as deemed necessary or desirable by the Board of Veterinary Medicine. Notice of the dates of the state examination shall be published at least 90 days in advance in the *Louisiana Register*. The national examinations shall be administered at such dates, times and places as shall be required by the National Board of Veterinary Medical Examiners, or their agents, employees, or designees.

F. Applicants taking the state board examination on or after December 1, 1993, must take and pass two component sections of the state board examination. The component sections are defined below as:

1. A component to be known as the "General Knowledge Component" and which will consist of 200 questions in the areas of companion animal medicine (50 percent of the exam,) equine medicine (25 percent of the exam,) and food animal medicine (25 percent of the exam). An applicant must obtain a passing score of at least 70 percent on this component of the state board examination. An applicant's score on this component of the examination will be computed as a total number of correct responses to the 200 questions contained on the examination.

2. A second component to be known as the "Rules, Practice Act, and Complimentary Laws Component" or "RPC" will consist of no fewer than 25 questions taken from the veterinary practice act and rules promulgated by the board. This test may also contain items taken from statutes and/or regulations promulgated by other state and federal agencies deemed by the board to be pertinent to the practice of veterinary medicine. Applicants will be provided in advance of the examination with copies of all rules, regulations, and statutes from which items on the RPC examination may be taken.

G. A passing score on any examination shall be given effect for a period of five years. Should an applicant pass one or more of the required examinations but fail to pass one or more of the other required examinations for a period of five years, such applicant will thereafter be required to pass all

examinations, notwithstanding such applicant's previous passing of one of the required examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:344 (March 1993), LR 19:

Interested parties may submit written comments until August 20, 1993 to Vikki Riggle, Executive Director, Office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. A public hearing will be held at 10 a.m., Wednesday, August 25, 1993 at the above address.

Vikki Riggle  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: BOARD EXAMINATION CHANGES**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs are anticipated by the amendments proposed.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
No impact is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact is anticipated.

Vikki Riggle  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**State Board Exam Fees (LAC 46:LXXXV.501)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Board of Veterinary Medicine intends to amend (LAC 46:LXXXV.501).

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 5. Fees**

**§501. General Fees**

\* \* \*

D. Examination fee: State Board Examination \$175

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 18:380 (April 1992), LR 19:

Interested parties may submit written comments to Vikki Riggle, Executive Director at the office of the Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on August 20, 1993.

A public hearing on the proposed changes will be held on August 25, 1993 at the office of the Board of Veterinary Medicine at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki Riggle  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: STATE BOARD EXAM FEES**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs are anticipated by the amendments proposed.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Additional annual revenues of \$750 to \$4,500 are anticipated. Revenues will accrue to the Board of Veterinary Medicine.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Each applicant for the state board examination will incur a cost of \$175 instead of the \$150 currently charged.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
None anticipated.

Vikki Riggle  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Time Limit for Filing Complaints  
(LAC 46:LXXXV.101)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Board of Veterinary Medicine intends to amend (LAC 46:LXXXV.101).

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 1. Board of Veterinary Medicine**

**§101. Information, Agency Office, Request for  
Rules or Action**

\* \* \*

D. Persons wishing to file a complaint against a licensee of the board shall be required to submit a written complaint which is signed and notarized. Complaints which are filed more than twenty-four months after the date of veterinary service for which the complaint is being filed will not be investigated by the board except in cases where one of both of the following conditions apply:

1. The complainant was not able to discover that there was reason to file the complaint until after the twenty-four month period.

2. The nature of the complaint is such that an investigation of the licensee appears to be warranted for the protection of the public health, safety or welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982) amended LR 16:222 (March 1990), LR 19:

Interested parties may submit written comments to Vikki Riggle, Executive Director at the office of the Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on August 20, 1993.

A public hearing on the proposed changes will be held on August 25, 1993 at the office of the Board of Veterinary Medicine at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki Riggle  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: COMPLAINT FILING TIME**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs are anticipated by the amendments or adoption proposed.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
No impact is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact is anticipated.

Vikki Riggle  
Executive Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Veterinary Medicine

#### Veterinary Practice Minimum Standards (LAC 46:LXXXV.Chapter 7)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 and 37:1523 et seq., notice is hereby given that the Board of Veterinary Medicine intends to amend §701, §702, §705 and §706 and adopt §700, §708, §710, and §711 of Chapter 7 as delineated below.

These changes will create a definitions section and institute minimum standards of veterinary practice which are linked to those definitions. In addition, some clarification of existing rules as well as elimination of outdated provisions have been made.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 7. Veterinary Practice

#### §700. Definitions

*Certified Animal Euthanasia Technicians*—individuals who have met all of the requirements for certification as found in R.S. 37:1551-1558.

*Clinic*—a facility in which the practice conducted is essentially an out-patient type of practice.

*Controlled Substances*—any controlled substance as defined by the U.S. Drug Enforcement Administration.

#### *Dental Operation*—

1. the application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue, and

2. preventative dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque, stains, or the smoothing, filing or polishing of tooth surfaces.

*Direct Supervision*—the supervision of those tasks or procedures that do not require the presence of a licensed, supervising veterinarian in the room where performed, but which require the presence of the licensed, supervising veterinarian on the premises and his availability for prompt consultation and treatment.

*Direct Visual Supervision*—the supervision of those tasks or procedures that do require the presence of a licensed veterinarian in the room where such tasks or procedures are being performed.

*Emergency Facility*—a veterinary medical service whose primary function is the receiving, treatment and monitoring of emergency patients during specified hours of operations.

*Hospital Facility*—a facility in which the practice conducted includes the confinement as well as the treatment of animals.

*Laypeople*—individuals who are not registered and/or licensed in any of the categories defined in this rule.

*Legend Drug*—any drug or medicinal agent carrying the legend "Federal (USA) law restricts this drug to use by or on the order of a licensed veterinarian."

*Mobile*—a vehicle with special medical or surgical facilities.

*Preceptees (Interns)*—individuals who are unlicensed veterinarians or who are full time, fourth-year students of an accredited college of veterinary medicine and who are in a board approved or a college intern or preceptee program.

*Registered Veterinary Technicians*—individuals who have met all of the requirements for registration pursuant to R.S. 37:1541-1549.

*Unlicensed Veterinarians*—individuals who have completed an approved, accredited program of instruction and have received a degree as Doctor of Veterinary Medicine but who have not qualified for and/or completed the application for licensure process in the state of Louisiana.

*Veterinarian-Client-Patient Relationship*—exists when:

1. the veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal(s) and the need for medical treatment, and

2. the client (owner or duly authorized agent) has agreed to follow the instructions of the veterinarian, and

3. the veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian or associate veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s) and/or the animal's records, and/or by medically appropriate and timely visits to the premises where the animal(s) are kept, and the practicing veterinarian is readily available for follow-up in the event of adverse reactions of the failure of the regimen of therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

#### §701. Record Keeping

A. It shall be considered unprofessional conduct within the meaning of R.S. 37:1526(14) for a licensed veterinarian to keep improper records. Records shall be established and maintained as follows:

1. Each Louisiana licensed veterinarian shall maintain an individual record on each animal or herd to include, but not limited to, the following:

a. name or herd identification, breed, sex, description permanent identification (if available), tattoos or other identifying marks, name of owner, complaint, diagnosis, therapy—including drugs, chemicals and medications, the amount administered and the method of administration—and surgical procedures.

b. records shall be maintained for at least five years, including records of large animal and/or herd type practice.

2. Radiographs shall be kept in the following manner:

a. Marker must have name of hospital and/or clinician.

b. Marker must have identification of the animal, i.e., number and/or owner's name.

c. Marker must have date radiograph was made.

d. Radiograph must be properly identified with "L" for left and "R" for right.

e. Radiograph must be kept for at least five years.

B. Patient records shall be maintained for a period of five years and are the responsibility and property of the veterinarian. The veterinarian shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client.

C. Copies or synopsis of patient records shall be provided to the client or the client's authorized representative upon request of the client. A reasonable charge for copying and providing patient records may be required by the veterinarian. Refusal to provide such records upon written request by the client shall be considered a violation of the rules of professional conduct within the meaning of R.S. 37:1526.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 16:225 (March 1990), LR 19:

### **§702. Direct Supervision**

A. Employees of a licensed veterinarian working under the definition of "direct supervision" must be employed according to the following provisions:

1. a veterinarian-client-patient relationship with the licensed, supervising veterinarian has been established, and

2. treatment is being performed on the order or prescription of the licensed, supervising veterinarian, except that no unlicensed person may perform surgery, diagnosis, prognosis, or the prescribing of drugs, medicines, or appliances, and

3. the licensed, supervising veterinarian has assumed the liability for any treatment performed.

B. Persons meeting the definition of a preceptee as defined in §700 may also perform the following services:

1. surgery, diagnoses and prognosis of animal diseases, and prescription of drugs, medicine, and appliances for domestic animals under the direct visual supervision of the licensed, supervising veterinarian acting as an approved preceptor;

2. the preceptee (intern) may perform these services only for the period of time allotted for the preceptorship (internship) program by the board.

C. A Certified Animal Euthanasia Technician (CAET) as defined in §700 may perform only those tasks or procedures defined in R.S. 37:1556.

D. A Registered Veterinary Technician (RVT) as defined in §700 shall perform all tasks or procedures under direct supervision of a licensed veterinarian.

E. Unlicensed veterinarians, as defined in §700, may perform tasks and/or procedures only under direct supervision of a licensed veterinarian until such time as they are licensed by the state of Louisiana.

F. A layperson shall perform all tasks or procedures under direct supervision of a licensed veterinarian.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982) amended LR 16:225 (March 1990), LR 19:

### **§705. Prescribing and Dispensing Drugs**

A. The following activities are prohibited:

1. No legend drug, as defined in §700, shall be administered, prescribed, dispensed, delivered to, or ordered for animals with which the veterinarian has not established a veterinarian-client-patient relationship.

2. No controlled substance, as defined in §700, shall be administered, prescribed, dispensed, delivered to, or ordered for animals with which the veterinarian has not established a veterinarian-client-patient relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof, and determined that such controlled substance is therapeutically indicated following said examination.

3. No veterinarian shall prescribe, dispense, administer, or deliver any drug, medicine, chemical or controlled substance except where the criteria of a veterinarian-client-patient relationship has been established. All drugs must be intended for the use of the patient and shall not be prescribed, dispensed, administered, delivered, or ordered for the use of the client and any other human.

B. All drugs, chemicals, medicines and/or biological agents shall be maintained, administered, dispensed and prescribed in compliance with state and federal laws.

C. All repackaged drugs dispensed by a licensed veterinarian shall be stored in approved safety closure containers, except that this provision shall not apply to drugs dispensed to any person who requests that the medication not be placed in such containers, or in such form or size that it cannot be dispensed reasonably in such containers.

D. Records shall be maintained in accordance with §701 of Chapter 7 of these rules.

E. A veterinarian who has a federal D.E.A. number and uses or dispenses controlled substances must comply with the federal regulations pertaining to the dispensing, storage and usage of controlled substances.

F. Any veterinarian who violates this rule or any portion thereof, shall be guilty of unprofessional conduct within the meaning of R.S. 37:1526(14)

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:

### **§706. Labeling of Medications Dispensed**

A. It is the responsibility of the veterinarian to label all medications and/or other veterinary products as dispensed. This label must include the following:

1. name, address and telephone number of clinic;
2. name of veterinarian dispensing medications;
3. patient name and client name;
4. name of medication and/or other veterinary product dispensed;
5. quantity and strength of product;
6. directions for administration;
7. date dispensed, and
8. precautionary statements as required by law, i.e. not for human consumption, poisonous, etc.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.



HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:226 (March 1990), LR 19:

### §708. Anesthesia Services

#### A. Anesthetic and Drugs

1. Anesthesia equipment in accordance with the level of surgery performed should be available at all times. The minimum amount of support equipment required for the delivery of assisted ventilation should be:

- a. resuscitation bags of appropriate volumes, and
- b. an assortment of endotracheal tubes in working condition.

#### B. Examination and Monitoring

1. Every animal shall be given a physical examination within 12 hours prior to the administration of a general anesthetic.

2. Some method of respiratory monitoring is mandatory, such as observing chest movements, watching the rebreathing bag, or use of a respirometer. Some method of cardiac monitoring is recommended and may include use of a stethoscope or electrocardiographic monitor.

3. The animal under general anesthesia shall be under continual observation until at least the swallowing reflex has returned.

C. No patient should be released from veterinary supervision to the owner/client until it is ambulatory unless it is not ambulatory for reasons unrelated to anesthesia. The only exception to this rule would be the case where the client demands to take the animal home against the advice and judgment of the attending veterinarian. In this case, the veterinarian is recommended to have the client sign a release form stating that the owner/client has been advised to leave the animal, that the owner/client is aware of the risks involved, and that the owner/client is taking the animal against the advice and judgment of the attending veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

### §709. Surgical Services

A. Aseptic surgery shall be practiced in all cases in which aseptic surgery is demanded by the profession. Aseptic surgery shall be defined as procedures in which aseptic technique is practiced in patient preparation, instrumentation, and surgical attire.

B. Surgical attire and technique for aseptic surgery is defined as:

1. Disinfection of surgeon's hands by scrubbing with a disinfecting surgical scrub solution.
2. Sterilized surgical gown with long sleeves is recommended but not required. Clean clothing and sterilized gloves must be worn.
3. Aseptic surgery requires sterilization of all appropriate equipment. An acceptable method of sterilization sufficient to kill spores must be used on all instruments, packs, and equipment intended for use in aseptic surgical procedures.

4. External use of heat sensitive tape type indicators on surgical gowns, packs, and resterilized gloves or the use of "steam clock" type indicators deep in surgical packs shall be

required to monitor sterilization efficiency. The date the items were sterilized should be indicated.

5. Ancillary personnel in the surgery room should wear clean clothing and footwear.

C. Hot and cold running water should be readily accessible to the sites of the surgical procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

### §710. Dental Operations

A. Dental operations are included in the definition of the practice of veterinary medicine as found in R.S. 37:1513(4).

B. Nothing in these rules shall prohibit any person from utilizing cotton swabs, gauze, dental floss, dentifrice, toothbrushes or similar items to clean an animal's teeth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

### §711. Definitions for Classification of Practice Facilities

A. In order to be classified as, advertised as, or use the word "hospital" as defined in §700 in the name of a veterinary facility, all of the following minimum standards and requirements shall be met:

1. Facility shall have a reception room and office, or a combination of the two.

2. An examination room separate from other areas of the facility and of sufficient size to accommodate the doctor, assistant, patient and client shall be maintained. This room shall have:

- a. adequate materials and instrumentation to perform a thorough physical examination, and
- b. adequate lighting to perform a thorough physical examination, and
- c. immediate access to a sink with hot and cold running water, and

d. an examination table with impervious surface which can be easily cleaned and disinfected.

3. Facility shall have a surgery room which is separate and distinct from all other rooms. This room shall have:

- a. lighting adequate to perform surgery, and
- b. a surgery table with an impervious surface which can be cleaned and easily disinfected, and
- c. appropriate anesthesia equipment, and
- d. oxygen readily available, and
- e. emergency drugs for cardiac and pulmonary resuscitation, and

f. walls and floors constructed with materials capable of being cleaned and disinfected.

4. Facility shall have a surgical scrub or preparation area containing pre-anesthetic medications and surgical scrub.

5. Facility shall have a diagnostic x-ray machine and development equipment area kept in compliance with state and federal regulations.

6. A clinical laboratory area shall be available containing diagnostic laboratory equipment, test kits and materials to perform necessary tests. This may be an in-house laboratory or an outside diagnostic laboratory facility which is capable of returning diagnostic results in 24 hours.

7. Facility shall have a kennel or housing area where animals can be retained for treatment and post-surgical observation. This area shall have at a minimum:

- a. separate compartments for each animal which provide for comfortable and sanitary conditions, and
- b. exercise areas which provide and allow effective separation of animals and their waste products and appropriate cleaning.

8. Facility shall have adequate indoor lighting for halls, wards, reception areas, examining rooms and surgical rooms.

**B. Clinic**

1. In order to be classified as, advertised as, or use the word "clinic" as defined in §700 in the name of the facility, all standards described under §711.A, shall apply.

2. A facility defined as a clinic is not required to meet the requirements for kennels as described in §711.A.7 except where surgery is being performed.

3. A clinic performing surgery shall provide adequate kennel facilities as per §711.A.7 until the patient is discharged.

C. A mobile clinic as defined in §700 shall have a permanent base of operations with a published address and telephone facilities for making appointments or responding to emergency situations.

D. An emergency facility as defined in §700 shall have the following:

1. doctors, support staff, instrumentation, medications and diagnostic equipment sufficient to provide an appropriate level of emergency care during all hours of operation.

2. If an emergency facility offers surgery services and retains patients in the emergency facility, all facility standards pertaining to hospital facilities as defined in §711.A shall be furnished and maintained.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1518.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:

Interested persons may submit written comments on the proposed rule to the board offices by contacting: Vikki Riggle, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604 Baton Rouge, LA 70801-1203 until August 20, 1993 at 12 noon.

A public hearing on this matter will be held at the offices of the Board of Veterinary Medicine at 10 a.m. on Wednesday, August 25, 1993.

Vikki Riggle  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: MINIMUM STANDARDS**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No implementation costs are anticipated by the amendments or adoption proposed.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections as a result of the proposed rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

Licensees not in compliance with proposed minimum standards may incur cost to bring practice facilities up to standards. No such action is mandated but could result if licensee is currently operating a facility at less than desirable standards.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

None is anticipated.

Vikki Riggle  
Executive Director

David W Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Identification of Hearing Impairment in Infants  
(LAC 48:V. Chapter 22)**

In accordance with the applicable provision of the Administrative Procedure Act, R.S. 49:950 et seq. and the Identification of Hearing Impairment in Infants R. S. 46:2261 et seq., notice is hereby given that the Department of Health and Hospitals, Office of Public Health intends to adopt procedures for the screening of infants to identify hearing impairment, testing of infants at risk for hearing loss, referral of hearing impaired infants for appropriate follow-up services and ensure proper information distribution to parents, primary care physicians and interested groups.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part V. Preventive Health Services**

**Subpart 7. Maternal and Child Health Services**

**Chapter 22. Identification of Hearing Impairment in  
Infants**

**§2201. Definitions**

*Advisory*—the 14 member council created pursuant to R.S. 46:2265.

*Audiologist*—an individual licensed to practice audiology by the Louisiana Board of Examiners for Speech Pathology and Audiology.

*Auditory Brainstem Response (ABR)*—the synchronous electrical response elicited from the auditory nervous system within 20 msec after stimulation and its measurement as used for the detection of hearing loss.

*Department*—the Department of Health and Hospitals.

*Discharge*—release from the premises of a medical care facility.

*Evoked Otoacoustics Emissions (EOAE)*—acoustic echoes, evoked in response to acoustic stimuli, produced by the inner ear and measured by a microphone in the ear canal for the detection of hearing loss.

**Hearing Screening**—using procedures approved by the office to identify infants in need of diagnostic audiological assessment.

**Infants At Risk**—those infants who are at risk for hearing loss because they have one or more risk factors as indicated in R.S. 46:2263.

**Office**—the Office of Public Health within the department.

**Other Birthing Site**—any site of birth other than a hospital.

**Other Risk Factors**—any other condition(s) in addition to the factors cited in R.S. 46:2263 added by the office upon recommendation of the advisory council.

**Other Screening Device**—a device preapproved in writing by the office, comparable to or better than auditory brainstem response testing.

**Program**—the Communicative Disorders Program within the office.

**Risk Registry**—will be the data base kept by the office of all infants identified as high risk for hearing loss.

### §2203. Program for Identification of Hearing Loss in Infants

A. The program will include the following:

1. The office will develop a newborn hearing screening report form to be used by the hospitals to report risk status and hearing screening results to the risk registry. This form will include written material regarding hearing loss and a toll-free hotline phone number (V/TDD).

2. The office will maintain a risk registry to include information reported on the newborn hearing screening report.

3. The office will notify parents of infants at risk of available follow-up services.

4. The risk registry will include periodic notification to parents of recommended procedures for infants and children at risk for progressive hearing loss.

5. The risk registry will include information on infants diagnosed with hearing loss.

6. The office will provide for a toll-free hotline service for parents and professionals to utilize to obtain information about the program and related services. This hotline will be accessible by voice or TDD.

B. Implementation

1. All birthing sites in Louisiana must be in compliance with this act by January 1, 1994.

### §2205. Procedures for Hospitals

A. Hospitals shall complete the newborn hearing screening report, using the at risk criteria provided by the office on all live births.

B. Hospitals shall conduct hearing screening on all infants identified as at risk by the newborn hearing screening report before discharge.

C. Hospitals shall record the results of the hearing screening on the newborn hearing screening report.

D. Hospitals shall disseminate copies of the newborn hearing screening report to the parent, the office (within 14 calendar days of discharge), and the infant's primary health care provider.

E. If an infant is born in one hospital and transferred to one or more hospital(s), the last hospital to which the infant is transferred before being discharged into the care of a parent,

or guardian for purposes other than transport, must complete the newborn infant hearing report and perform the hearing screening if the infant is at risk.

F. If an infant is to be placed for adoption and is to be transferred to another hospital for adoption, the hospital at which the infant is born is to complete the newborn hearing screening report and perform the hearing screening if the infant is at risk (unless §2205.E above applies). The parent copy of the newborn hearing screening report shall be sent to the guardian.

### §2207. Procedures for Other (Alternative) Birthing Sites

A. When the infant is born outside the hospital, the person filling out the birth certificate shall complete the newborn hearing screening report.

B. If the infant is determined to be at risk, hearing screening shall be performed at the alternative birthing site before discharge. The results of the screening shall be recorded on the newborn hearing screening report.

C. The person completing the newborn hearing screening report shall disseminate the copies to the parent, primary health care provider, and the office (within 14 calendar days).

### §2209. Hearing Screening Procedures

A. **Personnel**—Only audiologists licensed by the Louisiana Board of Examiners for Speech Pathology and Audiology, or persons trained and supervised by a licensed audiologist may provide hearing screening.

1. A licensed audiologist who is supervising another individual performing hearing screening must at least be accessible by telephone while the screenings are being performed, review a percentage of the screening documentation and copies of the newborn hearing screening report and perform periodic direct observation of each individual at least once per month as they perform hearing screenings. After an individual supervised by an audiologist has performed hearing screening under the above supervision for one year, direct observation every 3 months is required.

B. **Test Procedures**—The following test procedures are the only acceptable methods for use in infant hearing screening:

1. Auditory Brainstem Response (ABR) either automated or non-automated.

a. A screening level of 35dBnHL click stimuli is required.

b. Failure criteria is the absence of Wave V within 10 msec at the required screening level for either ear.

2. Evoked Otoacoustic Emissions (EOAE)

a. A screening target level of 80dB spl click stimuli is required.

b. Failure criteria is an emission of less than 3dB signal to noise ratio across all of the test frequency bands from 1 to 4 KHz.

C. **Test Environment**—The facility providing the hearing screening tests shall make all efforts possible to insure testing is conducted in a quiet environment.

D. **Calibration of Equipment**—Hearing screening equipment shall be calibrated annually and documentation maintained at the screening site.

E. **Exemptions**—Any requests for exemptions from hospitals or other birthing sites unable to perform hearing screening before discharge must be made in writing to the

office. Exemptions will be considered on a site-by-site basis considering birth population, financial status, availability of services and other factors. Birthing sites requesting exemptions will be required to have an alternative testing site available for referral of at risk infants needing hearing screening within seven calendar days of discharge.

#### **§2211. Confidentiality of Information**

A. All information on the newborn hearing screening report is considered confidential and cannot be released by the office, the hospital or the primary health care facility without the parent or guardian's written informed consent.

#### **§2213. Risk Registry and Tracking**

A. The office will maintain a risk registry to include information on all live births and infants identified as at risk for hearing loss.

B. The office will track at risk infants who fail or do not receive hearing screening prior to hospital discharge. Assistance will be provided for service referrals when necessary.

C. The office will track and notify parents of infants and children at risk for progressive hearing loss of appropriate procedures for follow-up testing and monitoring of their child's hearing until age five.

D. The office will develop a voluntary system for reporting diagnosis of hearing loss by primary health care providers, audiologists and parents for children up to age five.

E. The office will disseminate statistical reports regarding the number of infants tested and the number with diagnosed hearing loss to the Louisiana Commission for the Deaf, the Louisiana School for the Deaf, the Department of Education and other interested parties on an annual basis.

F. Infants and children with diagnosed hearing loss shall be referred to appropriate agencies for rehabilitation and education services with parental/caregiver consent. For infants and toddlers up to age three with diagnosed hearing loss, referral to Childnet shall be made for early intervention services.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 30, 1993 at 4:30 p.m. to Dr. Eugene J. Stassi, Director, Communicative Disorders Program, Office of Public Health, 325 Loyola Ave., Room 605, New Orleans, LA 70112.

Public hearings on this proposed rule will be held on August 25, 1993, 9 a.m. Metropolitan Region I Office; Office of Public Health, 3308 Tulane Ave., 5th Floor Conference Room, New Orleans, LA. Sign language interpreters will be available at the public hearing.

J. Christopher Pilley  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: HEARING IMPAIRMENT IDENTIFICATION IN INFANTS**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Legislation mandating this program was passed without funding. The early identification of hearing loss and subsequent initiation of early intervention will save state and local governments significant funds in special education, rehabilitation and vocational costs in future years.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that there will be no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)**

Economic benefits to hard of hearing and deaf persons are great when the impairment is identified the earliest. These include: increased earning power, achievement of higher educational status, and more independence in daily activities.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment will be increased as a result of the early identification of hearing loss in affected individuals. These individuals will have increased opportunities and potential for employment.

Larry Hebert, M.D.  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

### **NOTICE OF INTENT**

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

#### **Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

The Omnibus Budget Reconciliation Act of 1989, Section 6403(c) mandates the coordination between Medicaid services provided under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program and the Women's Infants and Children's Supplemental Food Program (WIC). The WIC Program is funded by the U.S. Department of Agriculture and is designed to provide supplemental nutritious food and nutrition education to promote good health care at no cost to low-income pregnant, postpartum, and breast feeding women, infants and children up to their fifth birthday. The Medical Assistance Program is required to refer all eligible women, infants and children for services in the WIC Program. The Bureau of Health Services Financing does not reimburse Medicaid providers for completing referral forms for WIC certification. Medicaid providers are not permitted to charge the beneficiaries for this service. Therefore, the Bureau is proposing to adopt the following rule in the Medical Assistance Program.

## PROPOSED RULE

The Medical Assistance Program of Louisiana prohibits Medicaid providers from charging a fee to Medicaid beneficiaries for completing referral forms to obtain services from other state or federally funded programs.

Interested persons may submit written comments to the following address: John Futrell, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule will be held on Monday, August 23, 1993 in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

Copies of this notice and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest  
Secretary

## NOTICE OF INTENT

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

#### Nursing Facility—Infectious Disease Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule in the Medical Assistance Program in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Medical Assistance Program provides specialized reimbursement for nursing facility services for persons with infectious disease to insure that the necessary specialized treatment and the required application of infectious disease control measures are adequately included in the reimbursement methodology. The continued provision of this highly skilled level of care needed for these infectious patients as well as federal Medicaid regulations mandate that providers of these services be reimbursed adequately. Therefore, in order to meet the needs of this patient group, the Medical Assistance Program is adopting the infectious disease reimbursement rate for patients with Tuberculosis (TB). This reimbursement rate will be made only in accordance with the specific provisions outlined in this proposed rule.

#### PROPOSED RULE

The Bureau of Health Services Financing shall include nursing facility services provided to patients with Tuberculosis (TB) under the Nursing Facility - Infectious Disease (NF-ID) reimbursement methodology in accordance with the following provisions. These provisions: define the criteria to be used in identifying the eligible patient; establish the medical certification requirements; and specify the standards of participation and reimbursement requirements governing the nursing facilities. In addition, all necessary documentation including reporting or audit requirements applicable to seeking reimbursement under this rate for persons with AIDS or ARC, and methicillin-resistant staphylococcus aureus (MRSA) also applies to the patient group with tuberculosis.

Tuberculosis is defined as a disease that is caused by the Mycobacterium tuberculosis (*M. tuberculosis*) cultured or by both a significant reaction to the tuberculin skin test and clinical and/or roentgenographic evidence of TB.

I. The following patient criteria for reimbursement of services under the Infectious Disease (TB) rate must be met to establish the need for care at this designation. These criteria are meant to be objective, self-explanatory and applicable to those patients seeking care at this designation. The patient shall:

- a. Exhibit clinical signs and symptoms for infectiousness of *M. tuberculosis* of the respiratory tract.
- b. Exhibit noncompliance with chemotherapy and isolation precautions.
- c. Require 24-hour inpatient specialized skilled nursing care.
- d. Require immediate isolation procedures be initiated and maintained as the plan of care indicates.

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) PROGRAM

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule is projected to increase state expenditures by \$75 in SFY 1993-94, but no costs are anticipated for SFY 1994-95 and 1995-96.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule will increase federal revenue collections by \$75 in SFY 1993-94 but no increases are anticipated for SFY 1994-95 and 1995-96.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There are no significant estimated costs or economic benefits to these persons or groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposed rule will have no impact on competition and employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

II. Facilities seeking reimbursement for services to patients at this level of care designation shall provide an effective TB-control program including the early identification, isolation, and treatment of persons with active TB. The facility shall:

a. Initiate, update, and maintain vigorous infection control policy and procedures to manage the infectious disease patients according to current trends established by the Centers for Disease Control.

b. Institute isolation precautions immediately for patients who are suspected or confirmed to have active TB and may be infectious.

c. Maintain appropriate "Source-Control Methods" ventilation systems to prevent TB bacilli transmission in accordance with federal, state, and local regulations for environmental discharges.

d. Employ or contract with an engineer or other professional with expertise in ventilation or other industrial hygiene. This person shall work closely with the infection control committee in the control of airborne infections.

e. Develop specific policies, practices, precautions, and maintain a program of ongoing education for preventing transmission of infection in the facility for patients, staff, and visitors.

f. Achieve and maintain compliance with all requirements outlined in the Minimum Standards for Nursing Facilities and the enhanced requirements for NF-ID.

g. Arrange for laboratory services as appropriate.

III. Nursing facility seeking to provide services to patients with a clinical diagnosis of TB shall meet the following facility standards of participation:

a. The facility shall be enrolled as a provider of the Nursing Facility-Infectious Disease (NF-ID) Program with the appropriate provider agreements in effect.

b. The facility shall be currently enrolled to provide nursing facility services to provide the level of care designation for the treatment of tuberculosis.

IV. The following medical certification requirements must be met in addition to forms 148, 90L and Patient Assessment Screening Annual Resident Review (PASARR):

a. The facility data submission shall follow the guidelines established for the levels of care.

b. The following additional information requirements must be met:

1. date of onset of clinical symptoms of infectious TB;

2. physician's order specific to clinical infectiousness of TB;

3. request for a change in level of care to provide treatment for infectious TB;

4. laboratory reports verifying the diagnosis of infectious TB;

5. documentation to support that appropriate isolation procedures were implemented beginning the date NF-ID-TB level of care is requested.

V. Reimbursement requirements

a. The level of care change must be approved by the Department of Health and Hospitals, Bureau of Health Services Financing.

b. Request for change in level of care when the patient no longer requires the enhanced NF-ID-TB level must be

submitted within five working dates from the date that the patient is no longer infectious and requires isolation.

c. The NF-ID-TB reimbursement rate is not applicable to patients who have a diagnosis of TB, but are not infectious or the patient refuses treatment, and/or if the physician refuses to initiate appropriate chemotherapy, or the patient has atypical mycobacteriosis.

d. The NF-ID reimbursement rate will be paid during a hospital stay up to the customary 10 days bed hold policy.

Implementation of this proposed rule is dependent upon approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this proposed rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed rule. A public hearing will be held on this matter on Monday, August 23, 1993. Copies of this proposed rule and all other Medicaid rules and regulations are available at the parish Medicaid Offices for review by interested parties.

Rose V. Forrest  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: NURSING FACILITY-INFECTIOUS  
DISEASE-TUBERCULOSIS REIMBURSEMENT**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule is projected to decrease state expenditures by \$415,826 in SFY 1993-94, \$170,821 in SFY 1994-95 and \$117,010 in 1995-96.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule will decrease federal revenue collections by \$1,156,294 in SFY 1993-94, \$447,646 in SFY 1994-95 and \$306,634 in 1995-96.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There are no estimated costs to directly affected persons and these individuals will benefit from the receipt of these health services.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed rule will have no known impact on competition and employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Labor Office of Workers' Compensation

#### Insurance Cost Containment (LAC 40:I.Chapter 11)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 23:1291, the Department of Labor, Office of Workers' Compensation is hereby giving notice of its intent to adopt the following rule in the Workers' Compensation Cost Containment Program.

This rule is adopted to clarify "Workers' Compensation Cost Containment Act" to be implemented July 20, 1993. This proposed rule clarifies the dates from which to determine an employer's eligibility and incentive discount which are based on its experience modifier rate.

#### Title 40

### LABOR AND EMPLOYMENT

#### Part I. Workers' Compensation Administration

#### Chapter 11. Workers' Compensation Insurance Cost Containment Rules

\* \* \*

#### §1106. Experience Modifier Rates

A. An employers' eligibility shall be based on its experience modifier rate of December 31 of the prior year.

B. The incentive discount provided in L.S.A. R.S. 23:1178(c) shall be based on the employers next effective experience modifier rate after December 31 of the prior year.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1178.

**HISTORICAL NOTE:** Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:

Comments should be forwarded to Alvin J. Walsh, Director, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be accepted through the close of business at 4:15 p.m. on August 6, 1993.

Alvin J. Walsh  
Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: WORKERS' COMPENSATION COST CONTAINMENT PROGRAM

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rules only clarify the rules to be implemented July 20, 1993. The clarification may save the state litigation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be minimal effect on revenue collection in a \$.25 per page fee for copies of the revised rules, for total estimated amount of \$375.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The clarification contained in this rule will save the affected high risk employers time and legal fees.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact.

Alvin J. Walsh  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Public Safety and Corrections Board of Private Investigator Examiners

#### Initial Rules (LAC 46:LVII.Chapters 1-9)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.; and under the authority of R.S. 37:3505(B)(1), the Department of Public Safety and Corrections, Board of Private Investigator Examiners, hereby gives notice of its intent to adopt LAC 46:LVII.Chapters 1-9. Chapter 1 pertains to Organizational and General Provisions. Chapter 3 contains Additional Definitions. Chapter 5 pertains to Application, Licensing, Training, Registration and Fees. Chapter 7 regulates the Client - Investigator Relationship. Chapter 9 sets forth Rules of Adjudication for Board of Private Investigator Examiners.

These rules and regulations are the initial rules and regulations promulgated by the Board of Private Investigator Examiners.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LVII. Private Investigator Examiners

#### Chapter 1. Organizational and General Provisions

#### §101. Duties of Chairperson and Vice Chairperson

A. The Chairperson ("chair") of the Board of Private Investigator Examiners ("board") shall exercise general supervision of the board's affairs, shall preside at all meetings when present, shall appoint the committees within the board and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

B. The vice chairperson shall perform the duties of the chair in his absence or such other duties as may be assigned by the chair.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

#### §103. Duties of Executive Secretary

A. The executive secretary shall be the chief administrative officer and shall serve at the pleasure of the board.

B. Subject to the supervision of and direction of the board, the executive secretary shall:

1. act as the board's recording and corresponding secretary and shall have custody and maintain the records of the board;



2. cause written minutes of every meeting to be taken and maintained;
3. arrange the order of business of all meetings and notify all persons who are to appear at such meeting;
4. act as treasurer and receive and deposit all funds, and keep the records and books of account of the board's financial affairs;
5. attest all itemized vouchers for payment of expenses of the board;
6. prepare such reports to the governor and legislature as required for by law or as requested by same;
7. keep the board's seal and affix it to such instruments and matters that require attest and approval of the board; and
8. perform such other duties as directed by the board.

C. The executive secretary may spend up to \$500 for board purchases without prior approval by the board or the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §105. Meetings of the Board

A. Meetings shall be announced and held in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. A quorum to transact any business of the board shall be not less than four if its members.

B. The executive secretary shall give a written notice to all interested members of the public who make a timely written request for notice of any board meeting.

C. Minutes of meetings will be made available upon written request to the board and a monetary fee will be assessed in accordance with Division of Administration rules and regulations governing public records of any individual or company requesting such minutes.

D. Each board member shall have one vote on all matters before the board. Proxy voting is not allowed. A majority vote of the members at any meeting shall be required for any board actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §107. Official Seal; Use of State Seal Prohibited

A. The official seal of the board consists of the Louisiana State Seal with the title of the board in the outer circle.

B. No person or licensee shall use any facsimile reproduction or pictorial portion of the seal of the State of Louisiana on any badge, credentials, identification card or other means of identification used in connection with any activity regulated under this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §109. Committees

A. Standing committees of the board are:

1. General Committee, whose duties include special projects as authorized by the chair.

2. Finance Committee, whose duties include periodic review of the budget, recommendations regarding the establishment of fees charged by the board, and recommendations to the board regarding all expenditures in excess of \$500; and

3. Ethics Committee, whose duties include review of allegations and recommendations to the board regarding any alleged misconduct, incompetence or neglect of duty by board members.

B. The chair shall appoint board members to any committees as needed to fulfill the duties of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §111. Complaints

Any complaint to the board must be in writing, signed by the individual making said complaint, and include an appropriate means by which to contact said individual for investigative purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

## Chapter 3. Additional Definitions

### §301. Definitions

In addition to the definitions set forth in R.S. 37:3503, the following terms shall have the meanings ascribed unless the context clearly requires otherwise.

*Branch Office*—a separate office which is part of a company licensed by the Board of Private Investigator Examiners.

*Branch Manager*—the individual having prima facie responsibility and liability for a branch office.

*Personal Service*—on any person, when required, may be made by the board mailing, by certified or registered mail, to the person's last known address.

*Qualifying Agent*—a responsible officer or executive employee of an investigative company.

*Rule*—any agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the board. It does not include statements concerning only the internal management or organization and not affecting private rights or procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

## Chapter 5. Application, Licensing, Training, Registration and Fees

### §501. Application

A. The board shall issue a two part application:

1. Part I shall be designated for investigative agencies; and

2. Part II shall be designated for individual investigators.

B. Applications shall be sent to all persons requesting

application for licensing in the state of Louisiana.

C. The application shall contain the following information:

1. minimum statutory requirements for obtaining a license in the state of Louisiana;
2. instructions explaining requirements of the application; and
3. a schedule of licensing fees for an agency and individual.

D. Information requested on the application shall include the following:

1. company, partnership or corporation history;
2. personal history;
3. marital status;
4. education;
5. military service;
6. employment history;
7. character references;
8. investigative history;
9. miscellaneous questions regarding:
  - a. involvement of overthrow by force of our government;
  - b. crimes involving moral turpitude;
  - c. felony convictions; and
  - d. any unfavorable background incidents the applicant should share with the board;
10. consent for service of process (out-of-state licensees only); and
11. notarized statement confirming the accuracy of the information contained in the application.

E. If the applicant is a sole proprietor, he must furnish a copy of his occupational license with the application.

F. Applicants must submit appropriate fees along with the application. An administrative fee of \$25 made payable to the board will be assessed on all checks returned from the bank and deemed non-sufficient funds.

G. No person shall make an application to the board as qualifying agent unless that person intends to maintain and does maintain that supervisory position on a regular, full time basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §503. License Renewal

In addition to the requirements for licensing renewal set forth in R.S. 37:3517, applicants for licensing renewal shall be required to submit a certification to the board that the applicant for license renewal has not been convicted of a felony during the past year. The fee notice sent out for licensing renewal shall contain this certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §505. Requests for Approval of Training Classes

A. A qualified school may be approved to conduct 40-hour training classes required for licensing by submitting a letter of

request for approval by the board. The request shall include the following:

1. name and location of school;
2. owner of school;
3. copy of occupational license;
4. list of course of study;
5. name, address, profession and educational and investigative experience of each instructor teaching a private investigation course; and
6. notarized statement that each instructor has a minimum of three years supervisory experience with a contract investigator company or proprietary investigator organization.

B. Course instructors may invite a licensed attorney-at-law or a licensed Louisiana private investigator to supplement lesson plans regarding the course taught by the instructor.

C. Course instructors, whether full or part time, shall apply for a license and take the written examination prior to conducting any private investigation classes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §507. Licensure Examinations

A. To be licensed, an applicant must pass a written examination, unless exempt by the grandfather clause, state statute or board resolution. The passing grade of the examination shall be as established by the board.

B. A person who has not successfully passed the examination can reapply to take the examination twice within a 12-month period. If, after two attempts, the individual has not successfully passed the examination as required, appropriate board action will be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §509. Form and Term of License

A. Licenses, when issued, shall be in the form of a wall certificate no larger than 8 1/2" x 11" in size. The certificate shall contain the following information:

1. name of licensee and/or agency name under whose authority the license is granted;
2. addresses of the agency location(s) (main office and branch offices) responsible for licensee;
3. number of license;
4. date of issue;
5. date of expiration (to be issued every year and may be affixed to certificate in lieu of issuing a new certificate);
6. the official state insignia;
7. agency and qualifying agent if licensee;
8. private investigator and agency under whose authority he is assigned;
9. signature of executive secretary;
10. signature of chairman of the board; and
11. the official Board of Private Investigator Examiners seal.

B. The license certificate shall remain the property of the

board and will be surrendered upon written request from the board.

C. Licenses issued by the board shall be valid for a one year period to begin from the date application was approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §511. Licensing of Out of State Companies

A. Companies wishing to do business in Louisiana must either incorporate here or be duly qualified to do business within this state with a valid certificate of authority issued by the secretary of state, and shall have an agent for service of process designated as required by law.

B. Out of state companies, or individuals wishing to do business in Louisiana, who satisfied all the licensing requirements outlined by R.S. 37:3507, may do so without examination if the state under which it holds a valid license has licensing requirements comparable to those of Louisiana. Verification of satisfactory completion of such other state's examination must be submitted to the board. If the out-of-state company, or individual is licensed by a state that does not have licensing requirements comparable to those of Louisiana, then the company or individual must satisfy all the licensing requirements outlined in R.S. 37:3507.

C. Fees for out of state companies are the same as for instate companies except that an out of state company shall be required to pay the board for the cost of transportation, lodging and meals at the Louisiana state rate when an examination of records is performed if those records are kept out of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §513. Notification of Changes

Notification required by R.S. 37:3513 of changes in information to be furnished by a licensee shall include:

1. termination of a branch manager;
2. change of agency name;
3. change of agency address;
4. change of agency telephone number; and
5. change of ownership if agency is sole proprietorship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §515. Registration Card

The registration card shall be no larger than 2 ¼" x 4" in size. The registration card shall contain the following information:

1. name of investigator;
2. name of agency under whose authority license is issued;
3. date of expiration;
4. current 2" x 2" color photograph;

5. social security number;
6. drivers license number;
7. company name;
8. company address (city & state);
9. license number;
10. signature of executive secretary;
11. signature of license holder;
12. state insignia; and
13. board seal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §517. Fees

A. In addition to the fees provided by R.S. 37:3516, the following schedule of fees shall be assessed:

1. for licensee or any business entity employing more than one investigator:
  - a. renewal within 30 days after expiration of license - \$200;
  - b. late fee - \$35;
  - c. \$20 per investigator;
  - d. transfer of agent - \$25;
2. for private investigator employed by a company or corporation, or apprentice investigator:
  - a. annual renewal license fee - \$50;
  - b. replacement fee for a lost, destroyed, or mutilated license - \$25;
  - c. renewal within 30 days after expiration of license - \$50;
  - d. late fee - \$35;
  - e. transfer of agency - \$25.

3. any individual, partnership or corporation actively operating in the private investigation business since August 21, 1992 who did not apply to the board for a license, will be assessed an administrative fee in the amount of the yearly renewal fee as prescribed by law, per year for each year past November 16, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

## Chapter 7. Client - Investigator Relationship

### §701. Competence

An investigator shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §703. Scope of Representation

A. Both investigator and client have authority and responsibility in the objectives of the investigation. The client has ultimate authority to determine the purposes to be served by the investigation, within the limits imposed by law and the investigator's professional obligations.

B. An investigator may limit the objectives of the representation if the client consents after consultation.

C. An investigator shall not encourage a client to engage, or assist a client, in conduct that the investigator knows is criminal or fraudulent. An investigator, however, may discuss the legal consequences of any proposed course of conduct with a client and may advise a client to seek legal counsel for assistance in making a good faith effort to determine the validity, scope, meaning or application of the law.

D. When an investigator knows that a client expects assistance prohibited by the Rules of Professional Conduct or other law, the investigator shall consult with the client regarding the relevant limitations of the investigator's lawful conduct.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

#### **§705. Diligence**

An investigator shall act with reasonable diligence and promptness in representing a client.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

#### **§707. Communication**

A. An investigator shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable request for information.

B. The investigator shall give the client sufficient information to participate intelligently in decisions concerning the objectives or the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

#### **§709. Confidentiality of Information**

A. An investigator shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in Subsection B.

B. An investigator may reveal such information to the extent the investigator reasonably believes necessary:

1. to prevent the client from committing a criminal act that the investigator believes is likely to result in imminent death or substantial bodily harm; or

2. to establish a claim or defense on behalf of the investigator in a controversy between the investigator and the client, to establish a defense to a criminal charge or civil claim against the investigator based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the investigator's representation of the client.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

#### **§711. Conflict of Interest: General Rule**

Loyalty is an essential element in the investigator's relationship to a client. Therefore:

1. an investigator shall not represent a client if the representation of that client will be directly adverse to the representations of another client, unless:

a. the investigator reasonably believes the representation will not adversely affect the relationship with the other client; and

b. each client consents after consultation.

2. an investigator shall not represent a client if the representation of that client may be materially limited by the investigator's responsibilities to another client or to a third person, or by the investigator's own interest, unless:

a. the investigator reasonably believes the representation will not be adversely affected; and

b. the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the disadvantages and risks involved.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

#### **§713. Conflict of Interest: Prohibited Transactions**

As a general principle, all transactions between client and investigators should be fair and reasonable to the client. Furthermore, an investigator may not exploit the representation of a client or information relating to the representation to the client's disadvantage. Examples of violations include, but are not limited to, the following:

1. an investigator shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

a. the transaction and terms on which the investigator acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client;

b. the client is given a reasonable opportunity to seek the advice of independent counsel in the transactions; and

c. the client consents in writing thereto;

2. an investigator shall not use information relating to representation of a client to the disadvantage of the client unless the client consents after consultation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

#### **§715. Conflict of Interest: Former Client**

An investigator who has formerly represented a client in a matter shall not thereafter:

1. represent another person in the same or a substantially related matter in which that person's interests are materially

adverse to the interests of the former client unless the former client consents after consultation; or

2. use information relating to the representation to the disadvantage of the former client except when the information derived from independent sources has become generally known.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§717. Requirement of Contracts**

A. Upon initial contact from a private citizen, a contract may be offered on all matters.

B. The contract shall contain, but may not be limited to the following information:

1. name, address and phone number of investigative agency;
2. name, address and phone number of private investigator responsible for case work;
3. schedule of fees to be charged;
4. purpose and scope of investigation;
5. limitations of responsibility to investigative agency;
6. limitations of responsibility to client;
7. signature of client;
8. signature of two witnesses;
9. date agreement was signed; and
10. contracts shall be made in duplicate:
  - a. one copy for the client;
  - b. one copy shall be retained in the investigative case file for a period of three years.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§719. Use of Private Investigator Badge**

The use of a private investigator badge shall be optional. Should the investigator choose to carry a badge and display it, he shall be obligated to identify himself as a private investigator at such time as the badge is displayed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§721. Complaint Procedure**

A request for a hearing on a complaint before the Board of Private Investigator Examiners shall contain the following:

1. the full name, address and telephone number of the person requesting the hearing;
2. the full name, address and telephone number of the any person whose interest could be affected by the hearing;
3. a plain and concise statement of the complaint;
4. a receipt showing a copy of the complaint has been sent to the person, or a statement from the executive secretary stating that a copy of said complaint had been delivered to the person named in the complaint.

5. all complaints or requests for a hearing before the Private Investigator Examiners Board, must be made by certified or registered mail to the executive secretary or the PI board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§723. Transactions with Persons Other than Clients**

Truthfulness in Statements to Others. In the course of representing a client an investigator shall not knowingly:

1. make a false statement of material fact or law to a third person; or
2. fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is otherwise prohibited by this Chapter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§725. Professional Misconduct**

It is professional misconduct for an investigator to:

1. violate or attempt to violate the Rules of Professional Conduct or to knowingly assist or induce another to do so, or do so through the acts of another;
2. commit a criminal act or any other act reflects adversely on the investigator's honesty, trustworthiness or fitness as an investigator in other respects;
3. engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
4. except upon the expressed assertion of a constitutional privilege, to fail to cooperate with the Ethics Committee in its investigation of alleged misconduct, or
5. threaten to file criminal charges solely to obtain an advantage in a civil matter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§727. Occupational Licenses**

An investigative agency must apply and pay all occupational fees required to conduct business in the jurisdiction which he is to conduct business.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§729. Rehabilitation**

Any licensed private investigator may voluntarily inform the board by mail of a substance abuse problem without adverse action taken by the board. In doing so the private investigator is subject to the board's recommendation to enter a substance abuse facility, and upon completion of successful treatment, shall furnish proof of completion from said facility. Failure to successfully complete a substance abuse program will subject the investigator to disciplinary action by the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

## Chapter 9. Rules of Adjudication for Board of Private Investigator Examiners

### §901. Scope of Chapter

These rules govern the board's initiation, consideration and adjudication of administrative complaints providing cause under law for denial, modification, suspension or revocation of a license, imposition of probation on, or other disciplinary action against any person requesting or holding a license, permit, certification, or registration issued by the board or any applicant therefor.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §903. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written complaint with the board. It shall be signed by a member of the board appointed and designated by it as investigatory officer with respect to the subject matter of the complaint. The accused licensee shall be named as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officer including the facts giving rise to the board's jurisdiction over respondent, the facts constituting legal cause for the administrative action, and the statutory, regulatory or other provision alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officer and shall bear the name, address and telephone number of counsel engaged by the board to present the case at evidentiary hearing before the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §903, the board shall docket the complaint and schedule it for hearing before the hearing not less than 45 days nor more than 180 thereafter. For good cause, the time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon the motion of the investigating officer of respondent. In the event that the respondent's license, permit, certification or registration has been suspended by the board pending hearing, pursuant to R.S. 37:3519(A), evidentiary hearing on the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date and place of the scheduling hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent as reflected in the official records of the board, or by personal delivery of the complaint to the respondent. The date of service shall be the day of personal service or the third business day after the date of posting the

registered or certified notice. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be conducted and shall be accompanied by a certified copy of the administrative complaint.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §907. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matter admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all allegations therein asserted shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in this state. Upon receipt of service of a complaint pursuant, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, any further notice, complaint, subpoena, order or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §909. Pleadings; Motions; Service

A. Any pleading, motion or other paper permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board. Any such writing shall likewise be concurrently served upon complaint counsel, if filed by or on behalf of respondent, or upon respondent, through counsel of record, if any, if filed by complaint counsel.

B. All such pleadings, motions or other papers shall be submitted on plain white letter-size (8 1/2" by 11") bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced. Such documents shall bear the caption and docket number of the case and shall include the certificate of the attorney or person making the filing that service of a copy has been effected in the manner prescribed by Subsection A of this Section.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §911. Prehearing Motions

Motions for continuance of any hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum, or such shorter time as the board may order, the investigating officer, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §913. Motion For Continuance

A. A motion for continuance of hearing shall be filed within the delay prescribed by §911 of this Chapter, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of a prehearing motion.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive secretary. Any motion for continuance of hearing which is opposed shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding, who shall rule upon such motion on the papers filed, without hearing. The presiding officer, in his discretion, may refer any motion for continuance to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a motion for continuance may request that the motion be reconsidered by the entire panel. In any such case, the panel shall rule on such motion on the papers filed, without hearing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §915. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this Section, the executive secretary shall sign and issue subpoenas in the name

of the board requiring the attendance and giving of testimony by a witness and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposit with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of the time employed and the degree or skill required.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### §917. Conduct of Hearing; Record

A. Unless otherwise requested by the respondent, the adjudication hearing shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on any issue of fact and argument on any issue of law and policy involved, to call, examine and cross-examine any witness, and to offer and introduce documentary evidence and any exhibit required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon any evidentiary objection and other procedure question, but in his discretion may consult with the entire panel in executive session. At any hearing, the board may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on any evidentiary objection and other procedural issue raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;



6. the decision, opinion, report or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§919. Evidence**

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provision of these rules, adjudication hearing before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§921. Informal Disposition**

The board may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§923. Decisions; Notice**

A. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, be in writing and shall include findings of fact and conclusions of law. It shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in absence of counsel, in the same manner of service prescribed with respect to service of complaints.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

### **§925. Rehearings**

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §909 above and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to law and the evidence;
2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3505(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:

Comments should be forwarded to Julius Bombet, chairman of the board, Board of Private Investigator Examiners, 12077 Old Hammond Highway, Baton Rouge, LA 70816. Written comments will be accepted through the close of business on August 19, 1993.

Julius Bombet  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: INITIAL RULES**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The operating expenditures for the Board of Private Investigator Examiners for fiscal year 1993-1994 are estimated to be \$140,000. It is estimated that costs of \$2,700 will be incurred in fiscal year 1993-1994 to print these rules and regulations.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that the Board of Private Investigative Examiners will collect \$140,000 in fiscal year 1993-1994 from the licensure of affected individuals.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Investigative agencies and investigators will be subject to certain licensure fees.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment as all persons and companies wishing to be licensed will have to comply with these rules and regulations.

Julius Bombet  
Chairman

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Revenue and Taxation  
Research and Technical Services Division**

**Substitute Form Printing Specifications  
for Form W-2 and Copy 2 (LAC 61:I.1510)**

*(Editor's Note: At the request of the Department of Revenue and Taxation, Research and Technical Services Division, a REVISED FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES, originally published with the department's proposed rule on pages 815-816 of the June, 20, 1993 Louisiana Register, is being republished to add language which was inadvertently omitted.)*

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue and Taxation**

**Chapter 15. Income: Withholding Tax**

**§1510. Requirements for Substitute Form W-2, Copy 2,  
Furnished to Payees**

\* \* \*

**REVISED FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: REQUIREMENTS—SUBSTITUTE FORM  
W-2, COPY 2**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Department of Revenue and Taxation will save processing costs due to the automatic document processing of tax returns and wage and tax statements (W-2, Copy 2). Tax returns and W-2 statements will be captured as an image and can be viewed by tax personnel via computer terminal. Ease of retrieval and increased image quality will also increase department efficiency. We are unable to calculate the actual cost savings.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The effect of revenue collections should be unaffected or possibly enhanced due to increased compliance.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The only additional requirements to the Internal Revenue Service's specifications are the heavier paper weight, the larger minimum paper size requirement, and the MICR ink prohibition. The industry standard for paper is generally 20 pound weight. It is estimated that the majority of substitute documents are printed on paper that meets or exceeds the weight requirement. Additionally the cost differential between the 14 pound paper required by the state and the nine pound paper weight specified by the Internal Revenue Service would be negligible. It is not possible to estimate the costs to comply with the MICR ink prohibition and larger minimum paper size requirements.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated impact on competition or employment.

Ralph Slaughter  
Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

**AFDC-Resource Exclusions (LAC 67:III.1115)**

The Department of Social Services, Office of Family Support, proposes to amend the LAC 67:III.1115 regarding the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to federal regulations at 45 CFR 233.20, the department proposes to increase the AFDC Program resource limit on vehicles. Currently, the equity value of one vehicle up to \$1,200 is excluded as a resource. This rule will provide Louisiana citizens with the maximum exclusion allowed, or up to \$1,500 of the equity value.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 2. Aid to Families with Dependent Children  
(AFDC)**

**Subchapter B. Coverage and Conditions of Eligibility  
§1115. Resource Limit**

\* \* \*

**B. Exclusions are:**

\* \* \*

2. Equity value up to \$1,500 in one power-driven land conveyance. Equity value is fair market value less encumbrances.

**AUTHORITY NOTE:** Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402) and 45 CFR 205-206, 233-234.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 19:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, 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 on August 25, 1993 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: AFDC RESOURCE EXCLUSIONS**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will not affect local governmental units. The only costs to state government to implement the proposed rule will be \$110.30 for printing and distribution of a revision to the AFDC Program manual. The rule should result in a slight increase in AFDC recipients which will increase costs for state government, but no estimate can be determined. There are no savings to the state.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collection of any governmental unit except that the state will receive an estimated \$55 as matching funds for the implementation cost. Since the rule is expected to increase the number of AFDC recipients, there will be an increase in matching funds also; however, there is no statistical information on which an estimate can be made.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There will be no cost or economic benefit to any non-governmental group. There will be an economic benefit for those AFDC recipients who have become eligible for the program because the rule changes resource limits.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The rule will have no impact on competition or employment.

Howard L. Prejean  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Jewfish Harvest Prohibition (LAC 76:VII.337)**

The Louisiana Wildlife and Fisheries Commission hereby expresses intent to adopt rules and regulations to prohibit the harvest and possession of jewfish (*Epinephelus itajara*) within or without Louisiana's territorial waters. The measures are to be consistent with federal regulations which were designed to restore the declining jewfish source.

**Title 76**

**WILDLIFE AND FISHERIES**

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

**Chapter 3. Saltwater Sport and Commercial Fishing**

**§337. Taking and Possession of Jewfish Prohibited**

The Louisiana Wildlife and Fisheries Commission hereby prohibits the taking and possession of jewfish (*Epinephelus itajara*) from within or without Louisiana waters.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:325.1 and 56:326.3.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 19:

Interested persons may submit written comments to John Roussel, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, September 2, 1993.

Bert H. Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: JEWFISH HARVEST PROHIBITION**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no state or local governmental implementation costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenues to any state or local governmental units from the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition or employment as a result of the proposed rule.

Frederick J. Prejean, Sr.  
Undersecretary

David W. Hood  
Senior Fiscal Analyst

# ADMINISTRATIVE CODE UPDATE

## CUMULATIVE ADMINISTRATIVE CODE UPDATE January, 1993 through June, 1993

Vol, Title	Part.Section	Effect	Location LR 19 Month Page	6, LAC 22 LAC 55	7, LAC 25 LAC 37 LAC 40	9, LAC 48 10, LAC 61 11, LAC 33 13, LAC 33 14SW, LAC 33 15, LAC 33 16, LAC 70 17, LAC 43	I.323 I.323 V.701 VII.110 VII.145 VII.161 VII.165 VII.167 VII.307 VII.327 VII.329 VII.901	Repromulgated Repromulgated Amended Amended Amended Adopted Adopted Adopted Amended Amended Amended	Apr 513 May 660 Feb 215 Jun 790 Apr 511 Apr 510 Mar 361 Jun 790 Jan 58 Apr 513 Feb 216 Apr 511
1, LAC 10	I.541,545	Adopted	Jan 35				I.Chapter 3	Amended	May 648
	I.531,533,535	Adopted	Jan 35				I.Chapter 6	Adopted	Jun 780
	I.551-559	Adopted	Jan 37				I.Chapter 19	Amended	Apr 502
	I.571,573	Adopted	May 611				XI.101,103	Adopted	Jun 779
	I.1951	Adopted	Jun 736				IX.Chapters 1-7	Amended	Mar 308
	V.Chapter 7	Adopted	May 612				III.703,1311	Amended	Feb 204
LAC 35	I.1503,1511	Amended	May 614				I.Chapter 21	Amended	Mar 350
	I.Chapter 17	Amended	May 612				I.Chapters 25-51	Adopted	Jan 53
2, LAC 7	XXIII.Chapter 131	Adopted	May 609				I.Chapters 25-51	Adopted	Feb 212
	XXIII.13123	Amended	Jun 735				I.Chapter 9	Amended	Jun 755
	XXXIX.20101	Amended	May 611				VII.Chapter 7	Amended	Mar 346
	XXXIX.20301	Amended	May 610				V.Chapters 7-35	Amended	Feb 212
3, LAC 46	XXXI.Chapters 1-17	Amended	May 611				I.Chapter 15	Adopted	Apr 487
	XXXIII.411,420	Adopted	Feb 207				I.1505	Repromulgated	Jun 742
	XXXIII.Chapter 5	Amended	Feb 205				III.504	Adopted	Feb 176
	XXXIII.701	Amended	Feb 206				III.504	Repromulgated	Apr 486
	XXXIII.1206	Repromulgated	Feb 207				III.919	Repeal/Repromul	Feb 184
	XXXIII.Chapter 13	Adopted	Mar 333				III.919	Repromulgated	Apr 485
	XXXVII.501,505,903	Amended	Jun 744				III.2115	Amended	Mar 317
	XLI.749	Adopted	May 613				III.2132	Repromulgated	Jan 45
	XLV.1942,4925	Adopted	Mar 340				III.3175	Adopted	May 615
	XLV.Chapters 21,51	Adopted	Mar 334				III.5115	Repromulgated	Jan 45
	XLV.Chapters 25,55	Amended	Jun 744				III.5143	Amended	Jan 39
	XLVII.Chapter 3	Adopted	Mar 341				III.6081	Repromulgated	Feb 186
	LIV.Chapters 1,3	Amended	Feb 208				V.109	Repromulgated	May 626
	LXI.Chapters 3-25	Amended	Jan 56				V.2242	Amended	Feb 186
	LXI.Chapters 27-31	Amended	Jan 54				V.Chapter 103	Amended	Mar 351
	LXIII.Chapter 8	Amended	Jan 46				V.3715	Repromulgated	Apr 486
	LXIII.1702	Adopted	Apr 496				V.4411	Repromulgated	May 626
	LXVII.2403	Amended	Feb 171				VII.Chapters 1-11	Amended	Feb 187
	LXVII.Chapter 63	Adopted	Jun 736				XV.Chapter 25	Amended	May 624
	LXXX.Chapters 1-19	Amended	May 627				I.505	Adopted	Mar 352
	LXXXV.Chapter 1	Amended	Mar 344				III.Chapter 3	Adopted	Mar 352
	LXXXV.Chapter 3	Amended	Mar 343				III.501	Amended	Mar 359
	LXXXV.1103	Amended	Feb 208				XIX.Chapter 1	Adopted	Apr 507
	LXXXV.307	Amended	Jan 48				XVII.Chapter 1	Adopted	Apr 507
4, LAC 4	III.Chapter 1	Amended	Mar 318				XVII.301	Adopted	Jun 785
	VII.1237	Amended	May 627				I.Chapter 5	Repealed	Apr 489
	VII.1239	Adopted	Mar 327				I.1515	Amended	Apr 501
LAC 34	III.151	Adopted	Apr 488				V.103	Repealed	Apr 489
5, LAC 76	I.323,325	Adopted	Mar 359						

XIX.Chapter 9	Amended	Jun	770
XIX.Chapter 13	Amended	Jun	766
XIX.Chapter 15,17	Amended	Jun	768
XIX.Chapter 23	Amended	Jun	758
XIX.Chapter 25	Amended	Jun	767
XIX.Chapter 27	Amended	Jun	777
XIX.Chapter 29	Amended	Jun	775
XIX.3101,3105	Amended	Jun	776
XIX.Chapter 33	Amended	Jun	773
XIX.Chapter 39,41	Amended	Jun	759
XXVII.2101	Repeal/Repromul	Apr	489
XXVII.2301	Repeal/Repromul	Apr	491
XXVII.2501	Repeal/Repromul	Apr	492
XXVII.2701	Repeal/Repromul	Apr	493
XXVII.2901	Repeal/Repromul	Apr	494
XXVII.3101-3104	Repeal/Repromul	Apr	494
XXVII.3301	Repeal/Repromul	Apr	495
XXVII.3501	Repeal/Repromul	Apr	496

18, LAC 28

I.313	Amended	Feb	173
I.313	Repromulgated	Jun	739
I.903	Amended	May	614
I.913	Amended	Jun	738
I.917	Amended	Feb	171
I.917	Amended	Feb	173
I.917	Amended	Jun	739
III.1801	Adopted	Feb	173
III.1801	Adopted	Jun	740
III.1803	Adopted	Feb	174

# POTPOURRI

## POTPOURRI

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

#### Photochemical Assessment Monitoring Stations (PAMS) Network

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that a change in the "State Implementation Plan" for State and Local Air Monitoring Stations (SLAMS) has been initiated as follows:

A Photochemical Assessment Monitoring Stations (PAMS) network is established as a subset of the state's SLAMS network for the purpose of enhanced monitoring in ozone (O<sub>3</sub>) nonattainment areas listed as serious, severe, or extreme. The plan revision will provide for the establishment and maintenance of the Photochemical Assessment Monitoring Stations (PAMS).

A public hearing will be held at 2:30 p.m. on Monday, August 23, 1993 in Room 326, Maynard Ketcham Building, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Annette Sharp at the telephone number or address listed below.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP change. Such comments should be submitted no later than August 30, 1993 to Annette Sharp, Air Quality Division. She may be contacted at (504) 765-0219. Written comments should be mailed to Ms. Sharp at the following address: Air Quality Regulatory Division, Box 82135, Baton Rouge, LA, 70884-2135. A copy of the SIP changes may be viewed at the Air Quality Regulatory Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet Boulevard, Second Floor, Baton Rouge, LA.

James Brent, Ph.D.  
Administrator

## POTPOURRI

### Department of Environmental Quality Office of Water Resources

#### Municipal Facilities - Public Notice

The Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, will conduct a public hearing to present, for public review and comment, the proposed FY 1993 Municipal Facilities Project Priority List and the proposed FY 1993 Municipal Facilities Revolving Loan Fund Intended Use Plan. The priority list is a ranking of communities that are eligible to request financial assistance through the Municipal Facilities Revolving Loan Fund. The Intended Use Plan identifies the intended uses of funds available to the Revolving Loan Fund and the criteria and method for their distribution. The priority list is prepared in accordance with the provisions in 40 CFR 35.2015-2025 and Section 216 of the Federal Clean Water Act. The Intended Use Plan is prepared in accordance with the provisions in 40 CFR 35.3150 and Section 606(c) of Title VI of the Federal Water Quality Act of 1987.

The public hearing will be held at 10 a.m., August 25, 1993, Department of Environmental Quality, Sixth Floor Hearing Room, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons may submit written comments to William B. DeVillie, Administrator, Municipal Facilities Division, Box 82215, Baton Rouge, LA 70884-2215. Written comments will be received until September 3, 1993.

Copies of the proposed FY 1993 Municipal Facilities Priority List and the proposed FY 1993 Intended Use Plan will be available for public review at least 30 days prior to the public hearing at the Department of Environmental Quality,

Municipal Facilities Division, 7290 Bluebonnet Boulevard, Maynard Ketchum Building, Room 103, Baton Rouge, LA, and in the following Department of Environmental Quality Regional Offices throughout the state:

Acadiana Regional Office  
100 Asma Boulevard  
Suite 151  
Lafayette, LA

Northeast Regional Office  
804 North 31st Street  
Suite D  
Monroe, LA

Bayou Lafouche Regional Office  
302 Barataria Street  
Lockport, LA

Northwest Regional Office  
1525 Fairfield  
Room 11  
Shreveport, LA

Capitol Regional Office  
11720 Airline Highway  
Baton Rouge, LA

Southeast Regional Office  
3945 N. I-10 Service Rd. West  
Metairie, LA

Kisatchie Central Regional Office  
402 Rainbow Drive  
Building 402  
Pineville, LA

Southwest Regional Office  
3519 Patrick Street  
Room 265A  
Lake Charles, LA

William B. DeVille  
Administrator

### POTPOURRI

#### Office of the Governor Office of Coastal Activities

#### Coastal Wetlands Conservation and Restoration Plan Public Meetings

The State Wetlands Conservation and Restoration Authority will hold public meetings for the purpose of accepting comments and recommendations concerning the development of the 1994-1995 Coastal Wetlands Conservation and Restoration Plan. These meetings will be held in conjunction with the public meetings on the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) Draft Comprehensive Plan and the third priority list of candidate projects as required by the CWPPRA.

The schedule and location for the meetings are as follows:

1. July 27, 1993, Larose, 7 p.m., Larose Civic Center, 307 E. 5th Street. This meeting will cover the comprehensive plan, emphasizing the Barataria Basin and candidate priority projects in this basin.

2. July 28, 1993, Belle Chase, 7 p.m., Belle Chase Auditorium, 207 North Belle Chase Highway. This meeting will cover the comprehensive plan, emphasizing the Breton Sound and Mississippi River Delta Basins, and candidate priority projects in these basins.

3. July 29, 1993, New Orleans, 7 p.m., USACE New Orleans District Assembly Room, Foot of Prytania. This meeting will cover the comprehensive plan, emphasizing the Pontchartrain Basin, and candidate priority projects in this basin.

4. August 9, 1993, Houma, 7 p.m., Municipal Auditorium, 800 Verret Street. This meeting will cover the comprehensive plan, emphasizing the Terrebonne Basin and candidate priority projects in this basin.

5. August 10, 1993, Morgan City, 7 p.m. City Court Building, Corner of Myrtle and Highway 90. This meeting will cover the comprehensive plan, emphasizing the Atchafalaya River and Teche/Vermilion Basins and candidate priority projects in these basins.

6. August 12, 1993, Lake Charles, 7 p.m. Calcasieu Parish Police Jury Meeting Room, 1015 Pithon Street. This meeting will cover the comprehensive plan, emphasizing the Mermentau and Calcasieu/Sabine Basins and candidate priority projects in these basins.

For additional information, call Dianne Cassel at (504) 922-3244.

Len Bahr  
Executive Assistant

### POTPOURRI

#### Department of Health and Hospitals Board of Embalmers and Funeral Directors

#### Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, September 4, 1993 at Delgado Community College, 615 City Park Avenue, New Orleans.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, telephone (504) 838-5189.

Dawn Scardino  
Executive Director

### POTPOURRI

#### Department of Health and Hospitals Board of Veterinary Medicine

#### Board of Veterinary Medicine Examination Dates

The Board of Veterinary Medical Examiners will administer the state and national board examinations on the following dates:

EXAMINATION	DATE	DEADLINE TO APPLY
National Board Examination	Tuesday December 14, 1993	Friday - 4 p.m. October 22, 1993
Clinical Competency Test	Wednesday December 15, 1993	Friday - 4 p.m. October 22, 1993

Applications and information may be obtained from the board office by calling (504) 342-2176.

Vikki Riggle  
Executive Director

**POTPOURRI**

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

**Nursing Facility Reimbursement**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is providing notice that the Medicaid daily reimbursement rates for Skilled Nursing, Intermediate Care I and Intermediate Care II levels of care published in the May 20 issue of the *Louisiana Register* for July 1, 1993 did not include an adjustment for the reduction in the provider fees for nursing and intermediate care facilities. Therefore, the department wishes to notify the public of the rates which will be effective as of July 1, 1993 for the following levels of care.

Level of Care	1993/94 Daily Rate	1993/94 Monthly Amount
Skilled Nursing	\$69.75	\$2,121.56
Intermediate Care I	\$59.78	\$1,818.31
Intermediate Care II	\$49.07	\$1,492.55

Rose V. Forrest  
Secretary

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation  
Injection and Mining Division**

**Commercial Facility Application Hearing  
(Docket IMD 93-06)**

Pursuant to the provisions of the laws of the state of Louisiana and particularly Title 30 of the Revised Statutes of 1950 as amended, and the provisions of Statewide Order No. 29-B, notice is hereby given that the commissioner of conservation will conduct a hearing at 6 p.m. Tuesday, August 31, 1993 in the St. Mary Parish Council Room, fifth floor, located on 500 Main Street, in Franklin, LA.

At such hearing, the commissioner, or his designated representative will hear testimony relative to the application of

Tiger Cleaning Systems, Inc., d/b/a Massey's Crude Oil, 3341 Hwy 90 East, Broussard, LA 70518. The applicant intends to construct and operate a commercial nonhazardous oilfield waste facility in Township 13 South, Range 9 East, Section 41 and part of 40, of St. Mary Parish, LA.

The application is available for inspection by contacting Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 253 of the Natural Resources Building, 625 North fourth Street, Baton Rouge, LA, or by visiting the St. Mary Parish Council in Franklin, LA. Verbal information may be received by calling Mr. Catrou at (504) 342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than September 7, 1993, at the Baton Rouge Office. Comments should be directed to: Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, LA 70804, Re: Docket No. IMD 93-06, Commercial Facility, St. Mary Parish.

H. W. Thompson  
Commissioner

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary**

**Fishermen's Gear Compensation Fund - April**

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 18 claims in the amount of \$56,162.02 were received in the month of April 1993. Twenty claims in the amount of \$43,215.26 were paid and one claim was denied.

Loran coordinates of reported underwater obstructions are:

28218	46821	Lafourche
28303	46825	Lafourche
28831	46804	Plaquemines
28372	46832	Lafourche
26626	46967	Cameron
26620	46978	Cameron
26620	46978	Cameron
27631	46932	Iberia

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales  
Secretary



**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary**

**Fishermen's Gear Compensation Fund - May**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 14 claims in the amount of \$47,941.93 were received in the month of May 1993. One hundred eleven claims in the amount of \$308,120.57 were paid and no claims were denied.

Loran coordinates of reported underwater obstructions are:

27312	46933	Vermilion
26745	46878	Cameron
26745	46878	Cameron
26745	46878	Cameron
28662	46861	Jefferson
26668	46979	Cameron

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales  
Secretary

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary**

**Fishermen's Gear Compensation Fund - June**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 44 claims in the amount of \$137,902.59 were received in the month of June 1993. One hundred fifty-three claims in the amount of \$394,970.22 were paid and no claims were denied.

Loran coordinates of reported underwater obstructions are:

28565	46860	Jefferson
26874	46970	Cameron
26458	46976	Cameron
27728	46885	Terrebonne
27326	46942	Vermilion
27897	46861	Terrebonne
28574	46936	Jefferson
27735	46875	St. Mary
28345	46827	Lafourche
26634	46979	Cameron
29073	46807	Plaquemines
26886	46969	Cameron
28066	46841	Terrebonne

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear

Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales  
Secretary

**POTPOURRI**

**Department of Social Services  
Office of Community Services**

**Low-Income Home Energy Assistance Program (LIHEAP)  
Public Hearing**

The Department of Social Services, Office of Community Services will hold public hearings concerning the use and distribution of federal fiscal year 1994 LIHEAP block grant funds in accordance with the LIHEAP State Plan for 1994. The primary purpose of this program is to reduce the burden of home heating and cooling expenses for low-income households through direct payments to home energy suppliers. The second goal is to conserve energy and reduce energy costs of low-income households through the weatherization of dwelling units. The final goal is to provide for energy crisis intervention in instances of weather related and supply shortage emergencies. Delivery of services will be via contractual agreements between local community action agencies or local governmental bodies and the Department of Social Services, Office of Community Services. Each parish will receive an allocation of funds based on the state's total grant and the low-income population of that parish.

Beginning with federal fiscal year 1995, the U.S. Department of Health and Human Services will adopt a July through June funding cycle for LIHEAP. To prepare for this cycle, federal fiscal year 1994 funding obligation is for the period October 1, 1993 through June 30, 1994. The LIHEAP appropriation of FFY 1994 funds will be determined by final approval from Congress and the president.

Should Louisiana's available non-delayed funding for home energy assistance reach or exceed \$6 million, benefit levels to eligible households will be increased effective January 1, 1994.

Copies of the *1994 Low-Income Home Energy Assistance Program Plan* are available by writing to Ms. Brenda Kelley, Assistant Secretary, Office of Community Services at Box 3319, Baton Rouge, LA 70821. Written comments regarding the 1994 LIHEAP Plan will be accepted through August 20, 1993.

Public hearings regarding the LIHEAP plan will be held at the following times and places:

Wednesday, August 4, 1993 in Monroe at 122 St. John Street, Second Floor Conference Room, 242-A, at 10 a.m.

Thursday, August 5, 1993 in Alexandria at 900 Murray Street, Room 209, at 10 a.m.

Friday, August 6, 1993 in New Orleans at 2026 St. Charles Ave., Magnolia Room, Fourth Floor, at 11 a.m.

Gloria Bryant-Banks  
Secretary

**POTPOURRI**

**Department of Social Services  
Office of Rehabilitation Services**

**Independent Living Services State Plan**

The Department of Social Services, Louisiana Rehabilitation Services is hereby providing notice of its intention to conduct public hearings on its Independent Living Services State Plan. The hearings will commence at 10 a.m. on July 23, 1993, in Shreveport, Alexandria, and New Orleans, respectively.

The hearing locations are as follows:

Shreveport—Louisiana Rehabilitation Services Regional Office at 1525 Fairfield Avenue;

Alexandria—Louisiana Rehabilitation Services Regional Office at 900 Murray Street;

New Orleans—Louisiana Rehabilitation Services Regional Office at 2026 St. Charles Avenue.

All interested persons will be afforded an opportunity to express issues, views, or concerns at the hearings.

Gloria Bryant-Banks  
Secretary

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