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# EXECUTIVE ORDERS

## EXECUTIVE ORDER EWE 94-12

WHEREAS: the Louisiana Stadium and Exposition District (the "district") was originally created as a body politic and corporate of the state of Louisiana (the "state"), composed of all of the territory in the Parishes of Orleans and Jefferson, under the authority of Article XIV, Section 47 of the 1921 Constitution of the State, as amended, continued as a statute by Article XIV, Section 16 of the 1974 Constitution of the State (the "original act"), for the purpose of planning, financing, developing, maintaining and operating facilities to be located within the district to accommodate the holding of sports events, athletic contests and other events of public interest; and

WHEREAS: the district has heretofore issued its Hotel Occupancy Tax and State Lease-Rental Refunding Bonds, Series 1976, in the original principal amount of \$134,000,000 (the "Series 1976 Bonds") pursuant to the original act and the resolution adopted by the district on February 21, 1969, as amended by resolutions adopted by the district on August 27, 1970, October 12, 1971 and October 28, 1976, and a series resolution adopted by the district on October 28, 1976 (collectively, the "Series 1976 Resolution"), for the purpose of refunding all of the district's outstanding bonds which were issued for the purpose of financing the development and construction of the Superdome in New Orleans and parking and related facilities and the acquisition of land necessary therefor, which Series 1976 Bonds were payable from the revenues (as defined in the Series 1976 Resolution) and the proceeds of the Hotel Occupancy Tax (as defined in the Series 1976 Resolution); and

WHEREAS: \$54,255,000 of the Series 1976 Bonds are currently outstanding; and

WHEREAS: the Superdome opened in August of 1975 and is leased by the district to the state and has been in operation continuously since that time; and

WHEREAS: the district initially managed and operated the Superdome on behalf of the state and in 1976, by Act 541 of the 1976 Regular Session of the Louisiana Legislature, the responsibility for the management and operation of the Superdome was placed in the Office of the Governor of the State; and

WHEREAS: in 1977, the district was transferred to and placed in the Office of the Governor of the State pursuant to the Executive Reorganization Act; and

WHEREAS: pursuant to Act 541 of the 1976 Regular Session of the Louisiana Legislature, as amended by Act 499 of the 1978 Regular Session of the Louisiana Legislature, Act 449 of the 1980 Regular Session of the Louisiana Legislature, Act 927 of the 1981 Regular Session of the Louisiana Legislature, Act 476 of the 1984 Regular Session of the

Louisiana Legislature, Act 259 of the 1989 Regular Session of the Louisiana Legislature, and Act 640 of the 1993 Regular Session of the Louisiana Legislature, modifying and supplementing the original act as may be amended hereafter (collectively, the "act"), the district is authorized to issue not exceeding \$60,000,000 of its refunding bonds to refund all of the district's outstanding Series 1976 Bonds and not exceeding \$155,000,000 of improvement and construction bonds to finance the projects set forth in the act upon compliance with the conditions prescribed by the act; and

WHEREAS: no bonds have been issued pursuant to such authorization; and

WHEREAS: pursuant to the act and the general bond resolution adopted by the district on January 31, 1994 (the "resolution"), the district desires to issue not exceeding \$65,000,000 of Hotel Occupancy Tax Bonds, Series 1994-A (the "Series 1994-A Bonds"); and

WHEREAS: the act provides that for the purposes of and in connection with the undertakings authorized by the act, including the issuance and servicing of any bonds, the district shall be acting solely in its capacity as a political subdivision of the state; and

WHEREAS: the Series 1994 Bonds will not constitute an indebtedness, general or special, or a liability of the State or the Parishes of Orleans and Jefferson, State of Louisiana (the "parishes") and will not be considered a debt of the state or the parishes within the meaning of the Constitution or the statutes of the state and will not constitute a charge against the credit or taxing power of the state or the parishes, but are limited obligations of the district, which is obligated to pay the principal of, premium, if any, and interest on the Series 1994-A Bonds only from (i) the tax revenues (as defined in the resolution) derived from the collection of the Hotel Occupancy Tax (as defined in the resolution) being levied by the district pursuant to the original act and the tax ordinance (as defined in the resolution) and collected pursuant to the collection agreement (as defined in the resolution), and (ii) other funds and accounts pledged pursuant to the resolution; and

WHEREAS: the act further provides that the Series 1994-A Bonds shall be authorized by executive order of the governor.

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to the provisions of the act and in accordance with the terms of the Resolution, as the same may be amended and supplemented by supplemental resolution providing for the details of the Series 1994-A Bonds in accordance with the terms of their sale, the district is authorized to issue the Series 1994-A Bonds.

SECTION 2: Pursuant to the provisions of the act and other constitutional and statutory authority, the Division of Administration created within the Office of the Governor by Chapter 1 of Title 39 of the Louisiana Revised Statutes of 1950, as amended, acting through the commissioner of administration or an assistant commissioner of administration is authorized to execute the amended and restated lease agreement, dated as of April 1, 1994, by and between the district and the state, pursuant to which the Superdome will continue to be leased by the district to the state.



SECTION 3: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in Baton Rouge, Louisiana, on this 18th day of March, 1994.

Edwin W. Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

### EXECUTIVE ORDER EWE 94-13

WHEREAS: the African American citizens of the State of Louisiana contribute significantly to cultural endeavors, which impact and enhance the lives of all state citizens; and

WHEREAS: the need exists to identify, recognize, coordinate, preserve and promote such contributions, particularly in the areas of music, dance, drama, literary and visual arts; and

WHEREAS: the provision for addressing the special concerns included herein, will allow the sharing of said cultural endeavors and experiences among all segments of the populace;

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 that a state-wide Minority Arts and Humanities Council be established in accordance with but not limited to the following:

SECTION 1: The state-wide Minority Arts and Humanities Council shall be governed by a board of directors, appointed by the governor; consisting of one person from each of seven congressional districts within the state and four at-large appointees, providing an eleven member board of directors.

SECTION 2: The board of directors for the state-wide Minority Arts and Humanities Council shall be chaired by a member so designated by the governor.

SECTION 3: The state-wide Minority Arts and Humanities Council shall promote cultural activity, establish sensitizing programs/projects within the various communities; and preserve African-American art and culture.

SECTION 4: This executive order shall replace Executive Order No. EWE 93-12 and shall be effective upon signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of March, 1994.

Edwin W. Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

### EXECUTIVE ORDER EWE 94-16

WHEREAS: Executive Order EWE 92-51 established the Louisiana Commission on Human Rights within the Department of Labor; and

WHEREAS: it is necessary to amend Executive Order EWE 92-51 and establish the Louisiana Commission on Human Rights within the Office of the Governor in accordance with R.S. 51:2235.

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 amend Section 1 of Executive Order EWE 92-51 and place the Louisiana Commission on Human Rights within the Office of the Governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the city of Baton Rouge, on this 11th day of May, 1994.

Edwin W. Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

### EXECUTIVE ORDER EWE 94-17

WHEREAS: Crime in the State of Louisiana is an increasing concern of the citizenry; and

WHEREAS: The current method of identifying fingerprints is inefficient and obsolete; and

WHEREAS: The law enforcement agencies in the State of Louisiana are in need of a modern Automated Fingerprint Information System; and

WHEREAS: The entire spectrum of law enforcement and criminal justice agencies should be involved in the selection of the Automated Fingerprint Information System.

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and the laws of the State of Louisiana, do hereby establish the Automated Fingerprint Identification Selection Committee within the Office of the Governor and do hereby order and direct as follows:

SECTION 1: The Automated Fingerprint Identification Selection Committee is established and created within the Executive Department, Office of the Governor.

SECTION 2: The Automated Fingerprint Identification Selection Committee should be composed of the following membership:

1. a representative of the Sheriff's Association;
2. a representative of the Chiefs of Police Association;
3. a representative of the District Attorneys Association;
4. a representative of the Clerks of Court Association;
5. a representative of Louisiana Commission on Law Enforcement;

6. a member of the Louisiana Supreme Court;
7. a representative of the City of New Orleans;
8. a representative of the Department of Public Safety and Corrections;
9. a representative of Women For A Better Louisiana;
10. a member of the Senate Committee on Economy and Efficiency.

SECTION 3: The duties and functions of the Automated Fingerprint Selection Committee shall include (but shall not be limited to):

1. select the most suitable vendor of an AFIS;
2. adopt any rule, regulation or policy the committee deems necessary for the selection;
3. create a task force of technical personnel to develop the specification for a Request For Proposal (RFP) for an AFIS utilizing both the resources and personnel available through their respective agencies and the statutory guidelines in effect at the time the RFP solicitations are requested;
4. the AFIS Selection Committee shall approve the RFP document prior to the public release of the document. The AFIS Selection Committee will select the proper AFIS using the results of the RFP process;
5. any other duties and functions as required by the governor.

SECTION 4: The governor shall appoint the chairperson and vice chairperson of the AFIS Selection Committee.

SECTION 5: The committee shall meet at times and dates as requested by the governor.

SECTION 6: A majority of the committee shall constitute quorum.

SECTION 7: No member of the committee shall receive per diem or other compensation for the performance of their duties.

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 19th day of May, 1994.

Edwin W. Edwards  
GOVERNOR

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 94-18

WHEREAS: Executive Order EWE 94-7 was executed to create a special Higher Education Commission for the 21st Century within the Office of the Governor hereinafter referred to as the 21st Century Commission; and

WHEREAS: the 21st Century Commission could perform

its duties and functions in a more efficient and effective manner with the assistance of five additional members;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby amend Executive Order EWE 94-7 as follows:

SECTION 1: The 21st Century Commission shall be composed of five additional members to be appointed by and serve at the pleasure of the governor.

SECTION 2: All other orders and directions of Executive Order EWE 94-7 remain in effect.

SECTION 4: 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 20th day of May, 1994.

Edwin W. Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 94-19

WHEREAS, Executive Order No. EWE 94-17 was executed to create the Automated Fingerprint Identification Selection Committee within the Office of the Governor; and

WHEREAS, the Automated Fingerprint Identification Selection Committee could perform its duties and functions in a more efficient and effective manner with the assistance of a representative of the police officers;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby amend Executive Order No. EWE 94-17 as follows:

SECTION 1: The Automated Fingerprint Identification Selection Committee shall be composed of one additional member who represents police officers.

SECTION 2: All other orders and directions of Executive Order No. EWE 94-17 remain in effect.

SECTION 4: 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 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 8th day of June, 1994.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

# EMERGENCY RULES

## DECLARATION OF EMERGENCY

### Economic Development and Gaming Corporation

#### Casino Licensing and Suitability (LAC 42:IX.Chapters 21—33)

The Board of Directors for the Louisiana Economic Development and Gaming Corporation had its June 8, 1994, board meeting and adopted Chapters 21, 23, 25, 27 and 33 as interim emergency rules to be effective for 120 days or until promulgation of permanent rules or these rules are otherwise replaced, whichever occurs first.

The corporation is entitled to adopt its initial rules on an emergency basis as provided by R.S. 4:620(D) which states:

"for purposes of expeditious implementation of the provisions of this Chapter, the promulgation of initial administrative rules shall constitute a matter of eminent peril to public health, safety, and welfare as provided in R.S. 49:953(B)".

The corporation declares these rules to be a portion of their initial rules as defined in Section 620(D) and will, over the next several weeks, publish additional rules which are intended to be the initial rules for regulation of the landbased casino.

The corporation further declares that if these rules are not found to be the initial rules of the corporation, that an emergency still exist in that it is imperative for the welfare and well being of the citizens of the state of Louisiana, that landbased casino gaming operations, pursuant to R.S. 4:601 et seq., commence before the end of this year. The financial incentives and fees to be collected by this corporation will greatly enhance the economic outlook for the state of Louisiana. This goal can only be accomplished if the corporation is able to execute a casino operating agreement in the next several weeks. These rules, and any further rules on licensing or the internal operations of the casino, are imperative for the issuance of a casino operating agreement and the activities that will be conducted in accordance therewith.

The rules shall expire 120 days from June 8, 1994 or such earlier time as permanent rules are promulgated or these rules are otherwise replaced.

#### Title 42

#### LOUISIANA GAMING

#### Part IX. Casino Gambling

#### Chapter 21. General Provisions

#### §2101. Policy

It is the declared policy of the Louisiana Economic Development and Gaming Corporation that casino gaming in Louisiana be strictly regulated and controlled through administrative rules and the casino operating contract to

protect the public morals, good order and welfare of the inhabitants of the state of Louisiana and to develop the economy.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### §2103. Regulations

**A. Structure.** Nothing contained in these regulations shall be so construed as to conflict with any provision of the Louisiana Economic Development and Gaming Corporation Act or other applicable state or federal law.

**B. Severability.** If any provision of these regulations shall be held invalid, it shall not be construed to invalidate any other provisions of these regulations or the provisions of the Louisiana Economic Development and Gaming Corporation Act.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### §2105. Definitions, Words and Terms; Captions; Gender References

The provisions of the Louisiana Economic Development and Gaming Corporation Act relating to definition, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these regulations, except as otherwise specifically declared or clearly apparent from the context of the regulations. Any word or term not defined in these regulations shall have the meaning ascribed to it in the Louisiana Economic Development and Gaming Corporation Act. Should any word or term not be defined in these regulations or the Louisiana Economic Development and Gaming Corporation Act, those words and terms shall be construed in accordance with their plain and ordinary meaning. The captions appearing at the beginning of each regulatory Section are for convenience and organization and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or 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. The following terms shall have the meaning ascribed to each:

**Acquire Control**—any act or conduct by a person whereby he obtains control, whether accomplished through the ownership of equity or voting securities, ownership of rights to acquire equity or voting securities, by management or consultant agreements or other contracts, by proxy or power of attorney, by statutory mergers, by consummation of a tender offer, by acquisition of assets or otherwise.

**Administrative Approval**—the authority conferred upon the president by any regulation or by a condition imposed on a license, permit, approval or contract, in his individual discretion, to grant or deny a request for approval of a proposed action or transaction.

**Administrative Decision**—the final action, decision, order or disposition by the president or board directed toward a request for administrative approval.

**Affiliate**—a person that directly, or indirectly, through one or more intermediaries, effectively, controls, or is controlled by, or is under common control with, a specified person.

**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 or obtained by the corporation from any source incidental to the investigation, for licensure, finding of suitability, permit, registration, the continuing obligation to maintain suitability or other affirmative approval.

**Approvals**—those actions of casino operator licensees or permittees or transactions directly or indirectly involving licensees or permittees which require approval by the corporation through the president or the board but which do not in themselves, constitute licensing or a finding of suitability of any person involved, but the licensing or finding of suitability of the person's involved may, unless the act, these regulations or the corporation dictate otherwise, constitute approval by the corporation of the transaction in question.

**Associated Equipment**—any device, component, machine or contrivance utilized in connection, either directly or indirectly, with gaming, which does not affect the outcome of the game.

**Background Investigation**—all efforts whether prior to or subsequent to application, designed to discover information about an applicant, licensee or permittee, and includes without time limitation, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process. Examples of background investigation include but are not limited to: measures taken in connection with exploring information on applicants; procedures undertaken with respect to investigatory hearings, except for matters specifically disclosed in any hearing open to the public and orders, responses, and other documents relating thereto.

**Beneficial Owner**—a person possessing a beneficial ownership interest.

**Beneficial Ownership**—an interest held by a person directly that entitles such person to control, directly such organization, or; which constitutes more than five percent of the shares of voting stock or other voting securities of such organization, or; that entitles such person to more than five percent of the earnings and profits or distributions of such organization, or; that entitles such person to five percent or more of the assets of such organization upon the liquidation or dissolution of such organization.

**Casino**—the casino premises, the furniture, fixtures and equipment (FF&E), the operating equipment and operating supplies. Whenever the term casino is not preceded by either the word temporary or the word permanent, the term shall mean and include both the temporary and permanent casino.

**Casino Manager**—a person with whom the casino operator contracts to provide all or substantially all of the services necessary for the day-to-day management and operation of the establishment or casino pursuant to the casino operating contract and these regulations whom or which has been found suitable by the corporation.

**Casino Operator**—any person or entity who enters into a

contract with the corporation requiring that person or entity to conduct casino gaming operations according to the provisions of R.S. 4:601 et seq. Casino operator may also mean the former casino operator and may include any affiliate of the casino operator.

**Casino Operator Affiliate**—any person which directly owns any interest in the casino operator. In the event that the casino operator shall be in the form of a general partnership, then the casino operator affiliate term shall include all partners individually.

**Heating Device**—any tangible object, item, contrivance, part or device used, or attempted to be used, to alter the randomness of any game or any gaming device in the *Establishment*, or to play any game or gaming device without placing the required wager in order to for himself or another, win or attempt to win money or property, or a combination thereof, or reduce or attempt to reduce or increase either a losing or winning wager including any device used by a Person to gain an unfair advantage.

**Confidential Record**—any paper, document or other report or data reduced to a record which is not open to the public or which is related to security.

**Confidential Source**—a provider of information which is not a matter of general public knowledge or of public record as well as an information provider, the revelation of whose identity would tend to compromise the flow of information from that particular provider or his class of providers. Examples of confidential sources include but are not limited to: governmental agencies which provide tax records or related information; law enforcement or criminal justice agencies, including cooperative federally funded data bases, which provide criminal history and related data under information sharing or providing agreements or arrangements; private persons or entities which provide information subject to the condition that the information or their identities be kept confidential; informants, whether volunteering information or responding to investigatory measures; and any other provider or originator of information which might be deemed to be subject to a recognized disclosure (unless the privilege has been waived), or the public disclosure of which might tend to endanger or compromise the provider of information, or impede the future furnishing of similar information.

**Control** (including *Controlling*, *Controlled by*, and *Under Common Control*)—the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through ownership or voting securities, by contract or otherwise conducted.

**Controlled Affiliate** (of a specified person)—another person which, directly or indirectly, is controlled by the person specified.

**Controlling Affiliate** (of a specified person)—another person which, directly or indirectly, controls the person specified.

**Corporate Security**—refers to any matter which relates to or has an impact on: the physical safety of personnel; the effective investigatory or regulatory functions of the corporation; the operational plans policies and techniques of the corporation; the types and uses of equipment utilized by the corporation; the design, components, layout, structure, and

similar features, of facilities used, occupied, or overseen by the corporation; or any other aspect of the function of the corporation, the public disclosure of which might tend to compromise safety or the effective regulation of gaming by the corporation. Examples of corporate security include but are not limited to: the types and location of records maintained by the corporation, security plans for the casino operation, the internal controls of casino operator, the corporate building and offices; staffing schedules and arrangements; and lists or descriptions of equipment.

**Disciplinary Action**—any action undertaken by the president which includes the suspension, revocation or refusal to renew any contract, other than the casino operating contract, entered into or any license issued in accordance with the provisions of the act or these regulations.

**Distributor's License**—a license issued by the corporation to any person who buys, sells, leases, services or repairs slot machines or other gaming devices or supplies.

**Establishment**—the building or facility described in R.S. 4:641 and defined in R.S. 4:605. This shall include any temporary casino pursuant to R.S. 4:641(J).

**Equity Owner**—any person with an ownership interest in a casino operator affiliate.

**Financial Records**—those records which, in the opinion of the board or president, relate to the finances, earnings or revenue of an applicant, licensee, permittee or other person to whom approval or finding of suitability has been requested or granted.

**Financial Statements**—refers to, and encompasses both summaries of financial matters of any sort and any source documents or records from which summaries are or may be derived. Examples of financial statements include but are not limited to: balance sheet, profit and loss statements; mortgages; debt instruments; ledgers; journals; invoices and any other document bearing on the financial status of an entity whether historical or current.

**Finder's Fees**—any compensation in money in excess of the sum of \$10,000, or real or personal property with a real value in excess of the sum of \$10,000 which is paid or transferred to any person in consideration for the arranging or negotiation of an extension of credit to the casino operator, a casino operator affiliate or an applicant for licensing, registration, approval or finding of suitability if the proceeds of such extension of credit is intended to be used for any of the following purposes: the acquisition of an interest in the establishment, casino operator or casino operator affiliate; to finance the gaming operations of the casino operator. The term shall not include: compensation to the person who extends the credit; normal and customary payments to employees of the person to whom the credit is extended if the arranging or negotiation of credit is part of their normal duties; normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers and appraisers; underwriters discounts paid to a member of the National Association of Securities Dealers, Inc.; fees paid to banking institutions in connection with procuring credit.

**Finding of Suitability**—any action required or allowed by the president, board, act or these regulations that require

certain persons, directly or indirectly involved with the casino operator, licensees or permittees, to be found suitable to hold a gaming license so long as such involvement continues. A finding of suitability relates only to the specified involvement for which it is made. If the nature of the involvement changes from that which the applicant is found suitable, he may be required to submit himself to a determination by the corporation of his suitability in the new capacity.

**Funds**—money or any other thing of value.

**Gaming Device**—any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used directly or indirectly in connection with gaming or any game which affects the result of a wager by determining win or loss. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game, or which determines the outcome of a game. The term does not include associated equipment or a system or device which affects a game solely by stopping its operation so that the outcome remains undetermined.

**Gaming Employee**—any person connected with the operation of the official gaming establishment including: 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 service personnel, and supervisory personnel 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.

**Gaming Employee License**—the license granted to a gaming employee employed in the operation or supervision of a gaming activity at the official gaming establishment.

**Gaming Jurisdiction**—any other jurisdiction wherein gaming activity is allowed pursuant to state or federal legislation and a tribal state compact and any foreign jurisdiction allowing gaming activities.

**Gaming License**—any license issued by the corporation to any person or entity other than a nongaming vendor registration.

**Gaming Supplies**—all materials and supplies other than gaming devices used or expended in gaming operations or activities.

**Hearing Officer**—one or more independent attorneys at law who may administer oaths and receive evidence and testimony under oath, and who may make recommendations or render decisions affecting contracts, and permits issued pursuant to the provisions of the act and these regulations.

**Holding Company or Intermediary Company**—a company that has the ability to elect a majority of its directors or otherwise direct the management and policies of the casino operator, casino operator affiliate, or the ability to elect members to the executive committee of the casino operator. An intermediary or holding company of the casino manager means any company that has the ability to elect a

majority of its directors or otherwise direct the management and policies of the company.

**Inspection**—periodic surveillance and observation by the corporation of operations conducted by the casino gaming operator, licensee or permittee, which surveillance and observation may or may not be known to the casino gaming operator, licensee, or permittee.

**Interested Person**—any applicant, licensee, registrant, permittee, person found suitable, or person, group of individuals or entities affected by the application of the act or these regulations promulgated thereunder. The term shall also mean a governmental agency or political subdivision of the state.

**Junket Representative**—any person who contracts with the casino operator or its Affiliate to provide services inside or outside the state of Louisiana consisting of arranging transportation for guest of the licensed establishment. The term *junket representative* does not include:

- a. the casino operator;
- b. a bonded collection agency licensed by local government authorities in the jurisdiction where the agency has its principal place of business;
- c. a licensed attorney;
- d. a supplier of transportation;
- e. a travel agency whose compensation is based solely upon the price of transportation arranged for by the agency;
- f. an employee of the casino operator or an affiliate; or
- g. a person who does not receive cash for his services.

**Manufacturer's License**—a license issued to any person who manufactures or assembles programs or slot machines or other gaming devices or supplies for sale or use in the state of Louisiana.

**Own (Hold or Have)**—having an interest in a corporation, partnership, holding company, affiliate, or other form of business entity, or a security of a publicly traded corporation if such person or any associate of such person has a record of beneficial ownership therein.

**Permanent Gaming Employee License**—the license issued to the applicant after the president has had the ability to review the application and has not objected to or denied the issuance of that license.

**Petitioner**—an interested person who has filed a petition of preliminary interpretation in accordance with these regulations.

**Preliminary Interpretation**—a ruling on the meaning or application of the act or these regulations excluding the granting of approvals, findings of suitability, or the granting of a casino operating contract.

**Preferred Guest**—any person, 21 years of age or older, who received complimentary transportation or services, or other consideration with a retail price over \$10,000 in any seven-day period from the casino operator as an inducement to gamble.

**Premises**—the land underlying a casino together with all buildings, improvements and personal property located thereon.

**President**—the president of the corporation.

**Public Offering**—a sale of securities that is subject to the registration requirements of Section 5 of the Federal Securities

Act, or that is exempt from such requirements solely by reason of an exemption contained in Section 3(a)(11) or 3(c) of said act or Regulation A adopted pursuant to Section 3(b) of said act.

**Purchase Rights**—a security or contractual right to securities issued or issuable on the exercise of options, warrants or other beneficial interest in securities obtained for value upon issuance of securities, or on conversion of other securities.

**Records**—accounts, correspondence, memoranda, tapes, disks, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

**Regulations**—regulations adopted by the corporation pursuant to R.S. 49:950 et seq. and as authorized by 4:601 et seq.

**Sale and Sell**—includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security whether or not for value. *Sale* or *Sell* includes any exchange of securities and any material change in the rights, preferences, privileges or restrictions of or on outstanding securities.

**Secondary Representative**—any person other than clerical personnel and ticket takers not otherwise exempted by the definition of junket representative who receive any form of compensation from a registered junket representative for assisting a registered junket representative.

**Security**—any stock; membership in an incorporated association; bond; debenture; or other evidence of indebtedness, investment contract, voting trust certificate, certificate of deposit for a security; or, in general, any interest or instrument commonly known as a security; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing regardless of whether evidenced in writing.

**Security Techniques, Procedures or Practices** (of an applicant licensee or permittee)—includes and refers to any matter which relates to or has an impact on: the physical safety of an applicant, licensee or permittee; the integrity of the operational methods and internal control systems; the design and description of all equipment, including its accounting, gaming and criminal detection and alarm equipment; the design, components, layout, structure, and similar features of facilities used, occupied, overseen by it; or any other aspect of its operations, the public disclosure of which might tend to compromise personal safety or the integrity of gaming. Examples of security techniques, procedures or practices include but are not limited to: lists of employees or employment positions and functions; security for the gaming establishment, including all buildings and offices; staffing schedules and arrangements; and list or descriptions of equipment.

**Statements on Standards for Accounting Review Services**—the standards and procedures published by the American Institute of Certified Public Accountants.

**Subsidiary**—includes, without limitation, any person, other than an individual, which is a controlled affiliate of another person, other than an individual.



**Temporary License**—the license issued to an applicant which may be effective for a term of six months or until a permanent license is issued whichever occurs first.

**Trade Secrets**—includes any matter the disclosure of which might tend to weaken a competitive advantage, whether concerning a unique, rare or common practice, discovery, or anything whatsoever. Examples of trade secrets include but are not limited to: operational methods; design of equipment; routing memoranda; payroll schedules; bookkeeping and accounting procedures; internal money control systems; equipment and component sources, patron lists; proprietary information; and bid formulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:601 et seq.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### §2107. Specific Investigative Powers

In conducting investigations, the corporation and its authorized agents and authorized employees shall be empowered to:

1. inspect and examine all premises wherein gaming activities are conducted, proposed to be conducted or where gaming devices are maintained or manufactured, sold, distributed, or repaired and where all papers, books, records, documents, information and electronically stored media are maintained by an applicant, licensee, permittee, casino operator or other person found suitable;

2. summarily seize and remove gaming equipment and devices and impound any equipment and devices for the purposes of examination and inspection;

3. have access to and photocopy all papers, books, records, documents and information of an applicant, licensee, casino operator, permittee or other person found suitable pertaining to the application, gaming operation, or transaction for which corporation approval is required;

4. issue subpoenas;

5. conduct investigative interviews, depositions and hearings; and

6. issue written interrogatories.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### §2109. Subpoenas

A. The president and the board shall each have full power and authority to issue subpoenas to compel the attendance of witnesses and production of documents for any hearing and any investigative interview, deposition or hearing at any place in the state.

B. The president and the board shall have power and authority to administer oaths and require testimony under oath.

C. Subpoenas issued by the president or the board shall be served in a manner consistent with service of process and notices in civil matters.

D. A witness fee of \$25 shall be submitted with the subpoena in order to pay transportation and related expenses.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631(D).

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### §2111. Interrogatories

A. All interrogatories propounded by the corporation shall be made through the president or his designee in writing and served in a manner consistent with the service of process and notices in civil actions.

B. Interrogatories shall be answered within 15 days of service.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631(C).

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### §2113. Contempt

For failure or refusal to comply with any subpoena or order issued by the president or the board and duly served, the president or the board may cite the subpoenaed party for contempt and may impose a civil penalty as provided by the laws of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631(D).

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

## Chapter 23. Applications, Licensing, Permitting and Suitability

### Subchapter A. Filing of Applications

#### §2301. General Provisions

All persons required to be licensed, permitted, approved or otherwise found suitable and all other persons the corporation deems necessary to call forward for licensing for the protection of the citizens of this state shall be required to comply with this Chapter and all other applicable provisions of these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, and 630.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### §2303. Procedures and Content

A. Forms. Every application, statement, notice or report shall be filed on forms, including but not limited to personal history and financial background forms, furnished or approved by the corporation and shall contain and be accompanied and supplemented by such documents and information as may be specified or required.

B. Content. Applications shall contain all the information prescribed by the corporation and at least the following:

1. an affidavit of full disclosure, signed by the applicant or in the case of a corporation, partnership, joint venture or other business entity, by an authorized representative of the entity;

2. an authorization to release information to the corporation, signed by the applicant;

3. a release of all claims, signed by the applicant;

4. in addition, the corporation may require an applicant to provide such other information and details as it deems necessary to discharge its duties properly.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:605.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### §2305. Amendment

Procedure. An application may be amended in any respect

by leave and approval of the president at any time prior to final action thereon. The president shall have the authority to approve or disapprove any amendment. Any amendment to an application shall have the effect of establishing the date of such amendment as the new filing date of such application with respect to the time requirements for action on such application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, and 623.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2307. Duty to Supplement**

All amendments to an application or material changes to information contained in an application shall be submitted to the corporation in writing within 10 days of the effective date of the change unless a shorter time is prescribed by the corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, 630, 631, and 634.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2309. Incorporation by Reference**

Any document filed pursuant to the act or these regulations may be incorporated by reference in a subsequent application if it is available in the files of the corporation, to the extent the document is currently accurate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602; 620.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2311. Untrue Statements**

It is grounds for denial of an application or disciplinary action in addition to criminal penalties (criminal if violation is knowing and intentional) for any person to make any untrue statement of material fact in any application, notice, statement or report filed with the corporation, or wilfully omit to state in any such application, notice, statement or report any material fact which is required to be stated therein or omit to state a material fact necessary to make the facts stated in view of the circumstances under which they are stated, not misleading.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, 630, 631, and 634.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2313. Waiver of Privilege**

An applicant may claim any privilege afforded by the Constitution of the United States or the Constitution of the State of Louisiana in refusing to answer any question of the president or board or request for information made by the corporation. However, a claim of privilege with respect to any testimony or evidence pertaining to an application or investigation may constitute sufficient grounds for denial of the application or revocation or suspension of the license or permit held by the person.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, 634.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2315. Fees**

Except as otherwise provided herein, all fees and costs

incurred in conjunction with the investigation of any application to the corporation shall be paid by the applicant in the manner prescribed in this regulation.

1. All applications shall be accompanied by a nonrefundable application fee (in amount set forth in fee schedule adopted by the corporation).

2. In addition to any nonrefundable application fee, the president shall have the authority to require an applicant to pay such supplementary investigative fees and costs as may be determined reasonable by the president. The president may estimate the supplementary investigative fees and costs and require a deposit to be paid by the applicant in advance as a condition precedent to beginning or continuing an investigation. The president shall provide a reasonable basis for the estimated investigation fees and shall provide an itemized invoice for the actual costs incurred during the investigation. The applicant shall not be entitled to request a board review of the investigative costs.

3. The president will not take final action to approve any application unless all application and investigative fees and costs have been paid in full. The president may deny any application if the applicant has failed or refused to pay all application and investigative fees and costs.

4. After all investigative fees and costs have been paid by the applicant, the corporation shall refund any balance remaining in the investigative account of the applicant.

5. If the president determines it is in the public interest, and upon substantial written justification, the president may waive payment of an investigative fee or cost.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, 623, 631, 633, and 651.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2317. Expiration**

In addition to any specific provisions contained in any other Chapter or as otherwise provided in the Casino Act, any license or permit granted pursuant to the act and/or these rules and regulations expires one year from the date of issuance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:650.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2319. Renewal Applications**

Applications for renewal for a license or permit authorized by the Casino Act, shall be submitted on forms provided by the corporation and which shall contain a sworn statement identifying all material changes from the current application and information submitted to the corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:650.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2321. Withdrawal of Application**

A. A request for withdrawal of an application may be made at any time prior to final action by filing a written request to withdraw with the president.

B. The president shall render a decision in writing granting or denying the request. A denial may be made with or without prejudice.

C. If a request for withdrawal is granted with prejudice, the



applicant is not eligible to reapply for licensing or approval until after the expiration of one year from the date of the president's decision.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, 633, and 655.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2323. Application after Denial**

A person whose license has been objected to or denied is not eligible to reapply for a license for a period of one year after the decision of the president to object to the issuance of the license, or in cases where the objection is reviewed by the board, one year from the date of the board's denial of the license, unless a shorter period is specified in the president's decision.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:650.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

## **Subchapter B. Findings of Suitability**

### **§2325. Corporate Authority**

The corporation shall conduct investigations of each application filed with the corporation prior to any action being taken with respect to the application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:633.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2327. Government Officials Holding Licenses**

No gaming license, permit, finding of suitability, contract or approval, the granting of which requires an application to be made to the corporation shall be held by nor granted to any person holding public office in, or being employed by, any governmental agency within the state of Louisiana when the duties of such office or agency pertain to the enforcement of the Casino Act or these regulations. The corporation may waive, in accordance with the Casino Act, the prohibition contained in this regulation, if the president makes a written finding that such waiver is not inconsistent with the policies of the State of Louisiana and the act and the functions, duties, or responsibilities of the person otherwise restricted from holding a license, permit, finding of suitability, contract or approval. Such waivers are nontransferable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, and 634.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2329. Burden of Proof**

Since each applicant is seeking a revocable privilege, the burden of proving and maintaining his qualification is at all times on the applicant. Each applicant shall demonstrate his suitability by clear and convincing evidence. An applicant shall accept any risk of adverse publicity, embarrassment, criticism, or other action, or financial loss which may result or occur from action with respect to an application and expressly waive any claim for damages as a result thereof. The filing of an application or the submission of a bid for the casino operator contract under the Casino Act and these regulations constitutes a request for the board or president to determine the applicant's or the operator's general

suitability, character, integrity, and ability to participate, engage in or be associated with land based gaming in Louisiana, and by filing the application or making the bid, the applicant specifically consents to the making of such a determination by the corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, and 626.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2331. Suitability Criteria**

An application for a license, permit, finding of suitability, approval or contract shall not be granted unless the board, in cases where the board has original jurisdiction, or the president and the board in cases appealed to the board is satisfied that the applicant is:

1. a person of good character, honesty and integrity;

2. a person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest or result in adverse publicity for the state of Louisiana 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;

3. a person who is capable of and likely to conduct the activities for which the applicant is licensed or approved in accordance with the provisions of the Casino Act and these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, and 634.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2333. Grounds for Disqualification and Denial**

A. A license, finding of suitability or a contract shall not be granted if:

1. the applicant has failed to prove, by clear and convincing evidence, that he is suitable pursuant to the terms of the Casino Act and these regulations;

2. the applicant failed to provide information and documentation to the corporation in order to reveal all material facts relevant to the application, or as requested by the corporation, or supplied information to the corporation that was untrue or misleading as to any material fact pertaining to the qualification criteria or the application;

3. the applicant or any other person required to be qualified under the act has been convicted of, pled guilty to, pled nolo contendere to, received only a suspended sentence or has had any conviction set aside pursuant to Louisiana Code of Criminal Procedure, Section 893, or any similar statute of any foreign jurisdiction for a felony;

4. the applicant, or any person required to be qualified pursuant to the Casino Act as a condition for a contract, has charges pending or is currently being prosecuted in any other jurisdiction for a felony;

5. the applicant is a corporation which is owned by a parent or other corporation or person as defined in R.S. 4:605, and any person owning more than five percent of the common stock of the parent corporation has been convicted of, or pled guilty or nolo contendere to, received only a suspended sentence or has had any conviction set aside

pursuant to Louisiana Code of Criminal Procedure, Section 893, or any similar statute of any foreign jurisdiction, for a felony;

6. if the applicant is a corporation, partnership, association, joint venture, or other entity of which any individual holding five percent or more interest in the profits or loss has been convicted of, or pled guilty or nolo contendere to, received only a suspended sentence or has had any conviction set aside pursuant to Louisiana Code of Criminal Procedure, Section 893, or any similar statute of any foreign jurisdiction, for a felony;

7. the applicant has been found unsuitable or has been denied a gaming license or permit, or has had a gaming license or permit suspended or revoked in another gaming jurisdiction, unless circumstances indicate in the sole discretion of the corporation that such finding is not contrary to the best interest of the state of Louisiana.

B. A license or finding of suitability may be denied if:

1. the applicant knowingly failed to comply with any gaming law or regulation in Louisiana or any other gaming jurisdiction;

2. the applicant committed or attempted to commit any crime of moral turpitude, embezzlement or larceny, or any violation of law that is inimicable to the declared policy of the state of Louisiana regarding gaming;

3. the applicant has been identified in published reports of any federal or state legislative or executive body as being a member or associate of organized crime or being of notorious or unsavory reputation;

4. the applicant has been placed or remains in constructive custody of any state, federal or municipal authority.

C. Nothing contained in this Section shall be deemed to limit the corporation's authority to make suitability determinations on additional or completely different and separate factors.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, and 635.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2335. Unsuitability-Safe Harbor**

If at any time the corporation finds that any person that is required to be and remain suitable has failed to demonstrate suitability, the corporation may, consistent with the Casino Act and the casino operating contract, take any action that the corporation deems necessary to protect the public interest. Provided however, in the event that a person associated with the casino operator, casino operator affiliate, or intermediary or holding company thereof has failed to be found suitable or remain suitable, the corporation shall take no action to declare the casino operator, casino operator affiliate or their respective intermediary or holding companies, as the case may be, unsuitable based upon such finding, if:

1. such companies comply with conditional licensing provisions; and

2. the casino operator, the casino operator affiliates, intermediary or holding companies, as the case may be, takes immediate good faith action (including the prosecution of all legal remedies) and complies with any order of the corporation to cause such person to dispose of its interest, and, that prior

to such disposition, such company, from the date that it receives notice of a finding of unsuitability from the corporation, ensures that the disqualified person:

a. does not receive dividends or interest on the securities of the casino operator, the casino operator affiliates, or their respective intermediary or holding companies;

b. does not exercise, directly or indirectly, including through a trustee or nominee, any right conferred by the securities of the casino operator, casino operator affiliates, or their intermediary or holding companies thereof;

c. does not receive any remuneration from the casino operator, casino operator affiliates, or their intermediary or holding companies;

d. does not receive any economic benefit from the casino operator, casino operator affiliates or their respective intermediary or holding companies;

e. subject to the disposition requirements of this Section, does not continue in an ownership or economic interest in the above mentioned parties or remain as a manager, officer, director, or partner thereof;

3. nothing contained in this Section shall prevent the corporation from taking any action against the casino operator if the casino manager has failed to remain suitable. Moreover, nothing contained in this Section shall prevent corporation from taking regulatory action against the casino operator, casino operator affiliate or their intermediary or holding companies, as the case may be, if:

a. any of such companies engaged in a relationship with the unsuitable person and had actual or constructive knowledge of the wrongdoing causing the corporation regulatory action; or

b. if the casino operator, casino operator affiliate or their intermediary or holding companies, as the case may be, is so tainted by such person that it affects the suitability of such company under the standards of the Casino Act; or

c. the casino operator, casino operator affiliate or their intermediary or holding companies, as the case may be, cannot meet the suitability standards contained in the Casino Act and these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:636.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2337. Surrender of a License**

A. No license or permit issued pursuant to the act or regulations may be surrendered without the prior approval of the president.

B. If a request is granted without prejudice, the applicant is immediately eligible to apply again for licensing or approval, unless the president has placed a condition on the time in which the applicant shall wait in order to reapply.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, 633, and 655.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2339. Denial, Revocation and Restriction**

The corporation may deny, revoke, suspend, limit, condition, or restrict any finding of suitability or application therefor upon the same grounds as it may take such action with respect to licensees and permittees without exclusion of

any other grounds. Except as provided in LAC 42:IX.2335, the corporation may further take such action on the grounds that the registrant or person found suitable is associated with, or controls, or is controlled by, or is under common control with, an unsuitable or disqualified person.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:633, 634, and 635.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2341. Tax Qualification**

No person shall knowingly be or remain employed by the casino operator, nor shall they be licensed or receive a permit, if they are 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 procedures, and items of 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. 4:634.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2343. Minors**

The corporation will not ordinarily grant a license, permit, or finding of suitability to an individual under the age of 21 years. This policy should not affect the licensing or finding of suitability of a trust where the settlor or beneficiary is under the age of 21 years.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:660.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2345. Appeal by Applicant/Licensee**

A. Any applicant aggrieved by a decision and order of the president may appeal the president's decision and order to the board by filing an appeal in the form set forth in LAC 42:IX.2501 et seq. of these regulations, and also include a full description of the application before the president, and a full description of the basis for appeal.

B. The board shall review the decision and order of the president, within 30 days of receiving the appeal.

C. Filing of the appeal shall not stay the execution of the president's decision.

D. After review of the president's decision and order, the board may reverse, sustain or modify the president's order or refer the matter back to the president for further investigation. Final action on the appeal shall occur within 120 days of the date of the appeal. All actions by the board shall occur with a majority vote of the quorum present.

E. The board shall serve the applicant with a written decision on the appeal within as soon as practicable but not later than 60 days after hearing the matter.

F. Appeal of board decisions are made pursuant to the Administrative Procedure Act.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, 633, and 655.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **Subchapter C. Suitability of Casino Operator**

#### **§2347. Board Powers for Suitability of Casino Operator**

A. Prior to issuance of a casino operating contract, the casino operator, beneficial owners of the casino operator, equity owners and all other persons the board deems necessary in order to issue the contract, shall demonstrate to the board by clear and convincing evidence their suitability, as that term is defined in the Casino Act and these regulations, to engage in the activities for which they request approval.

B. The board has full and absolute power and authority to deny the application, to limit, condition or restrict any license, contract or finding of suitability.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:623, 634, 641.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2349. Exit Interviews**

A. If necessary, an exit interview may be scheduled with an applicant.

B. The interview shall be scheduled orally and confirmed in writing prior to the scheduled interview date. The written notice shall include:

1. the time, place and date of the interview;
2. a general list of the issues to be addressed.

C. The interview shall be closed except to the applicant, the applicant's attorney and any witnesses the applicant deems necessary.

D. The corporation's security and audit investigators shall conduct the interviews.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2351. Depositions**

A. The corporation may require the applicant to submit to depositions which shall be conducted by the attorney general or his designee. Deposition testimony shall be given under oath before a certified court reporter and incorporated into the record of the matter.

B. Written notice of the time, date and place of the deposition shall be provided to the applicant within three days of the date of the deposition.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2353. Necessity of a Record of the Proceedings**

A. The corporation shall establish and maintain a record of the matter being considered by the board.

B. The record may include, but not be limited to:

1. the person's application;
2. the corporation's independent investigation of the applicant and additional investigative measures which may be required.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:655.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2355. Notice of Board Interview**

A. An applicant shall be provided five-day written notice

of the time, date and place of the interview with a general statement as to the issues to be addressed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:633 and 641.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2357. Hearing Procedure for Owner; Operator Suitability**

The following procedures shall apply to any interview conducted before the board pursuant to this Chapter:

1. an applicant shall be given an opportunity to present clear and convincing evidence of his suitability and offer any other comments including a request to withdraw from the process;

2. sworn testimony of the applicant or witness shall be taken and transcribed by a certified court reporter;

3. the applicant shall make a formal request of the board to secure a casino operating contract or a license to participate as an equity owner of the entity applying for the contract;

4. board members may ask any questions of the applicant that the member believes to be relevant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:633 and 641.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2359. Board Deliberations and Decision**

After investigation and review of any application required by the board for issuance of the casino operating contract, the board shall issue a written order determining the suitability of the applicant or the propriety of the request to withdraw from the process.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:633 and 641.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

## **Chapter 25. Administrative Proceedings**

### **§2501. President Powers**

A. The president of the corporation shall direct and supervise all administrative activities of the corporation in accordance with the act and the rules and regulations adopted by the board. The president shall:

1. supervise and administer the operation of the corporation;

2. issue orders to approve, suspend, revoke or refuse to renew any contract (except for the casino operating contract), license, permit or other approval issued or sought to be issued by the corporation.

B. The president has full and absolute power and authority to deny any application, limit, condition, or restrict any license, permit, contract, (except the casino operating contract), registration, finding of suitability, or approval, or suspend or revoke any license, contract, (except the casino operating contract) permit, registration, finding of suitability or approval or impose a civil penalty upon any person licensed, permitted, registered, found suitable, approved or holding a contract, for any violation of the Casino Act or these regulations promulgated thereunder, or any cause deemed reasonable.

C. All orders, decisions or actions of the president shall be, in writing, stating the reasons for the decision and a copy shall be provided to the interested party.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2503. Appeal of President's Order**

A. Any person aggrieved by a decision and order of the president issued pursuant to LAC 42:IX.2501 may appeal that decision to the board by filing a written appeal with the board within 10 days of receipt of president's order.

B. Unless otherwise provided in these regulations, the filing of an appeal shall stay the execution of the president's order until the board has completed its final review of the appeal.

C. The appeal shall contain:

1. the name, business address and telephone number of the appellant;

2. a copy of the president's order and summary of evidence;

3. a brief statement listing the statutory or regulatory provisions at issue;

4. a description of the appellant's interpretation or position;

5. a statement of the facts that support the appellant's interpretation or position including any mitigating factors;

6. a list of all witnesses, and a description of evidence that supports the appellant's interpretation or position;

7. a request for hearing before the board;

8. a statement of the reasons which justify review of the president's order; and

9. the signature of the appellant and his legal counsel.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:655.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2505. Hearing Officers**

The board may appoint an independent hearing officer to hear appeals of a president's order. The hearing officer shall hear and decide appeals.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:632 et seq.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2507. Hearings**

Hearings of appeals of decisions or orders of the president shall be conducted by the board or designated hearing officer in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631 et seq.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2509. Conduct Of Hearing**

A. The president or a representative of the president, may present an opening argument in support of the president's order.

B. The person upon whom the order was issued may present an opening argument against the president's order, or in mitigation of the facts presented.

C. The president or his representative may present any witnesses or testimony in support of his order. Any opposing party may cross examine the witnesses. Any opposing party may make a motion to dismiss at the end of the president's

case. The board may hear arguments on the motion, or may grant, deny or reverse the president's order, with or without oral argument.

D. Any other party may present witnesses and evidence in support of his position. The president or his representative may cross examine any witness.

E. Upon conclusion of the presentation of all other witnesses, the president or his representative may present a case in rebuttal.

F. Both the president or his representative and the opposing parties may present closing arguments. Thereupon, the matter will stand submitted to the board or hearing officer. Any member of the board or hearing officer may ask questions of the witnesses and may request further evidence.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631 et seq.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2511. Failure or Refusal To Testify**

A. If an applicant licensee, permittee, person found suitable, or person who has had an act or transaction approved fails to testify on his own behalf or asserts a claim of privilege, the president, board or hearing officer may infer therefrom that such testimony would be detrimental to the aforesaid person.

B. If a person controlling, controlled by, or under common control with, or employed by, or an agent of, the applicant licensee, permittee, person found suitable or person who has had an act or transaction approved fails to respond to a subpoena, or asserts a claim of privilege with respect to any question propounded to him, the board may, taking into account all of the circumstances, infer that the testimony which would have been elicited would be detrimental to the aforementioned individuals.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:635 et seq.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2513. Prohibition of Ex-Parte Communications**

Unless required for the disposition of procedural or prehearing matters, all communications relating to the matter is prohibited except ex parte matters authorized by this Section.

1. A party or his representative shall not communicate, directly or indirectly, in connection with any issue of fact or law related to an appeal of a president's order, with any member of the board, except upon notice and opportunity to all parties to participate; and

2. A member of the board shall not communicate directly or indirectly, in connection with any issue of fact or law related to an appeal of a president's order, with any party or his representative, except upon notice and opportunity to all parties to participate;

3. This Section shall not preclude:

a. any member of the board from consulting with the attorney general or his designee; or

b. a party or his representative from conferring with the chairman or attorney general or his designee regarding procedural matters that do not involve issues of fact or law related to the proceeding.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631 et seq.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2515. Rehearings**

Rehearings shall be directed to the board within the time period provided by law and conducted in accordance with the Administrative Procedure Act.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631 et seq.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2517. Board's Decisions on Appeal of President's Order**

As soon as practicable, but not later than 60 days of the completion of any hearing held by the board or its designated hearing officer, the board shall render a written decision containing findings of fact and conclusions of law relevant to the appeal of the president's order. The board shall determine whether the president's order was based upon good cause.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:655.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **§2519. Preliminary Interpretations by the President**

A. Purpose. A preliminary interpretation is an extraordinary remedy that will be considered by the president only when the objective of the petitioner cannot reasonably be achieved by other means when the ruling would be significant to the regulation of gaming or the gaming industry.

B. Petitions. Only an interested person may petition the president for a preliminary interpretation.

C. A petition for preliminary interpretation may be filed with the corporation, together with a nonrefundable filing fee in the amount of \$300, unless the petitioner is a governmental agency or political subdivision of the state.

D. Form. The petition for preliminary interpretation shall contain:

1. the name, business address and telephone number of petitioner;
2. a statement of the nature of the interest of the petitioner in obtaining a preliminary interpretation;
3. a statement identifying the specific statute, rule or regulation in question;
4. a clear and concise statement of the interpretation or position of the petitioner relative to the statute, rule or regulation in question;
5. a description of any contrary interpretation, position or practice that gives rise to the petition;
6. a statement of facts that support the interpretation of the petitioner;
7. a statement identifying all persons or groups who the petitioner believes will be affected by the preliminary interpretation; and
8. the signature of the petitioner or his legal counsel.

E. An interested person may not file a petition for preliminary interpretation involving questions or matters that are issues in a contested case in which the interested person is a party.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 631.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

## **§2521. Issuance of Preliminary Interpretation and Appeal**

A. Within 60 days of the filing of the petition, the president shall issue a preliminary interpretation of the statute, rule or regulation addressed in the petition. The president, in his sole and absolute discretion, may consult with the board regarding any petition for preliminary interpretation.

B. Appeal. Any interested person affected by the preliminary interpretation may petition the board for review of the president's interpretation. A request for review shall be submitted to the board within 10 days after the issuance of the president's preliminary interpretation.

C. Content of Appeal. A petition for review of the president's preliminary interpretation shall contain:

1. a statement of the facts relevant to the review of the preliminary interpretation;

2. a statement of the provisions of the Casino Act and these regulations, and any other authority applicable thereto, relevant to the petition;

3. a statement of the arguments that the interested person considers relevant to the review of the preliminary interpretation;

4. a statement of the reasons which justify review of the preliminary interpretation; and

5. any other evidence considered relevant.

D. The petition for review shall be accompanied by a nonrefundable fee of \$300.

E. Any other interested person may file a brief in support of or in opposition to the petition for review. Such brief shall be filed within seven days of receipt of the petition for review.

F. Board Action on Review. Within 45 days of receipt of the petition for review of the preliminary interpretation of the president, the board shall either schedule a hearing or render a decision on the petition. The board may, with or without oral argument dismiss the petition in whole or in part, for any reason. If a hearing is scheduled on the matter, within 30 days of the hearing, the board shall issue its decision on the petition for review and the preliminary interpretation. The board may delegate the review of the president's preliminary interpretation to an independent hearing officer.

G. The provisions of this regulation shall not be construed to limit, condition, or restrict the right of any person to commence and maintain any action authorized by the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:631 et seq.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

## **Chapter 27. Vendor and Junket Representative Licensing and Registration**

### **Subchapter A. Vendor Licensing and Registration**

#### **§2701. Required Licensure**

A. All manufacturers, distributors and vendors of gaming devices and gaming supplies or other vendors required to be licensed under the Casino Act, that propose to conduct business with the casino operator, shall apply for and receive a manufacturer's license, distributor's license or other appropriate license, pursuant to LAC 42:IX.2301 et seq. of these regulations.

B. Except as provided in LAC 42:IX.2705.A.1 and A.5, all other vendors that propose to conduct business with the casino

operator shall apply for inclusion in the corporation's vendor registration list.

C. Any person who is compensated based upon a percentage, theoretical or actual, of gaming revenue shall be licensed by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:630(B), 630(D); 638.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2703. Suitability**

Before a person required to be licensed pursuant to this Chapter may be issued a license, the applicant shall prove his suitability in accordance with LAC 42:IX.2301 et seq. of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:633.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2705. Non-Gaming Vendor Registration**

All non-gaming vendors that propose to conduct business with the casino operator shall comply with the following requirements:

1. Under \$10,000. The casino operator shall provide a monthly listing of these vendors which shall contain all information prescribed by the corporation.

2. \$10,000 but under \$50,000. These vendors shall remit an initial application fee of \$100 in order for the vendor to be placed on the corporation's vendor registration list, unless an exception is granted under Subsection A.5 of this Section. The casino operator shall provide a monthly listing of these vendors which shall contain all information prescribed by the corporation. The corporation shall monitor and conduct ongoing reviews of the transactions between the casino operator and such vendor.

3. \$50,000 and over. The vendor shall be required to submit an application for registration on a form provided by the corporation and an application fee of \$250, in order for the vendor to be placed on the corporation's vendor registration list. The casino operator shall be required, after engaging the vendor, to immediately remit a completed Business Information Form (BIF) to the corporation. The corporation may conduct a background investigation into the qualifications of such vendor, and will monitor its transactions with the casino operator.

4. Any vendor under Subsection A.2 of this Section who meets the monetary threshold for Subsection A.3 of this Section, shall remit the remaining balance to the corporation at which time he will receive written notification of inclusion on the vendor registration list. Annual renewals shall be required from the date of this notice.

5. Upon application in a form determined by the corporation, the president may exempt any person or field of commerce from the registration or licensing requirements of this Chapter if in the president's sole discretion such person or field of commerce:

a. is currently and sufficiently regulated by a public agency; or

b. will provide goods or services in insubstantial or insignificant amounts or quantities; or



c. does not need to be licensed or registered in order to protect the public or to accomplish the policies established by this Chapter.

6. Any license or approval issued pursuant to this Chapter is a revocable privilege. Any vendor registrant may be called forward for licensing by the corporation at any time and required to demonstrate by clear and convincing evidence his suitability as defined in LAC 42:IX.2333. The president in his sole discretion may revoke any approval or registration during the pendency of this call-forward procedure.

7. Failure to meet the standards of the Casino Act or pay any fee prescribed herein shall be grounds for the corporation to refuse to place such vendor on the vendor registration list. The casino operator shall not conduct any business with any vendor excluded from the list.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:624(A) and 638.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2707. Annual Renewals**

One year from the date of written notification of inclusion on the vendor registration list, a vendor shall remit an annual renewal fee of \$100.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:624(A).

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **Subchapter B. Junket Representatives**

##### **§2709. Junket Representatives**

A. A junket representative who arranges transportation for preferred guests or makes recommendations for approval of the extension of gaming credit on behalf of the casino operator, or collects a debt evidenced by a credit instrument, shall be licensed with the corporation prior to doing any business on behalf of the casino operator.

B. A junket representative shall not transact business on behalf of the casino operator other than is customary in the industry.

C. An application for licensing as a registered junket representative shall be made on the forms provided and furnished by the corporation and shall also include at the minimum:

1. the name, address, and type of organization of the junket representative;

2. a copy of any proposed agreement between the casino operator and the junket representative. If the proposed agreement is not in writing, the filing shall include a detailed written description of the proposed arrangement;

3. a personal financial questionnaire for the junket representative;

4. the designation of persons whom the junket representative may use as a secondary representative;

5. a statement on a form furnished or approved by the president that the junket representative:

a. submits to the jurisdiction of the state of Louisiana and the corporation;

b. designates the secretary of state as its representative upon whom service of process may be made; and

c. agrees to be bound by the laws of the state of Louisiana and the regulations of the corporation;

6. if the junket representative is not an individual, the president may designate the officers and principals of the junket representative that shall provide this information to the corporation;

7. the junket representative shall also provide its filing to the casino operator for transmittal to the corporation. The corporation may reject filing made directly by the junket representative.

D. Upon application, the corporation may at the discretion of the president issue a temporary license to the applicant. Temporary licenses expire six months after the date of issuance or upon the issuance of a permanent license, and immediately upon denial of a permanent license or other similar order by the president.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:638.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2711. Determination of Suitability of Junket Representatives**

The casino operator upon written notification of the finding of unsuitability, shall immediately terminate all relationship, direct or indirect, with the junket representative. Failure to terminate such relationship may be deemed to be an unsuitable method of operation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:631 and 633.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

#### **§2713. Reporting Requirements of Junket Representatives**

A. Annually, on or before July 15, each registered junket representative shall file a list of all secondary representatives on a form furnished or approved by the president. The casino operator shall send a notice annually, on or before June 1, to each junket representative under contract, advising the registered junket representative of the requirements of this Section.

B. The registered junket representative shall report addition, deletions and changes to the following items to the president within 30 days thereof:

1. the registered junket representative's address or telephone number;

2. the officers, directors, or shareholders or partners of the registered junket representative;

3. this list of secondary representatives.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:602, 620, 631, and 633.

**HISTORICAL NOTE:** Promulgated by the Economic Development and Gaming Corporation, LR 20:

### **Chapter 33. Compliance and Disciplinary Actions**

#### **§3301. Minority Participation**

A. The casino operator and the casino manager shall adopt written policies, procedures and regulations to allow the participation of businesses owned by minorities in all such design, engineering, construction, banking and maintenance contracts and any other projects initiated by the casino operator or casino manager. The written policies, procedures and regulations shall provide for the inclusion of businesses owned by minorities to the maximum extent practicable, consistent with applicable law.

B. All businesses or vendors selected by the casino operator and the casino manager for any purpose shall strictly adhere to the nondiscrimination policies and practices embodied in applicable federal, state, and local law.

C. The casino operator and the casino manager shall, as nearly as practicable, employ minorities consistent with the population of the state and consistent with applicable law.

D. No employee shall be denied the equal protection of the law. No regulation or policy shall discriminate against an employee because of race, religious ideas, beliefs or affiliations. No regulation or policy shall arbitrarily, capriciously or unreasonably discriminate against an employee because of birth, age, sex, culture, physical condition, political ideas or affiliations. Slavery and involuntary servitude are prohibited, except in the latter case as punishment for a crime.

E. In furtherance of the mandate set forth in the preceding four Subsections, the corporation shall monitor the casino operator and casino manager's hiring and contracting practices and exercise enforcement authority, as described below:

1. the casino manager and casino operator shall file with the corporation, copies of all reports that it files with the City of New Orleans pursuant to any program or plan undertaken;

2. in addition to those reports filed, the casino operator and casino manager shall file with the corporation quarterly reports reflecting:

a. applicants for employment during the quarter with their race, sex, and parish (or county and state, if outside of Louisiana);

b. employees hired during the quarter with their race, sex, parish (or county and state, if outside of Louisiana), length of residency and EEO category;

c. all contractors first signing contracts during the quarter with their race, sex, and parish (or county and state, if outside Louisiana) wherein their principal of business is located;

d. evidence of statewide recruitment efforts for employment and contractual services;

e. all complaints received by the casino operator and casino manager related to hiring contractual services. Such reports shall include name, address, nature of the complaint and the disposition;

3. if at any time the corporation shall conclude that the contractor is conducting itself in a manner inconsistent with the requirements of Louisiana state law or these regulations, the corporation may take enforcement action including but not limited to fines, and the imposition of a plan that, in the discretion of the board meets the objectives of the act and these regulations and is otherwise consistent with the law.

AUTHORITY NOTE: R.S. 4:602(F) and (G), LSA Constitution, Article 1, Section 3.

HISTORICAL NOTE: Promulgated by the Economic Development and Gaming Corporation, LR 20:

Wilmore W. Whitmore  
President

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 741—Health Education

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and approved an amendment to the BESE Honors Curriculum in Bulletin 741 and related changes regarding Health Education requirement for high school graduation, effective for 1994-95 incoming freshmen and printed below. Effective date of this emergency rule is June 20, 1994.

#### Bulletin 741, page 76 - BESE Honors Curriculum

\* \* \*

Physical Education	1½ units
Health Education	½ unit

\* \* \*

(All other requirements remain the same.)

#### Bulletin 741, page 84

#### Health Education

2.105.13 A minimum of 90 hours of health instruction shall be taught.

Procedural Block. Cardiopulmonary Resuscitation (CPR) shall be taught.

These changes are necessary in order to bring Bulletin 741 standards in line with the previous adoption of the ½ Health Education requirement. Two standards are affected with the changes. One standard adds the Health Education requirement to the Honors Curriculum while the second change in standards clarifies that a minimum of 90 hours of health instruction shall be taught. Emergency adoption, for 120 days, is necessary so that these rule changes may become effective for incoming freshmen in the 1994-95 school year.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 741—Honors Curriculum

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

#### Honors Curriculum

English	4 Units
English I, II, III, IV (No substitutions)	
Mathematics	4 Units
Algebra I; Algebra II; Geometry; and one additional unit to be selected from Calculus, Trigonometry, or Advanced Mathematics	



Natural Science	3 Units
Biology; Chemistry; and Earth Science or Physics	
Social Studies	3 Units
United States History; World History; and World Geography or Western Civilization	
Free Enterprise	½ Unit
Civics	½ Unit
Fine Arts Survey	1 Unit
Any two units of credit in band, orchestra, choir, dance, art, or drama may be substituted for one unit of Fine Arts Survey	
Foreign Language	2 Units
(In same language)	
Physical Education	2 Units
Computer Science/*Computer Literacy	½ Unit
*Computer Literacy may not be used for incoming freshmen 1994-95 and thereafter.	
Electives	3½ Units
<b>TOTAL</b>	<b>24 Units</b>

Emergency adoption is necessary in order to allow phase-in time for notification of students affected by the change to the Honors Curriculum which the board adopted in September, 1993. This amendment is being readopted as an emergency rule, for 120 days, effective June 24, 1994, to continue the present emergency rule until it is finalized as a rule.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 741—General Education Development

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and readopted as an emergency rule, an amendment to Bulletin 741, Louisiana Handbook for School Administrators, Standard 1.124.03 as stated below:

#### Bulletin 741 - Standard 1.124.03

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

Readoption as an emergency rule is necessary in order to continue the present emergency rule for 120 days or until it is finalized as a rule. Effective date of emergency rule is July 1, 1994.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 1706—Exceptional Children

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B), and re-adopted as an emergency rule, Bulletin 1706, regulations for Implementation of the Exceptional Children's Act, effective July 1, 1994, except for an amendment to page 119, Part B.1.F.2 of the bulletin and amendments approved the board on May 26, 1994. The revision to page 119 appeared on page 1285 of the October, 1993 issue of the *Louisiana Register* as an emergency rule and was adopted as a rule in February, 1994. Readoption of Bulletin 1706 is necessary in order to continue the present emergency rule until it is finalized as a rule.

Bulletin 1706 which was adopted as an emergency rule effective July 1, 1993 remains in effect, along with the newly adopted federal regulations. Effective date of this emergency rule is July 1, 1994, for 120 days.

The amendments approved by the board on May 26, 1994 are also being advertised in this issue of the *Louisiana Register* as an emergency rule.

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 viewed in its entirety at the Office of the State Register, 1051 North Third Street, Capitol Annex, Room 512, Baton Rouge, LA; at the Office of Special Educational Services, State Department of Education, and at the Office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, LA.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 1706—Exceptional Children

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule, the federally required changes to Bulletin 1706 submitted by the Department of Education on May 25, 1994.

Emergency adoption is necessary because the Office of Special Education Programs in the U.S. Department of Education has been assured that these regulations will be in effect and enforceable by July 1, 1994. This is required in order for the Louisiana State Plan for Special Education to be approved and Part B dollars to be released to Louisiana.

Effective date of this emergency rule is July 1, 1994, for 120 days, or until the final rule takes effect, whichever occurs first.

These amendments may be seen in their entirety at the Office of Special Educational Services, State Department of Education, at the Office of the State Register, 1050 North Third Street, Capitol Annex, Room 512, Baton Rouge, LA 70802, or at the Office of the State Board of Elementary and Secondary Education, 626 North Fourth Street, Education Building, First Floor, Baton Rouge, LA 70802.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Fee Schedule for Technical Institutes (LAC 28:I.1523)

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved a revision to the fee schedule for Louisiana high school students attending a technical institute. This is an amendment to LAC 28:I.1523 as stated below:

#### Title 28 EDUCATION

### Part I. Board of Elementary and Secondary Education Chapter 15. Vocational and Vocational-Technical Education

#### §1523. Students

\*\*\*

#### E. Fees for Louisiana Residents

\*\*\*

2. Louisiana high school students shall not be charged any registration or tuition fees while attending for high school credit.

\*\*\*

Effective date of this emergency rule is May 27, 1994, for 120 days, and is adopted as an emergency rule in order for the fee schedule to be effective for the students attending the institutes this summer.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Student Count for MFP (LAC 28:I.1709)

The Board of Elementary and Secondary Education exercised those powers conferred by the Administrative

Procedure Act, R.S. 49:953(B) and suspended for one year, its policy on Student Counting for MFP Funding. This rule has not been changed, only suspended for one year. Emergency adoption is necessary so that local school districts will not contract with independent auditors to perform student membership audits. Effective date of emergency rule is June 20, 1994.

#### Title 28 EDUCATION

### Part I. Board of Elementary and Secondary Education Chapter 17. Finance and Property §1709. Budgets

\*\*\*

#### H. MFP General Provisions

\*\*\*

#### 3. Student Count for MFP Funding

Reporting documents submitted by the local city and parish school systems shall be in accordance with the rules and regulations of the State Department of Education and the Louisiana Revised Statutes that pertain to the Minimum Foundation Program. This information is to be tested by the independent auditor(s) of the local city and parish school systems for compliance. The independent auditor(s) shall provide both positive and negative assurance that the student count and other information provided by the local city and parish school systems is free of material misstatement. Arrangements for providing this test of information shall be included in the engagement agreement for audit services. (Policy to be implemented with the 1990-91 school year.)

SUSPEND THE ABOVE POLICY FOR ONE YEAR.

AUTHORITY NOTE: R.S. 17:6.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

#### Administrator-in-Training Time Limitation (LAC 46:XLIX.711)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby finds it necessary to adopt an emergency rule relative to the clarification of time limitations between an AIT's examinations and completing his program issued to administrators-in-training.

The effective date of this emergency rule is June 2, 1994, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility**  
**Administrators**

**Chapter 7. Administrator-in-Training (AIT)**

**§711. Time Limitation**

Failure to begin the six-month AIT within one year of the date an applicant passes the licensing examination results in loss of all accomplishments and fees, unless otherwise authorized by the board. An applicant completing his AIT program before taking his examinations must take the first examinations offered following completion of the AIT, unless otherwise authorized by the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2504.

**HISTORICAL NOTE:** Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:511 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992).

Van Weems  
Executive Director

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Board of Examiners of Nursing Facility Administrators**

License Form (LAC 46:XLIX.1101)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby finds it necessary to adopt an emergency rule relative to the clarification of forms of licenses received by an AIT after completing his program.

The effective date of this emergency rule is June 2, 1994, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility**  
**Administrators**

**Chapter 11. Licenses**

**§1101. License Form**

A. ...

1. Upon completion of his AIT program an applicant who has passed his examinations shall remit the final report and the Certificate of Completion immediately. He shall complete all other requirements and be licensed within 35 days of completion of the AIT, unless otherwise authorized by the board.

2. An applicant who completes his AIT program before passing the examinations shall remit the final report and Certificate of Completion immediately, and shall undergo any required oral examination as scheduled by the board. Within 10 working days after receiving notice he has passed his examinations, he shall remit his Initial Registration form with fees, unless otherwise authorized by the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

**HISTORICAL NOTE:** Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992).

Van Weems  
Executive Director

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Board of Examiners of Nursing Facility Administrators**

Reciprocity (LAC 46:XLIX.1107)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby finds it necessary to adopt an emergency rule relative to the clarification of time limitations on temporary licenses issued to nursing facility administrators in reciprocity.

The effective date of this emergency rule is June 2, 1994, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility**  
**Administrators**

**Chapter 11. Licenses**

**§1107. Reciprocity**

A. - B. ...

C. A temporary license for a period not to exceed three months may be issued to a fully qualified reciprocity applicant upon payment of a registration fee determined by the board.

D. The board shall also have power and after due notice and an opportunity to be heard at a formal hearing, to revoke or suspend the endorsement of a nursing home administrator license issued to such person by such state.

E. The action of the board in revoking or suspending such license or registration shall be reviewable by the court under and pursuant to the provisions of law provided for in such cases.

F. A Louisiana licensee who applies for reciprocity in another state must pay a \$25 fee to the board to cover costs of completing and mailing necessary forms to the other state.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2504 and R.S. 37:2508.

**HISTORICAL NOTE:** Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:1024 (August 1993).

Van Weems  
Executive Director

## DECLARATION OF EMERGENCY

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

Adults with Serious Mental Illness and  
Children/Youth with Behavioral/Emotional Disorders

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health have exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule.

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are adopting this rule to redefine the populations of chronically mentally ill adults and seriously emotionally disturbed children as adults with serious mental illness and children/youth with emotional/behavioral disorders. The purpose of this rule is to establish a clear, standardized definition for this population as the Office of Mental Health has not previously established a definition in rule. Both the Medicaid targeted case management program and the Mental Health Rehabilitation Services program, established in previous Medicaid rule, provide for eligibility for chronically mentally ill adults and seriously emotionally disturbed children as "defined by the Office of Mental Health." The following changes will provide standardized criteria for medical eligibility for these two Medicaid programs.

The effective date of this emergency rule is July 1, 1994, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are adopting a standardized definition for adults with serious mental illness. Adults must meet all of the following criteria for A, B, C and D for serious mental illness (SMI):

A. Age: 18 years or older; and

B. Diagnosis: severe nonorganic mental illnesses including, but not limited to schizophrenia, schizoaffective disorders, mood disorders, and severe personality disorders, that substantially interfere with a person's ability to carry out such primary aspects of daily living as self-care, household

management, interpersonal relationships and work or school; and

C. Disability: impaired role functioning, caused by mental illness, as indicated by at least two of the following functional areas: Unemployed or has markedly limited skills and a poor work history, or if retired, is unable to engage in normal activities to manage income; employed in a sheltered setting; requires public financial assistance for out-of-hospital maintenance (i.e., SSI, and/or is unable to procure such without help, does not apply to regular retirement benefits); severely lacks social support systems in the natural environment, (i.e., no close friends or group affiliations, lives alone, or is highly transient); requires assistance in basic life skills, (i.e., must be reminded to take medicine, must have transportation arranged for them, needs assistance in household management tasks); exhibits social behavior which results in demand for intervention by the mental and/or judicial/legal system; and

D. Duration: must meet at least one of the following indicators of duration: Psychiatric hospitalizations of at least six months in the last five years (cumulative total); two or more hospitalizations for mental disorders in the last twelve-month period; a single episode of continuous structural supportive residential care other than hospitalization for a duration of at least six months; a previous psychiatric evaluation indicating a history of treatment for severe psychiatric disability of at least six months duration.

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are adopting a standardized definition for children/youth with emotional/behavioral disorders as follows: behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance (including academic, social, vocational or personal skills); a disability which is more than a temporary, expected response to stressful events in the environment, is consistently exhibited in two different settings and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can coexist with other disabilities.

The following criteria are being established for children/youth with emotional/behavioral disorders and require that sections A, B, C, and D described below, be met before someone can be described as having an emotional/behavioral disorder.

However, for the purposes of medical eligibility for the optional Medicaid programs, there must be a diagnosis as contained in section B.4 below, and, a disability as described in section C, and, a duration of impairment or patterns of inappropriate behavior which has persisted for at least three months and will persist for at least a year. (The criteria for duration described in Section D does not apply to eligibility for optional Medicaid programs.)

A. Age: under age 18; and

B. Diagnosis: meets one of the following criteria which operationalize the above definition:

1. exhibit seriously impaired contact with reality, and severely impaired social, academic, and self-care functioning, whose thinking is frequently confused, whose behavior may be

grossly inappropriate and bizarre, and whose emotional reactions are frequently inappropriate to the situation; or,

2. manifest long-term patterns of inappropriate behaviors, which may include but are not limited to aggressiveness, anti-social acts, refusal to accept adult requests or rules, suicidal behavior, developmentally inappropriate inattention, hyperactivity, or impulsiveness; or

3. experience serious discomfort from anxiety, depression, or irrational fears and concerns whose symptoms may include but are not limited to serious eating and/or sleeping disturbances, extreme sadness, suicidal ideation, persistent refusal to attend school or excessive avoidance of unfamiliar people, maladaptive dependence on parents, or nonorganic failure to thrive; or

4. have a DSM-III-R (or successor) diagnosis indicating a severe mental disorder, such as, but not limited to psychosis, schizophrenia, major affective disorders, reactive attachment disorder of infancy or early childhood (nonorganic failure to thrive) or severe conduct disorder. This category does not include children/youth who are socially maladjusted unless it is determined that they also meet the criteria for emotional/behavior disorders; and

C. Disability: there is evidence of severe, disruptive and/or incapacitating functional limitations of behavior characterized by at least two of the following: inability to routinely exhibit appropriate behavior under normal circumstances; tendency to develop physical symptoms or fears associated with personal or school problems; inability to learn or work that cannot be explained by intellectual, sensory, or health factors; inability to build or maintain satisfactory interpersonal relationships with peers and adults; a general pervasive mood of unhappiness or depression; conduct characterized by lack of behavioral control or adherence to social norms which is secondary to an emotional disorder. If all other criteria are met, then "conduct disorders" are eligible; and

D. Duration: the impairment or pattern of inappropriate behavior(s) has persisted for at least one year or there is substantial risk that the impairment or pattern of inappropriate behavior(s) will persist for an extended period or there is a pattern of inappropriate behaviors that are severe and of short duration.

Rose V. Forrest  
Secretary

## DECLARATION OF EMERGENCY

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

### Nonemergency Medical Transportation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program under

the provisions of the Administrative Procedure Act, R.S. 49:953(B). This emergency rule shall be in effect for the maximum period allowed by the Administrative Procedure Act. Due to extreme budget constraints placed upon all services in the Medicaid program as a result of the unusual growth of the nonemergency transportation program, and because of the continuing strain this program growth has placed on the state budget as a whole and because the agency and the legislature desire to provide medically necessary transportation to eligible Medicaid recipients who have no other means of accessing needed medical care using the most economical and efficient methods available, the agency has adopted changes in the nonemergency medical transportation program in concert with and under the direction and guidance of a specially appointed subcommittee of the Joint Legislative Committee on the Budget.

As a condition of receiving Medicaid funding the state must assure that transportation is available so that clients have access to necessary medical services. There is no requirement that transportation be provided to clients beyond the area in which the needed medical services are available. Free choices made by the client to utilize medical services in areas more distant from their homes than the closest available provider can not be interpreted to mean that there is an obligation for the Medicaid program to fund the trip to the more distant provider. Therefore, with the effective date of this emergency rule, it will be the policy of the Medicaid program to provide all nonemergency transportation for recipients to receive essential medically necessary care through the closest available provider. These changes are intended to be in addition to and not in lieu of current program regulations with the exception of the deletion of the \$5,000 bond requirement and the 90-day waiting period proviso. There are specific revisions of the automobile liability insurance coverage requirements included in this rule and any such revision supersedes previous rules on automobile liability coverage. General business liability insurance requirements are not changed in this rule.

All provisions of this rule shall be effective in the Orleans Region which is currently covered single profit provider under a freedom of choice waiver.

It is projected that these changes will result in an approximate overall cost savings to the Louisiana Medicaid program for fiscal year 1994-95 of \$43,138,000.

### Emergency Rule

Effective July 1, 1994, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the following provisions in the Nonemergency Medical Transportation Program.

#### A. Coverage Requirements

1. The agency shall limit trips to 24 trips per year per recipient. This maximum is based on a two trip per month average utilization under the current program. The agency shall advise against and counsel recipients utilizing more than two trips per month. However due to the individual nature of need for medical care the service limit will not apply to monthly utilization.

2. Authorization for payment for transportation shall be issued only when the recipient provides proof and or a sworn statement that they have no other means of transportation on

the date of the medical service. Family will be strongly encouraged to provide transportation at no cost to the recipient or the program.

3. When no other means of transportation is available, payment shall be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the agency and shall be determined according to the following hierarchy: city or parish public transportation, family and friends who meet the state license and insurance requirements and who are willing to enroll and be paid a flat rate for transportation, intrastate public conveyance (such as bus, train or plane), nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid program, and profit providers enrolled in the Medicaid program. Recipients shall be allowed a choice of providers when the cost of two or more providers are equal.

4. Authorization for payment for transportation shall be issued only for transportation to the nearest available qualified provider of routine or specialty care within reasonable proximity to the individual. For purposes of this rule reasonable proximity shall be interpreted to mean the local city or town in which people of like living circumstance usually do their shopping and business activities. Recipients are encouraged to utilize medical providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the agency will still pay for the actual medical service received in which the recipient resides does not obligate the agency to reimburse for transportation to accommodate such a choice.

5. When the recipient chooses to utilize a medical provider outside of the community due to preference and/or history payment shall be authorized only for the cost of transportation to the nearest available provider.

6. The recipient shall be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements the agency will help but the help given will imply no obligation to provide a greater reimbursement.

7. When specialty treatment required by the recipient necessitates travel over extended distances authorization for payment for intrastate transportation shall be determined according to the following criteria. Intrastate transportation reimbursement shall be authorized when medical services are not available to the recipient in his community. Payment shall be authorized when free transportation is not available. The agency shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane. The determination as to use of public conveyance shall be based on least cost, medical condition of the recipient to be transported, and availability of public conveyance.

8. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and

friends. The agency will authorize payment to assist the family in accessing the needed medical services. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

9. When no other means of transportation is available through family and friends, or public conveyance the agency will solicit intrastate transportation through a nonprofit provider. The nonprofit provider will be paid a negotiated fee based the usual fee charged by the nonprofit provider, distance to be traveled and using the fees for public conveyance as a basis for determining the rate. If the nonprofit provider cannot accept the trip then the agency will negotiate with profit providers to access the least costly means of transportation available in the profit provider community. The negotiated fee shall be determined by distance to be traveled using the fees for public conveyance as a basis for determining the rate to be authorized.

10. Payment for non emergency transportation to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy or rehabilitation therapy, as determined by the agency, shall be a capitated payment.

11. The payment schedule for round trips to utilized by the agency is as follows:

PROVIDER	SERVICE AUTHORIZED	AMOUNT
Public transit	Local transportation	public rates
Family/friends	Local transportation	\$ 7.50/per trip
Nonprofit	Local transportation	\$ 12/recipient
Profit	Local transportation	\$ 15/recipient
Family/friends	Capitated (Urban)	\$ 75/month
	Capitated (Rural)	\$115/month
Profit	Capitated (Urban)	\$150/month
	Capitated (Rural)	\$200/month
Public conveyance	Intrastate	Public rates
Family/friends	Intrastate	Negotiated*/trip
Nonprofit	Intrastate	Negotiated*
Profit providers	Intrastate	Negotiated*

\*Negotiated payments shall be flat fees determined by distance to be traveled using the fees for public conveyance as a basis for determining the rate to be authorized. Flat fees shall be predetermined for frequently traveled routes for the area and the predetermined rate shall be the rate paid to all family/friend providers on to all nonprofit and profit providers.

12. The agency will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for



scheduled appointments for predictable or routine medical care. Clients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

13. Payment will not be made for any additional person(s) who must accompany the recipient to the medical provider.

14. An individual provider will be reimbursed for mileage to the nearest facility that will meet the recipient's medical needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the bureau to the nearest facility and assumes responsibility for additional expenses incurred.

**B. Enrollment Requirements:**

1. For profit providers must comply with all state laws and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid program.

2. Nonemergency medical transportation profit providers shall have a minimum liability insurance coverage of \$100,00 per person and \$300,000 per accident or a \$300,000 combined service limits policy. The liability policy shall cover (1) any autos, (2) hired autos, and (3) nonowned autos. Premiums shall be pre paid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30 day cancellation notification clause. Proof of renewal must be received by the Medicaid agency no later than 48 hours prior to the end date of coverage. The policy must provide for the 30 day cancellation notification be issued to the Bureau of Health Services Financing. Upon notice of cancellation or expiration of coverage the agency will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

3. The \$5,000 performance bond, letter of credit or cashier check is no longer required.

4. The 90-day waiting period in the enrollment process is no longer required.

5. Nonemergency medical transportation profit and nonprofit providers must have either a FAX machine or have the BLAST software capability as determined by the Medicaid program based on the basis of volume of trips authorized to the provider.

6. As a condition of reimbursement for transporting Medicaid recipients to medical services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid drivers license. No special inspection by the Medicaid agency will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Proof shall be

the sworn and notarized statement of the individual enrolling for payment that all three requirements are met. Family and friends shall be enrolled and shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the agency. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

7. As a condition of participation for out of state transport, providers of transportation to out of state medical services must be in compliance with all applicable Federal interstate commerce laws regarding such transportation including but not limited to the \$1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid program is sought or prior to providing any out of state Medicaid transportation.

8. A provider must agree to cover the entire parish or parishes for which he provides nonemergency medical transportation services.

**C. Recipients' Responsibilities**

1. Recipients shall participate in securing transportation at low cost and shall agree to use public transportation or solicit transportation from family members and friends as an alternative to more costly means of transport.

2. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the agency a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

**D. Nonemergency Medical Transportation Utilization Review**

1. The Medicaid program will employ four regional transportation utilization review groups, with representation from the medical community to review recipient requests for extension of trips. The review will include consideration of patterns of utilization considered above the norm for the recipient's peer group and the particular medical needs of the recipient. A series of recipient profiles showing utilization patterns will be brought before the committee for review and only in cases where the committee recommends to the bureau an extension beyond the 24 trip limit will recipient's number of trips above 24 be reimbursed. The regional committee shall utilize basic extension criteria to be developed by Medicaid management. Approval to transport will not be made until the regional committee has recommended approval of the extension. The Medicaid director or his designee has the right to make urgent approvals without going before the committee.

2. Programming will be refined to utilize the prior authorization file to assure reimbursement only for authorized trips assigned a valid authorization number.

3. Any recipient who knowingly abuses the transportation program will be locked-in to a medical provider and a transportation provider of the department's choice after review

by the regional committee and based on their recommendation.

#### E. Procedural Requirements

1. Dispatch personnel will coordinate to the extent possible trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

2. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

3. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

#### F. Suspensions and Terminations

Providers are subject to suspension from the Nonemergency Medical Transportation Program upon agency documentation of inappropriate billing practices.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule and providing information regarding the public hearing. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest  
Secretary

### DECLARATION OF EMERGENCY

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

#### Standards for Payment for Hospital Specialty Units

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

Hospital reimbursement policy has permitted that services delivered in certain resource-intensive hospital units, neonatal, pediatric, burn and transplant units be "carved out" for reimbursement purposes. This procedure allowed the reimbursement of these services to be made outside the TEFRA cost per discharge limitation in order to ensure that Medicaid beneficiaries are able to obtain these services in state. The hospital prospective payment methodology rule effective July 1, 1994 continues this cost identification process through the use of a peer grouping of these units wherein the

provision of appropriate facilities, equipment and personnel essential for the effective management of the patient groups involved are recognized. This rule also includes the criteria for the inclusion of such specialized units in the appropriate peer grouping. In conjunction with this rule the bureau has adopted the following rule entitled "Standards for Payment for Hospital Specialty Units" which will be utilized by the health standards sections to determine the hospital's compliance with the criteria established for these units. The fiscal impact associated with the adoption of these standards for the neonatal, pediatric, burn and transplant specialty units has already been included in the analyses completed for the adoption of the hospital prospective payment methodology rule which reflect approximately \$2,184,029 of total increased expenditures for state fiscal year 1995 for these units.

#### Emergency Rule

Effective July 1, 1994, the Bureau of Health Services Financing has adopted criteria entitled Standards for Payment for Hospital Specialty Units which establish requirement for Medicaid reimbursement for specialized neonatal and pediatric intensive care, burn and transplant services to Medicaid recipients. These requirements are as follows.

#### I. Neonatal Care Units

##### Level I Unit

##### 1. Unit Mission

a. To evaluate the condition of healthy neonates and provide continuing care of these neonates until their discharge in compliance with state regulations regarding eye care, hearing screening, and metabolic screening.

b. To stabilize unexpectedly small or sick neonates before transfer to a Level II, Level III, or Level III Regional NICU unit.

c. To maintain consultation and transfer agreements with Level II, Level III and Level III Regional NICU units, emphasizing maternal transport when possible.

##### 2. Minimum Levels of Care

a. Resuscitation and stabilization of all inborn neonates.

b. Nursery defined area with limited access and security or rooming-in facilities.

c. Parent-neonate visitation/interaction must be provided.

d. Data collection and retrieval.

##### 3. Medical Staff

a. A Level I NICU unit medical director and/or department chief must be a board eligible or board certified pediatrician; or a board eligible or board certified family practitioner on staff.

##### 4. Nursing Staff

a. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in Neonatal Intensive Care. The nurse manager shall participate in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level I will be 1:8.

##### Level II Unit

1. Unit Mission. A Level II NICU unit must be capable of



the following:

- a. Must meet all requirements of all Level I NICU unit services at a superior level.
- b. To provide management of small, sick neonates with a moderate degree of illness that are admitted or transferred.

## 2. Minimum Levels of Care

- a. Performance of all Level I NICU unit services at a superior level.
- b. Neonatal ventilatory support, vital signs monitoring, and fluid infusion in defined area of the nursery.
- c. Neonates born in a Level II NICU unit with a birth weight of less than 1000 grams must be transferred to a Level III or Level III Regional NICU unit once they have been stabilized if they require prolonged ventilatory support or have life threatening diseases or surgical complications requiring a higher level of care.
- d. Neonates with a birth weight in excess of 1000 grams who require prolonged ventilation therapy may be cared for in a Level II NICU unit, provided such unit performs a minimum of 72 days of ventilator care annually. A day of ventilator care is defined as any period of time during a 24-hour period.
- e. If a Level II NICU unit performs less than 72 ventilator days per year, it must transfer any neonate requiring prolonged (greater than 24 consecutive hours) ventilator therapy to a Level III or Level III Regional NICU unit. Neonates requiring transfer to a Level III or Level III Regional NICU unit may be returned to a Level II NICU unit for convalescence.

## 3. Medical Staff

a. A board certified pediatrician of a Level II NICU unit with subspecialty certification in neonatal medicine must be the medical director and/or department chief.

In existing units, consideration will be given to waiving this requirement for board certified pediatricians with a minimum of five years experience in neonatal care who are currently serving as medical directors of Level II units. The request for waiver must be made in writing to the Office of the Secretary.

## 4. Nursing Staff

a. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level II will be 1:3-4.

5. Support Personnel. The following support personnel should be available to the perinatal care service of Level II and Level III NICU units:

a. At least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy).

b. At least one occupational or physical therapist with neonatal expertise.

c. At least one registered dietitian/nutritionist who has

special training in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

d. Qualified personnel for support services such as laboratory studies, radiologic studies, and ultrasound examinations (these personnel should be readily available 24-hours a day).

e. Respiratory therapists or nurses with special training who can supervise the assisted ventilation of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

## Level III Unit

1. Unit Mission. A Level III NICU unit must be capable of the following:

- a. must meet all requirements of all Level I and II NICU unit services at a superior level;
- b. provision of comprehensive care of high-risk neonates of all categories admitted and transferred;
- c. a Level III NICU unit will have a neonatal transport agreement with Level III Regional unit and will be involved in organized outreach educational programs.

## 2. Minimum Levels of Care

a. There must be one neonatologist for every 10 patients in intensive care (Level III NICU unit) area. If the neonatologist is not in-house, there must be one licensed physician who has successfully completed the Neonatal Resuscitation Program (NRP), or one neonatal nurse practitioner in-house for Level III NICU unit patients who require intensive care. A five year phase-in period will be allowed in order for the hospital to recruit adequate staff to meet these requirements.

b. Obstetrics and neonatal diagnostic imaging, provided by obstetricians or radiologists who have special interest and competence in maternal and neonatal disease must be available 24-hours a day.

c. A Level III NICU unit shall have a neonatologist or a licensed physician (who has successfully completed the Neonatal Resuscitation Program (NRP), or a neonatal nurse practitioner in-house at all times.

## 3. Medical Staff

a. The medical director and/or department chief of a Level III NICU unit must be a board-certified pediatrician with subspecialty certification in neonatal medicine. The following exceptions are recognized.

1) Board eligible neonatologists must achieve board certification within five years of completion of fellowship training.

2) In existing units, consideration will be given to waiving this requirement for neonatologists who are currently Medical Directors and/or department chiefs of Level III NICU's. The request for waiver must be made in writing to the Office of the Secretary/Bureau of Health Services Financing. This exception applies only to the individual at the hospital where the medical director and/or department chief position is held. The physician can not relocate to another hospital nor can the hospital replace the medical director and/or department chief for whom the exception was granted and retain the exception.

3) There must be one neonatologist for every 10 patients in the intensive care Level III NICU unit area. If the

neonatologist is not in-house, there must be one licensed physician (who has successfully completed the neonatal resuscitation program (NRP), or one neonatal nurse practitioner in-house for Level III NICU unit patients who require intensive care. A five year phase-in period will be allowed in order for the hospital to recruit adequate staff to meet these requirements. A Level III NICU unit shall have a neonatologist, or a licensed physician (who has successfully completed the neonatal resuscitation program (NRP), or a neonatal nurse practitioner in-house at all times.

b. Medical and surgical consultation must be readily available and pediatric subspecialists may be used in consultation with a transfer agreement with a Level III Regional NICU unit.

#### 4. Nursing Staff

a. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level III NICU unit will be 1:2-3.

5. Support Personnel. The following support personnel shall be available to the perinatal care service of Level II and Level III, and Level III Regional NICU units.

a. At least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy).

b. At least one occupational or physical therapist with neonatal expertise.

c. At least one registered dietitian/nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

d. Qualified personnel for support services such as laboratory studies, radiologic studies, and ultrasound examinations (these personnel shall be readily available 24-hours a day).

e. Respiratory therapists or nurses with special training who can supervise the assisted ventilation of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

#### Level III Regional Unit

1. Unit Mission. A Level III Regional NICU unit must be capable of the following:

a. must meet all requirements of all Level I, II and III NICU unit services at a superior level;

b. a Level III Regional NICU unit must have a transport team and provide for and coordinate a maternal and neonatal transport with Level I, Level II, and Level III NICU's throughout the state;

c. A Level III Regional unit shall be recognized as a medical center of excellence, and a center of research, educational and consultative support to the medical community.

#### 2. Medical Staff

a. The medical director and/or department chief must be a board certified neonatologist.

b. In addition to the medical staff requirements for a Level III NICU unit, a Level III Regional NICU unit shall have the following subspecialties on staff and clinical services available to provide consultation and care in a timely manner:

Pediatric surgery	Pediatric cardiology
Pediatric neurology	Pediatric hematology
Genetics	Pediatric nephrology
Endocrinology	Pediatric gastroenterology
Pediatric infectious disease	Pediatric pulmonary medicine
Cardiovascular surgery	Neurosurgery
Orthopedic surgery	Pediatric urologic surgery
Pediatric ophthalmology	Pediatric ENT surgery
Pediatric nutritionist	Pediatric PT/OT
Neonatal Social Services	Bioethics committee

#### 3. Nursing Staff

a. A nurse manager dedicated for the neonatal care area shall be available to all units. The nurse manager shall have specific training and experience in neonatal intensive care. The nurse manager shall participate in the development of written policies and procedures for the neonatal care areas, coordinate staff education and budget preparation with the medical director. The nurse manager shall name qualified substitutes to fulfill his or her duties during their absences. Nurse to patient ratios will vary with patient needs; however, the range for Level III Regional unit will be 1:1-2.

4. Support Personnel. The following support personnel shall be available to the perinatal care service of Level I, II, III, and III Regional NICU units:

a. at least one full-time medical social worker who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families (additional medical social workers may be required if the patient load is heavy);

b. at least one occupational or physical therapist with neonatal expertise;

c. at least one registered dietitian/nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates;

d. qualified personnel for support services such as laboratory studies, radiologic studies, and ultrasound examinations (these personnel shall be readily available 24-hours a day);

e. respiratory therapists or nurses with special training who can supervise the assisted ventilation of neonates with cardiopulmonary disease (optimally, one therapist is needed for each four neonates who are receiving assisted ventilation).

#### Pediatric Intensive Care Units

The new reimbursement methodology recognizes two categories of Pediatric Intensive Care Units (PICU). Although pediatric critical care is provided primarily at one level there

is a need for an additional level of care in geographic regions with small population base, to allow stabilization of critically ill children, to avoid long-distance transfers for disorders of less complexity or of low acuity. The criteria established for recognition as a PICU for Medicaid reimbursement purposes are as follows:

#### **Organization and Administrative Structure**

There shall be a PICU Committee established as a standing committee of the hospital. It shall be composed of at least physicians, nurses, respiratory therapists and other disciplines as appropriate to the specific hospital unit. The committee shall participate in delineation of privileges for all personnel (both MD and NON-MD) within the unit. Policies and procedures shall be established by the medical director and the nurse manager in collaboration with the committee and approval of the medical staff and governing body. These written policies and procedures shall be maintained in the unit and shall include, but not be limited to, safety procedures, infection control, visitation, admission and discharge criteria, patient monitoring and record keeping, equipment preventive maintenance and repair.

#### **Physical Design and Facilities**

The Level I and II units shall be distinct, separate units within the hospital. There shall be clean and soiled utility rooms, isolation room capabilities, medication and nourishment storage areas, and a conference area available on the units.

#### **Bedside Facilities**

The head of each bed and/or crib shall be rapidly accessible for emergency airway management. Electrical power, oxygen, medical compressed air and vacuum outlets shall be available at each bed/crib. There shall be walls or curtains available at each bedside to provide for full visual privacy.

#### **Medical Director**

Level I units shall be (1) board-certified in pediatrics and board certified or in the process of board certification in Pediatric Critical Care Medicine [must be completed within five years]; (2) board certified in anesthesiology with practice limited to infants and children and with special qualifications (as defined by the American Board of Anesthesiology) in critical care medicine; or (3) board certified in pediatric surgery with added qualifications in surgical critical care medicine (as defined by the American Board of Surgery). Level II medical director must meet the same criteria of Level I except the board certification in Pediatric Critical Medicine is not required. The medical director will name a qualified alternate to serve in his absence.

In existing units, consideration will be given to waiving this requirement for board certified pediatricians with a minimum of five years experience in pediatric care who are currently serving as medical directors of Level I and II units. The request for waiver must be made in writing to the Office of the Secretary.

#### **Medical Staff**

Level I and II units must have at least one physician of at least the postgraduate year 2 assigned to the PICU in house 24 hours per day. Other physicians including the attending physician or designee shall be available within 30 minutes. Level I units shall have on staff a pediatric

anesthesiologist, surgeon, cardiothoracic surgeon, neurosurgeon, intensivist, cardiologist, neurologist, pulmonologist, hematologist/oncologist, endocrinologist, gastroenterologist, allergist or immunologist, as well as a radiologist, pathologist and a psychiatrist or psychologist. Level II units shall meet the above medical staff except the cardiothoracic surgeon and the pediatric subspecialties.

#### **Nursing Staff**

Level I and II shall have a unit manager dedicated to the unit who is a registered nurse with specific training and experience in pediatric critical care. The Level I manager shall be certified in critical-care nursing. The nurse manager shall name a qualified alternate to act in his/her absence. The staff to patient ratio shall vary with the acuity of the patients; however, the minimum shall be 1:3. There shall be an organized written orientation program as well as an ongoing in service/continued education program. (There shall be a three year phase-in period with regard to staffing requirements.)

#### **Ancillary Support Personnel**

For the Level I Units the respiratory therapy staff assigned to unit shall be in house 24 hours per day. Biomedical technicians shall be available within one hour, 24 hours a day. Unit clerk shall be readily available to the unit 24 hours a day. A pharmacist and radiologist must be in house 24 hours a day. Social worker, physical therapist and nutritionist are assigned to the unit as applicable.

For the Level II Units the respiratory therapist in house 24 hours a day. biomedical technician available within one hour 24 hours a day. Pharmacist and radiologist on call 24 hours a day. Unit clerks, social worker, physical therapist and nutritionist available as applicable.

#### **Additional Hospital Facilities and Services**

Level I units shall be located in Category 1 facility as defined by the American Academy of Pediatrics. The Emergency Department (ED) shall have a separate covered entrance. Two or more areas within the ED shall have the capacity and equipment to resuscitate any pediatric patient with any medical, surgical or traumatic illness facilities within Level I units. Hospitals with Level II units only need one such area. The emergency room shall be staffed 24 hours a day in facilities with either Level I or II units. There shall be a operating suite with one room available within 30 minutes and a second room within 45 minutes 24 hours a day. Hospitals with Level I units must have the capability of providing cardiopulmonary bypass, pediatric bronchoscopy and radiography. Clinical laboratories shall have micro-specimen capability, clotting studies with one hour turn around capability. There must also be the capability to perform complete blood cell count, differential count, platelet count, urinalysis, electrolytes, blood urea nitrogen, creatine, glucose, calcium, prothrombin time, partial prothrombin time, and cerebrospinal fluid cell counts. Preparation of gram stains and bacteriologic cultures shall be available 24 hours per day. Blood gas values must be available within 15 minutes. Results of drug screening and levels of serum ammonia, serum and urine osmolarity, phosphorus and magnesium shall be available within three hours for Level I units. There must be

a blood bank able to provide all blood components 24 hours a day in both Level I and II. Cross matching shall allow for transfusions within one hour unless some unusual antibody is encountered. Hospitals with Level I units must have radiology services capable of portable radiography, fluoroscopy, computerized tomography scanning, ultrasonography, and nuclear scanning angiography. Diagnostic cardiac and neurologic studies shall be available to both Level I and II unit facilities. A catheterization laboratory or angiography suite must be present in facilities with Level I units. Level I units shall have the capability to provide hemodialysis 24 hours a day.

#### **Equipment/Drugs**

There shall be lifesaving therapeutic and monitoring equipment present in Level I and II units. There shall be a complete "code" or "crash" cart available on both Level I and II units. The cart contents should include, but not be limited to, approved medications, a defibrillator/cardioverter, automated blood pressure apparatus devices available on Level I and II units. All equipment shall be of proper size for infants and children. Oxygen tanks are needed for transport and backup for both Level I and II units. There will be additional equipment available to meet the needs of the patient population. Level I units shall have the capability of ventilator support. There must be bedside monitoring in all PICUs with the capability for continuously monitoring heart rate and rhythm, respiratory rate, temperature and one hemodynamic pressure. In level I, units must also have the ability to monitor systemic arterial, central venous, pulmonary arterial and intracranial pressures. The monitors must have alarms with both high and low settings and they must also have both audible and visible capability. There shall be a maintenance and calibration schedule maintained for all monitoring devices.

#### **Pre-hospital Care**

PICUs shall be integrated with the Regional EMS system as available. Rapid access to a Poison Control Center is essential. Each PICU shall have or be affiliated with a transport; system and team to assist other hospitals in arranging safe patient transport.

#### **Miscellaneous Requirements**

There shall be a quality assurance program in place which reviews quality of care and compares observed and predicted mortality rates for the severity of illness in the population of the PICU. Each Level I PICU shall offer pediatric critical care education for EMS providers, emergency department and transport personnel as well as for the general public. The staff nurses and respiratory therapists must also have Basic Life Support Certification.

Level I PICUs will possess sufficient patient volume, teaching expertise, and research capability to support a fellowship Program in Pediatric Critical Care. Programs providing sub-specialty training in critical care must possess approval by the residency review committee of the accreditation council on graduate medical education. Research is essential for improving our understanding of the pathophysiology affecting vital organ systems. Such knowledge is vital to improve patient care techniques and therapies and thereby decrease morbidity and mortality.

#### **Burn Care Unit**

Burn care units are to provide optimal care for patients with burn injuries (both adults and children) from the time of injury through rehabilitation. DHH is adopting the American Burn Association's guidelines which are specified below.

#### **Organizational Structure Documentation of Policies and Procedures**

The commitment of the institution's medical and administrative leadership should be documented in a burn center manual with policies specifying the commitment. Policies included should address the institutional relationships, administrative operation, staffing, and programs of the burn center.

The burn unit is a specialized nursing unit that is dedicated to burn care. The use of beds in the burn unit by other medical/surgical services should be governed by a protocol specifying priorities and assuring the availability of specialized burn beds for patients with acute burns when needed.

#### **Relationship to Other Medical Staff**

The availability and accessibility of consultation by physicians and surgeons in all specialties relevant to the care of the patient with burns should be documented. An on-call schedule should be established for the most important specialty areas.

#### **Burn Service**

An organized burn service should be formally established by the medical staff of the institution. The members of the burn service should be properly certified by the institution. The chief of the burn service should serve as the medical director of the burn center.

#### **Qualifications of the Burn Center Director**

The medical director of the burn center should be a licensed, board certified general or plastic surgeon on the active medical staff of the institution with at least 2 years experience in the management of patients in a burn center.

#### **Responsibilities of the Burn Center Director**

The medical director will be provided by the institution with the appropriate authority and responsibility to direct and coordinate all medical services to patients admitted to the burn center. The medical director will be responsible for regular communications with physicians and other authorities regarding referred patients, and for appropriate burn center management functions, including quality assurance, liaison with adjacent burn centers, internal and external education programs, and coordination with regional and state EMS programs. The burn center director will designate one or more appropriately certified physicians with at least six months experience in management of the patient with burns to be accessible for administrative and clinical decisions when the director is not available. The burn service director should participate actively in at least 50 cases a year.

#### **Consistency of Protocol and Reporting**

The care of the burn center patients accommodated in areas other than the specialized nursing unit should be guided by policies and protocols consistent with those of the burn unit. Similarly, annual statistical reports should encompass care provided both in the burn nursing unit and in other units accommodating burn center patients.

### **Admission of Census Levels for the Burn Center**

The following numbers of patients are deemed appropriate to maintain skill levels and provide reasonable access to specialized burn care. The average daily census of the burn center, including the burn unit and any other areas accommodating patients with acute injuries in the burn service, should be at least four patients with acute burns. The number of acute burn admissions to the burn center, including the burn unit and any other areas accommodating burn center patients, should exceed 75 annually. Burns identified as usually requiring referral to a burn center (as detailed in the next paragraph) should make up at least 80 percent of the admissions required to meet this standard.

### **Burn Center Referral Criteria**

Burn injuries usually requiring referral to a burn center include the following (questions concerning specific patients can be resolved by consultation with the burn center physician):

1. second and third degree burns greater than 10 percent total body surface area (TBSA) in patients under 10 or over 50 years of age;
2. second and third degree burns greater than 20 percent TBSA in other age groups;
3. second and third degree burns that involve the face, hands, feet, genitalia, perineum, and major joints;
4. third degree burns greater than five percent TBSA in any age group;
5. electrical burns including lightning injury;
6. chemical burns;
7. burn injury with inhalation injury;
8. burn injury in patients with preexisting medical disorders that could complicate management, prolong recovery, or affect mortality;
9. any patients with burns and concomitant trauma (for example, fractures) in which the burn injury poses the greatest risk of morbidity or mortality. In such cases, if the trauma poses the greater immediate risk, the patient may be treated initially in a trauma center until stable before being transferred to a burn center. Physician judgment will be necessary in such situations and should be in concert with the regional medical control plan and triage protocols;
10. hospitals without qualified personnel or equipment for the care of children should transfer children with burns to a burn center with these capabilities;
11. burn injury in patients who will require special social/emotional and/or long-term rehabilitative support, including cases involving suspected child abuse, substance abuse, etc.

### **Medical Personnel**

Medical care to burn center patients should be provided by the burn center medical director or other appropriately certified physicians operating with the director's approval and utilizing standard burn center patient care protocols.

### **Coverage**

There should be at least one full-time equivalent surgeon involved in the management of patients with burns for each 200 annual inpatient admissions to the burn center. This coverage requirement may be met in part by residents.

### **Surgical Specialty Support**

Staff specialists are to be on call and available promptly for consultation in the specialties listed below. The initial response may be provided by residents who are capable of assessing emergency situations in their respective specialties and who can provide any immediately indicated treatment.

The surgical specialties for which staff members are to be on call for are: general, cardiothoracic, neurologic, obstetrics/gynecologic, ophthalmic, oral, orthopedic, otorhinolaryngologic, pediatric, plastic, urologic.

### **Nonsurgical Specialty Support**

Members of the following nonsurgical specialties should be available: anesthesiology, cardiology, gastroenterology, hematology, infectious disease, internal medicine, nephrology, neurology, nutrition, pathology, pediatrics, physiatry, psychiatry, pulmonary, radiology.

### **Nursing Personnel**

One registered nurse (RN) should be administratively responsible for the burn unit. This individual should be a full-time employee with two years of intensive care or equivalent experience and a minimum of 12 months of experience in a burn unit. Education qualifications will be a baccalaureate degree (minimum) and at least six months of management experience.

### **Staffing Levels**

The assigned number of nursing staff hours should be based on a documented patient classification system.

### **Burn Rehabilitation Therapy**

Both physical and occupational therapy should be represented in the burn center staff. The respective roles of physical and occupational therapy should be representative of and consistent with their respective professional training and with licensing laws.

### **Coverage**

Burn rehabilitation therapists may be physical therapists or occupational therapists. They should be licensed or registered in their specific disciplines and should be assigned on a full-time basis to the burn center. Staffing should be based on the combined inpatient and outpatient work load of the burn service. There should be at least one full-time equivalent burn therapist for an average of seven patients, which may represent a combination of both inpatients and outpatients.

### **Rotation of Personnel**

Where either therapy service is provided to the burn center on a rotational basis, rotations must be for at least 3 months and must be filled by therapists who meet the continuing education requirements in burn care as related to their specialty.

### **Supervision**

During their initial rotation, therapists in either discipline should receive regular supervision from individuals who have a minimum of one year of experience in burn treatment.

### **Other Personnel - Social Worker**

A social worker should be assigned permanently to inpatient and outpatient burn care facilities. If assignment is by rotation, such rotations should be at least one year in duration.

### **Nutrition**

A dietitian should be available on a daily basis for

consultation to burn center medical and nursing staff and patients.

#### **Pharmacy**

A pharmacist should be available on a daily basis for consultation to burn center medical and nursing staff and patients. This pharmacist should have had a minimum of six months of critical care experience and should be knowledgeable in pharmacokinetics and the special kinetics of patients with burn injuries.

#### **Respiratory Therapy**

Respiratory therapists should be available to participate in the assessment and treatment of all burn center patients as needed.

Clinical psychologists and clergy should be assigned permanently to inpatient and outpatient burn care facilities. If assignment is by rotation, such rotations should be at least one year in duration.

The majority of pediatric patients with burns are treated in burn centers with both adult and pediatric patients. Burn centers that treat pediatric patients should have personnel with special interest and expertise in the care and management of children with burns.

#### **Other Services**

Protocols governing the involvement of other hospital departments in support of the burn center should be included in the burn center manual. Such departments will include, but not limited to, central supply, emergency, housekeeping, laboratory, pharmacy, public relations, security, and volunteers.

#### **Program for Quality Assurance**

The burn center manual will include protocols and policies that support systematic and comprehensive approaches to the care of the patient with burns. These should include triage and resuscitation/stabilization protocols that should be disseminated to health care providers within the burn center service area. A coordinated multidisciplinary plan should be developed for each patient on admission and revised as appropriate during hospitalization with respect to both treatment objectives during hospitalization and postdischarge plans.

#### **Weekly Conference**

Conferences should be held at least weekly to review and evaluate the status of each burn center inpatient with representation by each clinical discipline regularly involved in burn center care. The conference should include a review of each patient's progress in recovery, need for surgery, and rehabilitation needs, both physical and psychosocial.

#### **Other Conferences**

A documented morbidity/mortality conference should be held at regular intervals consistent with education program requirements. Other conferences of a problem-solving nature should be scheduled with minutes taken to document the responsibility for problem-solving and to record the results of actions taken.

#### **Registry**

The burn center will have an internal registry for all inpatients and should participate in an externally based registry.

#### **Audit**

The burn center will provide an audit of the previous year's patient care covering at least severity of burn, deaths, incidence of complications, length of hospitalization, and cost of care. Additional audits of any of these or other elements of care will be carried out as a given situation requires.

#### **Participation in EMS System**

The burn center will cooperate with the appropriate audit committees of the regional or state EMS system where they exist, by providing patient care data for system management, quality assessment, and operations research, both routinely and in response to special requests, and by participating in local audits of the EMS system.

#### **Other Programs**

##### **Education Program**

Medical, nursing, and ancillary staff of the burn center will participate in educational programs or activities pertaining to burn care, both at initial orientation and on a planned, organized and coordinated inservice basis. Educational programs should be designed to incorporate the results of problem-solving audits and conferences.

Participants in the hospital's general surgery and other residency programs should have the opportunity to experience a rotation to the burn service.

A formal educational program in burn care shall be required for all nurses, physical therapists, and occupational therapists employed in the burn center with burn care content equivalent to approximately four continuing education units. This educational program will be related to the individual nurse's or therapist's background and level of responsibility in the burn center. Nurse education will be planned and coordinated by the burn unit head nurse or by a member of the hospital nursing staff with equivalent critical care and burn nursing experience.

All professional personnel employed in the burn center will have access to continuing education programs in burn care conducted inside or outside the institution on at least an annual basis. All educational programs should meet the standard of some external organization that provides or approves curriculum or continuing education programs, where such an organization is available.

##### **Rehabilitation Program**

The burn center should provide the following rehabilitation services:

1. recreational and educational services during hospitalization for those patients able to utilize them;
2. evaluation of needs and support capabilities of patient's family or other significant persons and cooperative planning with family or other significant persons for patient discharge;
3. documentation of need for and availability and accessibility of community resources to assist in meeting the patient's physical, psychosocial, educational, and vocational needs following discharge. The social worker assigned to the burn unit should coordinate these activities. A clinical psychologist or psychiatrist should be available for consultation as needed;
4. evaluation of each patient's physical, psychological, and vocational status should be done at appropriate intervals



after discharge from the hospital;

5. plans for readmission for medical/surgical treatment for late problems or rehabilitation and reconstruction.

#### **Burn Prevention**

A member of the burn center or hospital staff should be assigned to maintain data and develop statistics regarding the causes of injuries sustained by burn center patients. Each burn center system should participate in a public burn awareness program covering prevention and immediate treatment of burn injuries.

#### **Burn Research**

Burn center staff should be involved in research related to burn injury that may include, but is not limited to, basic research, clinical research, or health services research.

#### **Configuration and Equipment**

The burn unit should contain beds that should be used predominantly for the care of patients with burn injuries or those suffering from other injuries or skin disorders whose treatment requirements are similar to those of patients with burns. Intensive care capability, providing full cardiopulmonary monitoring and respiratory support, should be available for at least four beds in the burn unit. Because of the known susceptibility of burn wounds to infection, an effective means of isolation should be provided for all patients.

#### **Equipment**

The following equipment should be available to all patients in the burn unit: weight measurement devices, a system of temperature control in areas where patients' wounds are exposed, oxygen sources with concentration controls, cardiac emergency cart, and backup electrical supply.

The following equipment and supplies should be available in both the hospital emergency department and the burn unit and should be available in sizes and doses appropriate for adult and pediatric patients; airway control and ventilation equipment, including laryngoscope and endotracheal tubes of appropriate sizes; bag mask resuscitator and source of oxygen; bronchoscopes; suction devices; sterile surgical sets; gastric lavage equipment; drugs and related supplies; roentgenographic equipment; Foley catheters; electrocardiograph/oscilloscope/defibrillator; apparatus to establish central venous pressure; and intravenous fluids and administration devices, including intravenous catheters.

#### **Communications with Prehospital Services**

There should be a direct communication link between the prehospital system and the burn center. The contact point may be either in the burn unit or in the emergency department.

#### **Renal Dialysis Capability**

There should be provision for renal dialysis on a 24-hour basis or a written transfer agreement with an available and accessible dialysis facility in another hospital.

#### **Radiologic Capability**

The hospital's radiologic capability should be provided on a 24-hour basis and should include angiography, sonography, nuclear scanning, and computed axial tomography.

#### **Clinical Laboratory Service**

The hospital's clinical laboratory service should be available 24 hours a day and should include the following capabilities; routine studies for blood, urine, and other body fluids; blood gases; pH determinations and carboxyhemoglobin; coagulation

studies; serum and urine osmolality; microbiologic culture and sensitivity; comprehensive blood bank or access to a community central blood bank; adequate hospital storage facilities; and toxicology screening.

#### **Operating Suites**

Operating suites used in burn surgery should contain or have access to the following equipment; operating microscope, thermal control equipment for patients, roentgenographic equipment, dermatomes including mesh dermatomes, electrocardiograph/oscilloscope/defibrillator, direct blood pressure arterial line equipment, blood flow rate monitor, in-line blood and intravenous fluid warmers and anesthetic breathing circuit heating humidifiers.

#### **Skin Bank**

If a skin bank exists, the physical configuration must conform to the standard of the American Association of Tissue Banks or equivalent. If there is no skin bank, a protocol for procurement and handling of banked skin should exist, if banked skin is used.

#### **Special Areas**

A conference room/meeting room, a family room and an adequate exercise area must be available.

#### **Transplants**

Transplant services covered under the Medical Assistance Program include but are not limited to heart, liver, kidney and bone marrow transplants for which rates have been established. Rates for other types of transplants will be established as necessary. Transplants must be pre-approved by the department and performed in hospitals that meet the federal criteria required to qualify as a Medicare-designated transplant center including volume requirements for related procedures when applicable. The bureau's health standards section may grant an exception to the qualifying criteria for a hospital whose transplant program was recognized by Medicaid of Louisiana prior to July 1, 1994. These hospitals must operate or participate in a recognized organ procurement program.

As transplants become recognized as non-experimental and covered by Medicare, the department will develop rates and criteria accordingly.

In addition to the above criteria, transplant units must meet the following criteria for recognition by Medicaid for specialty unit reimbursement:

- 1) must be a member of the (OPTN) Organ Procurement and Transplant Network;
- 2) must have organ receiving and tissue typing facility (HCFA approved for histocompatibility) or an agreement for such services;
- 3) must maintain written records tracking mechanism for all grafts and patients including:
  - a) patient and/or graft loss with reason specified for failure;
  - b) date of procedure;
  - c) source of graft;
  - d) if infections agent involved must have written policy for contacting patients and appropriate governmental officials;
- 4) must have written criteria for acceptable donors for each type of organ for which transplants are performed;
- 5) must have adequate ancillary departments and qualified

staff necessary for pre-, intra-, and post-operative care including but not limited to:

- a) assessment team;
  - b) surgical suite;
  - c) intensive care;
  - d) radiology;
  - e) laboratory pathology;
  - f) infectious disease;
  - g) dialysis;
  - h) therapy (rehab);
- 6) minimum designated transplant staff:
- a) transplant surgeon—adopt standards as delineated and updated by the Organ Procurement and Transplant Network;
  - b) transplant physician—same as above;
  - c) clinical transplant coordinator:
    - (1) RN Licensed in Louisiana;
    - (2) certified by NATCO or in training and certified within 18 months of hire date;
  - d) transplant social worker;
  - e) transplant dietician;
  - f) transplant data coordinator;
  - g) transplant financial coordinator;

Note: (For 6.a-g above, continuing education is required for continued licensure and certification as applicable.)

- 7) written patient selection criteria and an implementation plan for application of criteria;
- 8) facility plan, commitment and resources for a program capable of performing the following number of transplants per year/per organ a minimum of:
  - a) heart - 12;
  - b) liver - 12;
  - c) kidney - 15;

other organs as established per Medicare and/or OPTN. If level falls below the required volume, the hospital will be evaluated by health standards for continued recognition as a transplant center;

9) facility must demonstrate survival rates per organ type per year which meet or exceed the mean survival rates as published annually by the OPTN. (If rates fall below this level, the hospital must supply adequate written documentation for evaluation and justification to Health Standards.)

Hospitals seeking Medicaid reimbursement for high intensity services such as NICU, PICU, burn care and/or transplant must request and submit an application to provider enrollment of the Bureau of Health Services Financing of the Department of Health and Hospitals specifying the service and level of care they are/will be providing. Each applicant must also attest to their compliance with the specified service criteria for each type of service.

Upon receipt of each application, provider enrollment will notify the health standards section of BHSF of DHH to schedule an on-site survey to verify the applicant's compliance with such standards. All applicants will be scheduled within 30 days after receipt of their applications. Annual resurveys will be performed on a 15 percent sample basis throughout the calendar year.

A hospital wishing to change a level of care must submit an application to provider enrollment and an attestation to their

compliance with the new levels's requirements. A change in level of care will only be recognized at the beginning of the hospital's subsequent cost reporting period after the health standards section has verified the applicant's compliance via an on-site survey. Therefore, requests should be filed ninety days prior to the beginning of the new cost reporting period.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule and providing information regarding the public hearing. At that time all interested parties will be afforded an opportunity to submit data, views or arguments orally or in writing. Copies of this and all Medicaid rules and regulations are available for review at parish Medicaid offices.

Rose V. Forrest  
Secretary

### DECLARATION OF EMERGENCY

Department of Public Safety and Corrections  
Office of Alcoholic Beverage Control

Beer and Wine Sampling (LAC 55:VII.317)

Under the authority of the Alcoholic Beverage Control Law, particularly R.S. 26:287 and R.S. 26:150(AA), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety, Commissioner of the Office of Alcoholic Beverage Control adopts an emergency rule amending the Liquor Credit Regulations, LAC 55:VII.317.D.6.

Emergency rulemaking is necessary since current regulations do not adequately regulate alcoholic beverage sampling on the premises of a licensed retailer. This emergency rule is also necessary as rulemaking has not been completed on the permanent rule.

This emergency rule is effective May 20, 1994 and shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

#### TITLE 55

#### Part VII. Alcoholic Beverage Control

#### Chapter 3. Liquor Credit Regulations

#### §317. Regulation Number IX. Prohibition of Certain Unfair Business Practices in Malt Beverage Industry

\* \* \*

#### D. Exceptions

\* \* \*

#### 6. Trade Calls

a. Bar spending during trade calls, wherein the beer or wine purchased by a manufacturer or wholesaler for a consumer is consumed on retail licensed premises in the presence of the giver, shall be lawful so long as the state's laws regulating retail establishments such as the legal drinking



age, etc., are observed and not more than \$150 is expended during the trade call. No such trade calls may occur on college campuses. Manufacturers and wholesalers may be accompanied by entertainers, sports figures and other personalities during trade calls. The trade calls may be pre-announced to consumers in the retail account through table tents, posters and other inside signs. No outside advertising of such events through signs or any media is allowed.

b. The gift of beer or wine as a purely social courtesy to unlicensed friends and associates of a manufacturer or wholesaler shall be lawful.

c. Beer or wine sampling for the purpose of determining consumer taste preferences may be conducted on premises holding a regular Class A or B permit, if the permittee grosses at least 75 percent of its average monthly revenue from the sale of alcoholic beverages.

i. No wholesaler or manufacturer shall furnish, give or lend any equipment, fixtures, signs, supplies, money, services or other thing of value, directly or indirectly, for such alcoholic beverage sampling.

ii. No sampling of product in a greater quantity than two ounces per bottle for each type of alcoholic beverage shall be offered or provided any one individual at any one sampling.

iii. All samplings shall be limited in duration to one day.

iv. No more than two samplings shall be conducted on the same licensed premises in each month.

v. Written notification shall be provided the Office of Alcoholic Beverage Control at least one week prior to the date of the sampling.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 26:287 and R.S. 26:150(A).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:

Raymond E. Holloway  
Assistant Secretary

## DECLARATION OF EMERGENCY

Department of Public Safety and Corrections  
Office of Alcoholic Beverage Control

Prohibited Acts (LAC 55:VII.701)

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 26:793 which authorizes the assistant secretary (commissioner) to promulgate rules concerning live entertainment, the Department of Public Safety, Office of Alcoholic Beverage Control, hereby declares an emergency rule concerning live entertainment and prohibited acts.

The commissioner finds that in order to implement the

appropriate rules and regulations to comply with R.S. 26:793, it is necessary to do so on an emergency basis so as to maintain the ongoing continuity in the ability of the Office of Alcoholic Beverage Control to enforce the laws regulating the type of entertainment allowed on licensed premises on a statewide basis. This emergency rule is necessary as rulemaking has not been completed on the permanent rule.

The effective date of this emergency rule is May 20, 1994, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

## Title 55

### PUBLIC SAFETY

#### Part VII. Alcoholic Beverages

#### Chapter 7. Live Entertainment

#### §701. Prohibited Acts

A. Notwithstanding any provisions of R.S. 26:90(D) and (E) and R.S. 26:286(D) and (E) to the contrary, live entertainment shall be permitted on any licensed premises except that no permittee shall permit any person to perform acts of or act which permit or simulate:

1. sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

2. the touching, caressing or fondling of the breasts, buttocks, anus or genitals;

3. the displaying of the pubic hair, anus, vulva or genitals.

B. Such live entertainers whose breasts or buttocks are exposed to view shall perform only upon a movable or immovable stage at least 18 inches above the immediate floor level. Any provisions of R.S. 26:90 and R.S. 26:286 to the contrary are hereby suspended.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 26:793.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 20: (June 1994).

Raymond Holloway  
Assistant Secretary

## DECLARATION OF EMERGENCY

Department of Public Safety and Corrections  
Office of State Police  
Riverboat Gaming Division

Operating Standards  
(LAC 42:XIII.Chapters 23-45)

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 the operating standards of riverboat gaming. This emergency rule becomes effective June 21, 1994 and shall remain in effect for 120 days.

There are currently thirteen riverboats licensed and

conducting gaming with many applications for a license pending. The emergency adoption of these rules is necessary to prevent an interruption in the operation of the riverboats which are licensed and operating. These riverboats generate a source of revenue necessary for the operations of the state which benefit 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 the 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 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.

Any unnecessary delay in the promulgation of Riverboat Gaming Division enforcement rules will interrupt riverboat gaming operations, thereby postponing the collection of revenue for the state.

As a result of the above findings, the Riverboat Gaming Division hereby adopts an emergency rule, copies of which may be obtained from the Riverboat Gaming Division of the Office of State Police, Box 66614, Baton Rouge, LA 70896-6614 or through the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Paul W. Fontenot  
Deputy Secretary

## DECLARATION OF EMERGENCY

Department of Social Services  
Office of Community Services

Children's Trust Fund Plan for Preventing Child Abuse  
and Neglect (LAC 67:V.401)

The Department of Social Services, Office of Community Services has exercised the emergency rule provision of the Administrative Procedure Act, R. S. 49:9503(B), to adopt the

following emergency rule in the Children's Trust Fund Program, effective June 20, 1994. This emergency rule shall remain in effect for period of 120 days or until a final rule is promulgated, whichever occurs first.

Emergency rulemaking is necessary in order to enable grants to be awarded, effective July 1, 1994, as required by federal regulations.

### Title 67

### SOCIAL SERVICES

#### Part V. Community Services

#### Subpart 1. General Administration

#### Chapter 4. Children's Trust Fund

#### §401. Plan for Preventing Child Abuse and Neglect in Louisiana

A. In accordance with R.S. 46:2406, the Louisiana Children's Trust Fund Board has plans to adopt a plan for preventing Child Abuse and Neglect in Louisiana for 1994-96, which establishes criteria for grant awards and other activities of the Louisiana Children's Trust Fund. The plan became effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

B. A copy of the plan is available for review by the public at the Louisiana Children's Trust Fund Office, 333 Laurel, Suite 735, Baton Rouge, LA 70804. Interested persons may call the office at (504) 342-2245 to make arrangements to review the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2406.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 20:

Gloria Bryant-Banks  
Secretary

## DECLARATION OF EMERGENCY

Department of Social Services  
Office of Rehabilitation Services

Policy Manual (LAC 67:VII.101)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is adopting revisions to its policy manual through the emergency rule provisions.

The purpose of this declaration of emergency, effective June 13, 1994, for 120 days, is to provide federally mandated revisions to the rules governing the policy used by the Louisiana Rehabilitation Services in implementing its various programs in a timely manner so as to avoid the loss of federal funding.

As a result of public hearings conducted on January 27, 1994, Louisiana Rehabilitation Services has changed its policy relative to the hearing impaired eligibility criteria, to expand this criteria.

This emergency rule supersedes all rules previously promulgated related to the Rehabilitation Services' policy manual.

**Title 67  
SOCIAL SERVICES**

**Part VII. Louisiana Rehabilitation Services**

**Chapter 1. General Provisions**

**§101. Policy Manual**

LRS Policy Manual, fiscal year 1994, provides opportunities for employment outcomes and independence to individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994).

Copies of the entire text of the revised 1994 policy manual can be obtained at Louisiana Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA, at each of its nine regional offices, and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

Gloria Bryant-Banks  
Secretary

**DECLARATION OF EMERGENCY**

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

**Crawfish Activities—Sherburne Wildlife Management Area**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of the Wildlife and Fisheries Commission 1993-94 Hunting Regulations (LR 19 No. 7) promulgated in accordance with R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries hereby finds that an emergency situation exists and accordingly adopts the following emergency rule.

**Emergency Rule**

No crawfish traps or crawfish nets shall be left overnight on Sherburne Wildlife Management Area.

The secretary finds that this rule is necessary to (1) prevent user conflicts and equitably allocate the crawfish resources on this area to all the user public; (2) prevent damage to new plantings of cypress and hardwood trees susceptible to damage by outboard motors; (3) maintain recreational opportunity; (4) comply with the terms of the license to manage the U.S. Army Corps of Engineers property that is part of Sherburne Wildlife Management Area.

This emergency rule shall become effective May 16, 1994, is enacted in lieu of a complete closure of crawfishing activity on Sherburne Wildlife Management Area to remedy the conditions of imminent peril stated above, and shall be promulgated as part of the 1994-95 Hunting Regulations.

Joe L. Herring  
Secretary

# RULES

**RULE**

**Department of Agriculture and Forestry  
Horticulture Commission**

**Horticulture Standards and Exam Fees  
(LAC 7:XXIX. Chapter 151)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, has amended the rules and regulations regarding the qualifications for examination and licensure of persons performing horticulture and landscape architectural work. These rules comply with and are enabled by R.S. 3:3801 et seq. No preamble regarding these rules is available.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXIX. Horticulture Commission**

**Chapter 151. Horticulture Commission**

**§15105. Qualifications for Examination and Licensure  
or Permitting**

\* \* \*

D. All applicants for licensure must successfully complete the examination prescribed by the commission for the area in the practice of horticulture for which the license is sought.

1. Applicants for a landscape architect's license who are applying through reciprocity shall submit evidence of successful completion of an exam approved by CLARB or the commission and licensure in another state whose requirements for licensure are at least equal to those of this state. Such persons shall be required to pass the Louisiana section of the examination in order to be licensed in Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3801, R.S. 3:3807 and R.S. 3:3808.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20: (June 1994).

**§15107. Procedures for Application for Examination and  
Licensure or Permitting**

\* \* \*

**C. Landscape Architect**

\* \* \*

2. Any applicant for licensure as a landscape architect who successfully completes one or more of the different sections of the examination but does not successfully complete all sections of the examination will not be required to submit to re-examination in any section which was successfully completed. In such cases, the applicant may apply to re-take only the section(s) of the examination which were not successfully completed.

**D. Wholesale Florist, Arborist, Utility Arborist,  
Horticulturist, Landscape Contractor**

1. Applicants who desire to take the examination for

wholesale florist, arborist, utility arborist, horticulturist, or landscape contractor may apply at any time, in person or by writing, to the commission's state office in Baton Rouge or to any district office of the Department of Agriculture and Forestry. Applicants who apply in person, without having previously filed a written application, will be allowed, whenever feasible, to complete the written application form at the initial visit.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3801, R.S. 3:3807 and R.S. 3:3808.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:3 (March 1992), LR 20: (June 1994).

**§15109. Fees for License or Permit and Renewal Thereof**

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**B. Landscape Architect**

1. The fee for the complete examination for licensure as a landscape architect shall be the cost of the examination plus an administrative fee of \$50.

2. The fee for examination or re-examination in the various sections for licensure as a landscape architect shall be the cost for each section plus one administrative fee of \$50.

3. The fee for examination in only the state section for licensure as a landscape architect shall be the administrative fee of \$50.

**C. Wholesale Florist, Horticulturist, Arborist, Utility Arborist, and Landscape Contractor**

1. The fee for examination or re-examination for licensure as a wholesale florist, horticulturist, arborist, utility arborist, and landscape contractor shall be \$35.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3801, R.S. 3:3805 and R.S. 3:3806.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:3 (March 1992), LR 20: (June 1994).

**§15113. Examination Schedule**

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**C. Wholesale Florist, Horticulturist, Arborist, Utility Arborist, and Landscape Contractor**

1. Examinations for licensure as a wholesale florist, horticulturist, arborist, utility arborist, and landscape contractor will be administered in the commission's state office in Baton Rouge and in district offices of the Department of Agriculture and Forestry upon request. Interested applicants may apply, in person or by writing, at the state office or the most convenient district office and a date for the examination will be established for each applicant.

**D. Interim Required Prior to Re-examination**

1. Whenever any applicant fails to successfully complete all sections of an examination for licensure, he may not apply to re-take the section of the examination which was not successfully completed for a period of two weeks following the date of the examination which he failed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3801 and R.S. 3:3807.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:3 (March 1992), LR 20: (June 1994).

**§15115. General Requirements for All Licensees or Permittees**

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D. All sod sold or installed in quantities of two pallets or 100 square yards or more shall be accompanied by a completed form indicating the type and class of sod. The form shall be specified by the commission and the consumer shall be provided with the completed form at the time of sale or installation. Copies of completed forms shall be kept on file and made available to commission representatives upon request for a period of one year after sale or installation.

1. The types of sod shall be indicated as: Centipede, St. Augustine, Bermuda, Zoysia, Carpet, Mixed, or Other. Bermuda, mixed, or other types shall be specified as to varieties.

2. The classes of sod shall be indicated as follows:

a. Class A (Superior Quality)—shall be free from bahia grass, torpedo grass, and Florida betony. Shall not contain more than five plants per 100 square feet of any other grasses, broadleaf weeds, or sedges.

b. Class B (Good Quality)—shall be free from bahia grass, torpedo grass, and Florida betony. Shall not contain more than 25 plants per 100 square feet of any other grasses, broadleaf weeds, or sedges.

c. Class C (Field Sod)—may include all sod not covered in the Classes A or B above. It may consist of sod lifted from pastures which may have been grown primarily for forages.

3. All sod must be free of insects and diseases and viable at the time of sale or installation.

4. It is the responsibility of the licensee or permittee to provide the proper classification of sod. Any discrepancies will be investigated by a representative of the commission. Any improper classification shall be considered a violation of this Part.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20: (June 1994).

**§15117. Required Standards of Practice**

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**B. General Requirements for Landscape Architect**

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4. All designs and specifications utilizing sod shall specify the type and class of sod to be used as provided in LAC 7:XXIX.15115.D and accompanied by the sod classification form specified by the commission.

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**D. General Requirements for Horticulturist**

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4. All sod sold or recommended shall be classified as provided in LAC 7:XXIX.15115.D.

5. Recommendations and maintenance practices shall meet the standards outlined in the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by the Louisiana Association of Nurserymen.

E. General Requirements for Arborist

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8. Prior to renewal of an arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

9. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by Louisiana Association of Nurserymen.

F. General Requirements for Landscape Contractor

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3. All sod used in landscaping shall be classified as provided in LAC 7:XXIX.15115.D.

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6. Recommendations and planting practices shall meet the standards outlined in the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by the Louisiana Association of Nurserymen.

G. General Requirements for Nursery Stock Dealer

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6. All sod sold shall be classified as provided in LAC 7:XXIX.15115.D.

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I. General Requirements for Utility Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except in remote utility rights-of-way that are inaccessible to tree trimming equipment where no other practical means of trimming the tree is available or as provided in LAC 7:XXIX.15117.E.3.

2. Before the commission issues a utility arborist license, the person to be licensed shall first furnish to the commission a certificate of insurance as provided in LAC 7:XXIX.15117.E.2.a.

3. Licensees must make their license available to the public or any representative of the commission at all times.

4. Prior to renewal of a utility arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

5. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and *Pruning Trees Near Electric Utility Lines - A Field Pocket Guide for Qualified Line-clearance Tree Workers*, by Dr. Alex Shigo.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20: (June 1994).

Bob Odom  
Commissioner

## RULE

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

Reporting Pesticide Poisoning and Emergencies;  
Training; Aerial Applicator Certification  
(LAC 7:XXIII.13123-13211)

The Department of Agriculture and Forestry, Advisory Commission on Pesticides, hereby amends LAC 7:XXIII.Chapter 131. These rule amendments provide for: (1) certification of commercial aerial applicators (2) training of agricultural and environmental specialists, (3) reporting of pesticide emergencies and (4) notification of pesticide poisoning.

### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Louisiana Advisory Commission on Pesticides

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

#### Subchapter F. Certification

#### §13123. Certification of Commercial Applicators

A. The commissioner hereby establishes the following standards as qualifications required for certification:

1. - 3. ...

4. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, who have been found to have violated a provision of the Louisiana Pesticide Law or any of the rules or regulations adopted pursuant to that law by the Advisory Commission on Pesticides or the commissioner, or who have received a "warning letter" from the department during the past calendar year, shall attend a department-approved off-target training course prior to making any application in the following year, in order to maintain their certification as a commercial aerial applicator.

5. Commercial aerial pesticide applicators who are certifying for the first time or who have not been certified within the past three years, with the single exception of aerial mosquito pest control applicators, must attend a department-approved off-target training course prior to making any application.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 19:736 (June 1993), LR 20: (June 1994).

#### Subchapter Z. Emergency Procedures Related to Pesticides

#### §13185. Response to Emergency

\*\*\*

C. Reporting Requirements. If it is reasonably believed that a pesticide emergency has taken place, all appropriate requirements for reporting to the Louisiana Department of

Agriculture and Forestry shall be complied with, according to LAC 7:XXIII.13181.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 3:3203(A).

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:247 (March 1992), LR 20: (June 1994).

#### §13188. Department Training

The department shall train its agricultural and environmental specialists in procedures relating to emergencies.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203(A).

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20: (June 1994).

#### Subchapter BC. Health Complaints

##### §13211. Notification of Pesticide Poisoning

Each physician who treats a health complaint that is diagnosed as caused by pesticide poisoning shall provide notice of the poisoning to the director of the Division of Pesticide and Environmental Programs via the 24-hour telephone hotline, (504) 925-3763, within 24 hours of the diagnosis and in writing posted within three days of the diagnosis. Each report shall contain the following:

1. the name, address, and telephone number of the treating physician;
2. the name, address, and telephone number of each patient treated;
3. date of treatment; and
4. the location of the facility where the reporting physician provided treatment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and 3:3208.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Programs, LR 20: (June 1994).

Bob Odom  
Commissioner

### RULE

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

#### Seed Certification Standards (LAC 7:XIII.Chapter 87)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 and R.S. 3:1433, notice is hereby given that the Louisiana Department of Agriculture and Forestry has amended LAC 7:XIII.Chapter 87.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XIII. Seeds

#### Chapter 87. Rules and Regulations Pursuant to the Louisiana Seed Law

##### §8723. Definitions

\*\*\*

**Inbred Line**—a relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent for specific characteristics.

**Open-pollination**—pollination that occurs naturally as opposed to controlled pollination such as by detasselling cytoplasmic male sterility, self-incompatibility or similar processes.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), repealed and repromulgated LR 12:825 (December 1986), amended LR 20: (June 1994).

##### §8725. General Requirements for Certification

A. The crop or variety to be certified must have been approved for certification by the Seed Commission and the LSU Agriculture Experiment Station. Also, the originator, developer, owner or agent shall provide the following to the Department of Agriculture and Forestry:

1. the name of the variety;
2. a statement concerning the variety's origin and the breeding procedure used in its development;
3. a detailed description of the morphological, physiological and other characteristics of the plants and seed that distinguish it from other varieties;
4. evidence supporting the identity of the variety, such as comparative yield data, insect and disease resistance, or other factors supporting the identity of the variety;
5. a statement delineating the geographic area or areas of adaptation of the variety;
6. a statement on the plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied;
7. a description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified;
8. any additional restrictions on the variety specified by the breeder, with respect to geographic area of seed production, age of stand or other factors affecting genetic purity;
9. a sample of seed representative of the variety as marketed.

B. - L. ...

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 20: (June 1994).

##### §8737. Listing of Certified Seed Conditioning Plants

A. - B. ...

C. The following requirements must be met by processors of all classes of certified seed.

1. Facilities shall be available to perform processing without introducing admixtures.
2. Identity of the seed must be maintained at all times.
3. Records of all operations relating to certification shall



be completed and adequate to account for all incoming seed and final disposition of seed.

4. Processors shall permit inspection by the certifying agency of all records pertaining to all classes of certified seed.

5. Processors shall designate an individual who shall be responsible to the certifying agency for performing such duties as may be required by the certifying agency.

6. Seed lots of the same variety and class may be blended and the class retained. If lots of different classes are blended, the lowest class shall be applied to the resultant blend. Such blending can only be done when authorized by the certifying agency.

**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 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 20: (June 1994).

**§8739. Tagging**

A. - F. ...

G. The official certification label may be printed directly on the container with prior approval of the Department of Agriculture and Forestry.

H. Labels other than those printed on the containers shall be attached to containers in a manner that prevents removal and reattachment without tampering being obvious.

**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 8:566 (November 1982), amended LR 9:196 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 20: (June 1994).

**§8771. Hybrid Seed Corn Certification Standards**

A. Eligibility Requirements. Hybrid corn may be one of the following:

1. Single Cross. The first generation hybrid between two inbred lines.
2. Double Cross. The first generation hybrid between two single crosses.
3. Three-way Cross. A first generation hybrid between a single cross and an inbred line.
4. Top Cross. The first generation hybrid of a cross between an inbred line and an open-pollinated variety or the first generation hybrid between a single cross and an open-pollinated variety.
5. Foundation Single Cross. A single cross used in the production of a double cross, a three-way, or a top cross.

B. - D. ...

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Seed Commission, LR 8:572 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986, amended LR 13:156 (March 1987), LR 13:232 (April 1987), LR 20: (June 1994).

**§8785. Seed Irish Potato Certification Standards**

A. ...

B. Field Standards

Factor	Foundation	Registered	Certified
Land requirement	1 yr.	1 yr.	1 yr.
Isolation	10 ft.	10 ft.	10 ft.
Other varieties & Off-type plants	None	None	0.1%
Diseases*	0.2%	0.2%	0.2%
Mild Mosaic	0.5%	0.5%	5.0%
Sclerotium Rolfsii wilt	0.5%	0.5%	1.0%
Potato Wart, Ring rot, Late Blight	1.0%	1.0%	1.0%
Total Diseases	0.3%	0.3%	0.3%
Harmful Insects: Tuber moth	None	None	None
*Rugose mosaic, leafroll, spindle tuber, yellow dwarf, witches' broom, haywire, giant hill, rosette, spinach leaf, curly dwarf.			

C. Tuber Standards

Factor	Foundation	Registered	Certified
Stem End Discoloration	2.5%	2.5%	2.5%
Hair Sprout	0.5%	0.5%	5.0%
Spindle Tuber	0.2%	0.2%	0.2%
Scab and Rhizoctonia*	6.0%	6.0%	6.0%
Net Necrosis	0.5%	0.5%	5.0%
Late Blight, Golden & Potato Rot, Potato Wart & Ring Rot	1.0%	1.0%	1.0%
Tuber Moth	None	None	None
Sclerotium Rolfsii Wilt	0.5%	0.5%	1.0%
Nematodes (Root-Knot)**	1.0%	1.0%	1.0%
*1 percent of tubers by weight have more than five percent of the surface covered by scab or rhizoctonia.			
**1 percent of tubers by weight showing nematode (root-knot) infection.			

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Seed Commission, LR 8:577 (November 1982), repealed and repromulgated LR 12:825 (December 1986), amended LR 20: (June 1994).

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Seed Commission, LR 8:578 (November 1982), LR 12:825, amended LR 9:201 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 14:606 (September 1988), LR 15:78 (February 1989), LR 20: (June 1994).

Bob Odom  
Commissioner

**RULE**

**Department of Agriculture and Forestry  
Structural Pest Control Commission**

**Meetings; List of Approved Termiticides  
(LAC 7:XXV.Chapter 141)**

The Department of Agriculture and Forestry, Structural Pest Control Commission hereby amends LAC 7:XXV.Chapter 141. These amendments give the commission greater flexibility in scheduling its meetings and also promulgate the list of approved termiticides in regulation form.

**Title 7**

**AGRICULTURE AND ANIMALS  
Part XXV. Structural Pest Control**

**Chapter 141. Structural Pest Control Commission  
§14103. Administration of the Affairs of the  
Commission**

\* \* \*

F. The commission shall hold regular meetings at least once during each quarter.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3303, R.S. 3:3304 and R.S. 3:3306 (redesignated R.S. 3:3363, 3:3364 and 3:3366).

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Structural Control Commission, LR 11:325 (April

1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 20: (June 1994).

**§14135. Minimum Specifications for Termite Control Work**

A.1. . . .

2. The commission will issue a listing of chemicals approved by the commission for termite control work. The listing shall become effective upon publication in the *Louisiana Register* and shall remain in effect until changed by the commission. The commission may supplement its listing whenever any new chemical is approved for termite control work and may also remove a previously approved chemical from its approved listing by publication in the *Louisiana Register*. Upon publication of the listing of chemicals approved for termite control work, all previous listings shall be repealed. The commission delegates to the state entomologist the responsibility for publication of the list of chemicals approved by the commission.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3306 (redesignated R.S. 3:3366).

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 20: (June 1994).

**§14153. List of Approved Termiticides**

Termiticide	Percentage	Termiticide	Percentage
Biflex TC	.06%-.12%	Prevail	.30%-.60%
Demon	.25%-.50%	Pryfon	.75%
Dragnet FT	.50%-1.0%	Tenure	.75%-1.0%
Dursban TC	1.0%-2.0%	Torpedo	.50%-1.0%
Equity	.50%-2.0%	Tribute	.50%-1.0%

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3306.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 20: (June 1994).

Bob Odom  
Commissioner

**RULE**

**Department of Economic Development  
Racing Commission**

**Equipment (LAC 35:IX.9503)**

The commission hereby amends LAC 35:IX.9503, to include safety vests.

**Title 35  
HORSE RACING  
Part IX. Weights**

**Chapter 95. Weighing Out  
§9503. Equipment**

A. If a horse runs in a throttle, hood, muzzle, martingale, breast plate or suspensory, they must be included in the jockey's weight. His weight shall also include his clothing, boots, goggles, arm number, saddle and its attachments, saddle cloth, pommel pad, etc. No whip, bridle, blinkers, head number, bit, reins, safety vest, safety helmet or number cloth shall be weighed. No safety vest or bridle shall exceed two pounds each in weight, and no whip shall exceed one pound in weight.

B. No jockey or apprentice jockey shall participate in any race conducted by any association unless he or she wears a safety vest, designed to provide shock absorbing protection to the upper body, as evidenced by a label with at least a rating of five, by the British Equestrian Trade Association. The clerk of scales shall be responsible for insuring compliance with this rule.

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

**HISTORICAL NOTE:** Adopted by the Louisiana State Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:444 (December 1976), repromulgated LR 3:40 (January 1977), LR 4:284 (August 1978), amended by the Department of Economic Development, Racing Commission LR 20: (June 1994).

Paul D. Burgess  
Executive Director

**RULE**

**Department of Economic Development  
Racing Commission**

**No Medication in Two-year-olds (LAC 35:I.1722)**

The commission hereby repeals LAC 35:I.1722, since 2-year-old horses will now be treated as all other horses, making the rule obsolete.

**Title 35  
HORSE RACING**

**Part I. General Provisions**

**Chapter 17. Corrupt and Prohibited Practices**

**§1722. No Medication in Two-year-olds**

Repealed.

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

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Racing Commission LR 12:11 (January 1986), amended by the Department of Economic Development, Racing Commission LR 19:612 (May 1993), repealed LR 20: (June 1994).

Paul D. Burgess  
Executive Director

**RULE**

**Department of Economic Development  
Racing Commission**

**Permitted Medication (LAC 35:I.1503)**

The commission hereby repeals LAC 35:I.1503, since 2-year-old horses will now be treated as all other horses, making the rule obsolete.

**Title 35  
HORSE RACING**

**Part I. General Provisions**

**Chapter 15. Permitted Medication**

**§1503. Two-year-olds**

Repealed.

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

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Racing Commission, LR 2:451 (December 1976), repromulgated LR 4:289 (August 1978), amended LR 6:620 (December 1981), LR 9:547 (August 1983), repealed by the Department of Economic Development, Racing Commission, LR 20: (June 1994).

Paul D. Burgess  
Executive Director

**RULE**

**Department of Economic Development  
Used Motor Vehicles and Parts Commission**

**Used Parts Licensure (LAC 46:V.3303)**

*(Editor's Note: The following rule, which appeared on page 535 of the May 20, 1994 Louisiana Register, is being republished to correct typographical errors.)*

In accordance with the Administrative Procedure Act, R.S. 49:950, and Title 32, Chapters 4(A) and 4(B), the Department of Economic Development, Used Motor Vehicle and Parts Commission hereby adopts the following rule.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part V. Automotive Industry**

**Subpart 2. Used Motor Vehicle Commission**

**Chapter 33. Automotive Dismantler and Recycler  
§3303. Qualifications and Eligibility for Licensure**

\* \* \*

E. No person, firm, or corporation may advertise, sell or display for sale used parts without first obtaining a used parts dealer's license to do business in this state. All these types license numbers will be prefixed by UP, followed by a four digit number then the current year of license.

1. Used parts are broadly described as those parts necessary for operation of a vehicle and have been removed

from a vehicle for resale. They include, but not limited to, the following: motors, wheels, generators, alternators, water pumps, glass, radiators, spark plugs, fuel tanks, etc.

2. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S. 32:754.

3. At least one salesman's license shall be issued for each business. License fee charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

4. A surety bond will not be required for dealers whose principal business is selling used parts.

F. An out of state parts dealer may open a parts business in this state. License for an out of state parts dealer to open a used parts business is \$500 per location.

G. Dealers whose only business is selling rebuilt or remanufactured parts, used batteries, tires and/or wheel covers are not included herein. Service stations are also specifically excluded from the above.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:752, R.S. 32:754, R.S. 32:772 E., and R.S. 32:773A.(3).

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), repromulgated LR 20: (June 1994).

John W. Alario  
Executive Director

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 741—Nonpublic Business Education Course Offerings

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 amended Standard 6.105.26 of Bulletin 741, Louisiana Handbook for School Administrators, to change the titles in the nonpublic business education curriculum to be the same as the public business education course titles.

#### Bulletin 741 (Nonpublic) Business Education

6.105.26. Business education course offerings shall be as follows:

Course Title	Recommended Grade Level	Unit(s)
Accounting	10-12	1
Computerized Accounting	11-12	1
Administrative Support Occupations	11-12	1
Business Mathematics	9-12	1
Business English	11-12	1
Business Law	11-12	½

Cooperative Office Education (COE)	12	3
Business Computer Applications I	10-12	½
Business Computer Applications II	10-12	½
Economics	11-12	1
Exploratory Business	7-8	
Introduction to Business	9-12	1
Keyboarding	9-12	½
Keyboarding Applications	9-12	½
Keyboarding Prod.I	10-12	½
Keyboarding Prod.II	10-12	½
Office Machines	10-12	½
Recordkeeping	9-12	1
Shorthand/Speedwriting	10-12	1 or ½
Word Processing	11-12	1 or ½

Keyboarding and Keyboarding Applications shall be a prerequisite to Administrative Support Occupations and Word Processing. Keyboarding shall be a prerequisite to Shorthand/Speedwriting. Level I courses shall be prerequisite to Level II courses.

Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the individual school system.

Carole Wallin  
Executive Director

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 1882—Administrative Leadership Academy Guidelines Bulletin 746—Standards for State Certification of School Personnel (LAC 28:I.920)

*(Editor's Note: The following rule, which appeared on page 1130 of the September 20, 1993 Louisiana Register, is being republished for clarification.)*

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 has adopted the following amendments to Bulletin 1882, Administrative Leadership Academy Guidelines, and Bulletin 746, Louisiana Standards for State Certification of School Personnel.

#### Bulletin 1882

Add to the section that addresses academy credit - credit requests:

1. If the activity involves two or more sessions over a period of several days, weeks and/or months and focuses on a single theme, it may be approved for credit.

2. The request must be submitted no later than six months after the completion of the activity (effective July 1,

1993). Academy credit for training activities completed prior to July 1, 1993, must be requested no later than January 1, 1994.

Revise the section on training:

1. replace the term LEAD with "principal internship";
2. delete the section on the Louisiana Principal

Assessment Center (LPAC).

Since Bulletin 1882 is referenced in the Administrative Code, Title 28, this is also an amendment to the descriptive paragraph of the bulletin, as noted below.

#### **Title 28**

### **EDUCATION**

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

##### **A. Bulletin 1882**

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

2. This bulletin contains regulations and guidelines pertaining to membership in the Administrative Leadership Academy and credit-earning procedures to be used by members in fulfilling academy requirements. Also included are general guidelines to be used by individual members and sponsoring organizations seeking credit-worthy training activities and specific guidelines pertaining to the principal internship.

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

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 19:1130 (September 1993), repromulgated LR 20: (June 1994).

##### **Bulletin 746**

Under certification requirements for elementary school principals listed on pages 62 and 63, under "F", on page 63, amend to read:

F. Persons who have met the requirements of Items A through E-2 above are eligible for a provisional elementary school principal endorsement. Upon employment as a principal or assistant principal, an individual with a provisional principal endorsement must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy.

Under certification requirements for secondary school principal listed on pages 64 and 65, under "F" on page 65, amend to read:

F. Persons who have met the requirements of Items A through E-2 above are eligible for a provisional secondary school principal endorsement. Upon employment as a principal or assistant principal, an individual with a provisional principal endorsement must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy.

Carole Wallin  
Executive Director

## **RULE**

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

#### **Bulletin 1903—Dyslexia Law (LAC 28:I.902)**

*(Editor's Note: The following rule, which appeared on page 1417 of the November 20, 1993 Louisiana Register, is being republished to correct codification for the LAC.)*

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 revised Bulletin 1903, Regulations for the Implementation of R.S. 17:7(11), The Louisiana Dyslexia Law, (exclusive of page 4 of Bulletin 1903), which was published as an emergency rule in the November, 1993 issue of the *Louisiana Register*.

This bulletin is referenced in the Administrative Code, Title 28 as noted below:

#### **Title 28**

### **EDUCATION**

#### **Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §902. Louisiana Dyslexia Law**

##### **A. Bulletin 1903**

1. Revised Bulletin 1903, Regulations for the Implementation of R. S. 17:7(11), the Louisiana Dyslexia Law is adopted (exclusive of page 4 of Bulletin 1903). It includes regulations for implementing the five-step process for evaluation and determination of program eligibility.

2. This bulletin contains statewide regulations for student placement in a multi-sensory regular education program. It identifies the five-step process to be implemented by the LEAs. It includes characteristics of multi-sensory programs as well as procedures and criteria for assessment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:7(11).

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 18:1249 (November 1992), LR 19:1417 (November 1993), repromulgated LR 20: (June 1994).

Carole Wallin  
Executive Director

## **RULE**

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

#### **MFP Student Membership Definition (LAC 28:I.1709)**

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 the student membership definition for state reporting for public education for the purpose of establishing the base student count for state funding of the Minimum Foundation Program. This definition will be an amendment to the Administrative Code as noted below:

**Title 28**  
**EDUCATION**

**Part I. Board of Elementary and Secondary Education**  
**Chapter 17. Finance and Property**  
**§1709. Budgets**

\* \* \*

**I. MFP: Equalization Grant**

\* \* \*

3. Student Membership. For state reporting for public education for the purpose of establishing the base student count for state funding, shall adhere to the following:

a. All students included for membership in school shall be identified with the following minimum required identification elements: state identification number, full legal name, date of birth, sex, race, district and school code, entry date, and grade placement.

b. For establishing the base student membership count for state funding the following guidelines will be adhered to:

i. No student will be counted more than one time. Students attending more than one school will be counted in membership only one time.

ii. All students, including special education students and students in ungraded class settings, will be included in the base student membership count who meet the following criteria:

(a). have registered or pre-registered on or before October 1 \*,

(b). are actively attending school (All current state laws and BESE policies concerning attendance should be carefully followed. Appropriate documentation (either written or computer documents) such as dates of absences, letters to parents, and notification to child welfare and attendance officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.);

(c). and/or have not officially exited from school. (Students are considered to have officially exited if a notification of transfer has been provided by the student's parent/legal guardian or received from another school.)

iii. Students who are in BESE approved alternative programs (schools), will be included in the base student count for membership.

iv. Students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student count for membership.

v. All special education preschool (ages 3-5) students will be included in the base student count for membership.

vi. All special education infant (ages birth-2) students for whom the district provides one or more of the 17 identified services shall be included in the base student count for membership.

vii. Students in grades 13 and 14 in Bossier Parish as cited in R.S. 17:2050 will be included in the base student count for membership.

viii. Regular pre-kindergarten (four-year-old program) students will not be included in the base student count for membership.

ix. private school students receiving services through

the public school system will not be included in the base student membership.

\* If October 1 falls on a Saturday, report membership on September 30. If October 1 falls on a Sunday, report membership on October 2.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:398 (September 1975), amended LR 1:541 (December 1975), LR 3:404 (October 1977), LR 14:789 (November 1988), LR 14:790 (December 1988), LR 16:297 (April 1990), LR 16:397 (May 1990), LR 20: (June 1994).

Carole Wallin  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

**Technical Institute Name Change (LAC 28:I.111)**

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 changed the name of Concordia Technical Institute to Shelby M. Jackson Memorial Technical Institute, effective July 1, 1994. This is an amendment to the Administrative Code, Title 28 as noted below:

**Title 28**  
**EDUCATION**

**Part I. Board of Elementary and Secondary Education**  
**Chapter 1. Organization**

**§111. Vocational-Technical Schools**

A. Postsecondary vocational-technical schools under the jurisdiction of the board are:

\* \* \*

7. Shelby M. Jackson Memorial Technical Institute, Ferriday;

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2000.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 17:880 (September 1991), LR 18:1118 (October 1992), LR 18:1250 (November 1992), LR 20: (June 1994).

Carole Wallin  
Executive Director



## RULE

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

#### Permit Procedures—Emissions from Nonattainment Areas (LAC 33:III.504) (AQ66)

*Editor's Note:* The introductory paragraph of a rule, AQ66, Permit Procedures—Emissions from Nonattainment Areas, promulgated on page 176 of the February 20, 1993 *Louisiana Register*, erroneously cited LAC 33:III.502, 505 and 509 as Sections being amended. A single Section, LAC 33:III.504, was adopted February 20, 1993.

James B. Thompson, III  
Assistant Secretary

## RULE

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

#### Asbestos in Schools and State Buildings (LAC 33:III.Chapter 27) (AQ75)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2051 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 27 (AQ75).

Currently, all schools and all state-owned and state-leased buildings built prior to 1979 are required to have a management plan for asbestos whether or not asbestos is present in the building. Rule changes provide for public buildings built prior to 1979 to be exempt from the requirements for asbestos management plan development if there is no asbestos in the building and other specific criteria are met. A requirement that custodial and maintenance personnel be trained by responsible trainers will be withdrawn. This is in accordance with R.S. 30:2344 (B)(5). Their training will still be necessary, but knowledgeable supervisors may provide that training. There will be a deletion of the requirement for the assignment of a responsible person who is supervisor-trained and -accredited; that was not a federal requirement. Also, in accordance with federal regulations, the definition of a school building has been extended to cover porticos or exterior walkways or mechanical units. Recordkeeping requirements related to the designated person are further clarified. Warning labels will be required to be attached adjacent to any friable, nonfriable or suspected ACBM in routine maintenance areas. Changes have been made which update references to other regulations and DEQ location. Training requirements for accreditation are clarified. Requirements of the recognized training

organizations and provisions for their recognition, and decertification if these requirements are not met, are further clarified. Additionally, the rule name and all subsequent references to "public buildings" have been changed to "state buildings" to alleviate confusion with this term. The falsification of required documentation was made a violation of the regulation. The review and approval of training courses is also outlined.

Portions have been adopted in order to meet FR Vol. 58, No. 31, Page 8926, published February 18, 1993, which requires that Louisiana regulations be at least as stringent as 40 CFR 763, Subpart E, in order to receive delegation of authority and program approval from USEPA. Some revisions are made in order to comply with Act 608, R.S. 30:2344 (B)(5) of the 1992 Regular Legislative Session, which states that with regard to the training of custodial and maintenance personnel in schools, these requirements may not be more stringent than those of the USEPA. The Division of Administration has asked that this same remand apply to custodial and maintenance personnel in state-owned and state-leased buildings as well.

These regulations are to become effective upon publication in the *Louisiana Register*.

This regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504)342-5015 and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508 .

James B. Thompson, III  
Assistant Secretary

## RULE

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

#### Radiation Protection Definitions (LAC 33:XV.102) (NE13)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2101 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection Division regulations, LAC 33:XV.Chapter 1, (Log NE13).

This rule amends the Radiation Protection Division's definitions used throughout LAC 33:XV. These definitions are required by the Nuclear Regulatory Commission (NRC). This regulation incorporates standards set by the NRC in their federal rule published final in the *Federal Register* (Volume 56, Number 98, Page 23391) on May 21,

1991. The NRC states in this rule that "Agreement States" have three years to adopt these regulations. The deadline for Louisiana to adopt this regulation was to be January, 1994. These definitions were inadvertently omitted during a previous rulemaking.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part XV. Radiation Protection**

**Chapter 1. General Provisions**

**§102. Definitions and Abbreviations**

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

\* \* \*

[See Prior Definition]

*Absorbed Dose*—the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

\* \* \*

[See Prior Definitions]

*Activity*—the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

\* \* \*

[See Prior Definition]

*Adult*—an individual 18 or more years of age.

\* \* \*

[See Prior Definitions]

*Airborne Radioactive Material*—any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

*Airborne Radioactivity Area*—a room, enclosure, or area in which airborne radioactive materials exist in concentrations:

1. in excess of the derived air concentrations (DACs) specified in Appendix B, Table I of Chapter 4 of these regulations; or

2. to such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

*As Low As Is Reasonably Achievable (ALARA)*—making every reasonable effort to maintain exposures to radiation as far below the dose limits in these regulations as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

\* \* \*

[See Prior Definitions]

*Background Radiation*—radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices. Background radiation does not include sources of

radiation from radioactive materials regulated by the division.

\* \* \*

[See Prior Definition]

*Bioassay*—the determination of kinds, quantities or concentrations and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these regulations, "radiobioassay" is an equivalent term.

\* \* \*

[See Prior Definition]

*By-product Material*—

1. any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

2. the tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute by-product material within this definition.

\* \* \*

[See Prior Definitions]

*Collective Dose*—the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

*Committed Dose Equivalent ( $H_{T,50}$ )*—the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

*Committed Effective Dose Equivalent ( $H_{E,50}$ )*—the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ( $H_{E,50} = \sum w_T H_{T,50}$ ).

*Controlled Area*—an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee or registrant for any reason.

\* \* \*

[See Prior Definitions]

*Deep Dose Equivalent ( $H_d$ )*—the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm<sup>2</sup>), which applies to external whole body exposure.

\* \* \*

[See Prior Definitions]

*Dose*—a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these regulations, "radiation dose" is an equivalent term.

\* \* \*

[See Prior Definition]

*Dose Equivalent ( $H_T$ )*—the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

*Effective Dose Equivalent* ( $H_E$ )—the sum of the products of the dose equivalent to each organ or tissue ( $H_T$ ) and the weighting factor ( $w_T$ ) applicable to each of the body organs or tissues that are irradiated ( $H_E = \sum w_T H_T$ ).

\*\*\*

[See Prior Definitions]

*Entrance or Access Point*—any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

\*\*\*

[See Prior Definition]

*Exposure*—being exposed to ionizing radiation or to radioactive material.

\*\*\*

[See Prior Definition]

*External Dose*—that portion of the dose equivalent received from any source of radiation outside the body.

*Extremity*—hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

*Eye Dose Equivalent*—the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm<sup>2</sup>).

\*\*\*

[See Prior Definition]

*Generally Applicable Environmental Radiation Standards*—standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

\*\*\*

[See Prior Definitions]

*Individual Monitoring*—the assessment of:

1. dose equivalent by the use of individual monitoring devices or by the use of survey data; or
2. committed effective dose equivalent by bioassay or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. (See the definition of DAC-hours in LAC 33:XV.Chapter 4); or

*Individual Monitoring Devices*—devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these regulations, "personnel dosimeter" and "dosimeter" are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal air sampling devices.

\*\*\*

[See Prior Definitions]

*Internal Dose*—that portion of the dose equivalent received from radioactive material taken into the body.

\*\*\*

[See Prior Definition]

*Licensed (or Registered) Material*—radioactive material received, possessed, used, transferred, or disposed of under a general or specific license (or registration) issued by the division.

\*\*\*

[See Prior Definitions]

*Limits (Dose Limits)*—the permissible upper bounds of radiation doses.

*Lost Or Missing Licensed (or Registered) Source of Radiation*—licensed (or registered) source of radiation whose location is unknown. This definition includes licensed (or registered) material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

\*\*\*

[See Prior Definitions]

*Member of the Public*—an individual in a controlled or unrestricted area. However, an individual is not a member of the public during any period in which the individual receives an occupational dose.

*Minor*—an individual less than 18 years of age.

\*\*\*

[See Prior Definitions]

*Monitoring*—the measurement of radiation, radioactive material concentrations, surface area activities, or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these regulations, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

\*\*\*

[See Prior Definitions]

*Nuclear Regulatory Commission (NRC)*—the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

\*\*\*

[See Prior Definition]

*Occupational Dose*—the dose received by an individual in a restricted area or in the course of employment in which the individual's assigned duties involve exposure to sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: from background radiation, as a patient from medical practices, from voluntary participation in medical research programs, or as a member of the public.

\*\*\*

[See Prior Definitions]

*Public Dose*—the dose received by a member of the public from exposure to sources of radiation either within a licensee's or registrant's controlled area or in unrestricted areas. It does not include occupational dose, dose received from background radiation, dose received as a patient from medical practices, or dose from voluntary participation in medical research programs.

\*\*\*

[See Prior Definitions]

*Quality Factor (Q)*—the modifying factor, listed in Tables I and II of this section, that is used to derive dose equivalent from absorbed dose.

\*\*\*

[See Prior Definitions]

*Restricted Area*—an area, access to which is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. Restricted area does not include areas used as

residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

\*\*\*

[See Prior Definitions]

*Shallow Dose Equivalent* ( $H_p$ )—the dose equivalent at a tissue depth of 0.007 centimeter ( $7 \text{ mg/cm}^2$ ) averaged over an area of 1 square centimeter, which applies to the external exposure of the skin or an extremity.

\*\*\*

[See Prior Definitions]

*Site Boundary*—that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

\*\*\*

[See Prior Definitions]

*Total Effective Dose Equivalent* (TEDE)—the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

\*\*\*

[See Prior Definitions]

*Units of Activity*—for purposes of these regulations, activity is expressed in the SI unit of becquerel (Bq) or in the special unit of curie (Ci), or their multiples, or disintegrations or transformations per unit of time:

1. one becquerel (Bq) = 1 disintegration or transformation per second (dps or tps).
2. one curie (Ci) =  $3.7 \times 10^{10}$  disintegrations or transformations per second (dps or tps) =  $3.7 \times 10^{10}$  becquerel (Bq) =  $2.22 \times 10^{12}$  disintegrations or transformations per minute (dpm or tpm).

*Units of Exposure and Dose*—

1. as used in these regulations, the unit of exposure is the coulomb per kilogram (C/kg) of air. One roentgen is equal to  $2.58 \times 10^{-4}$  coulomb per kilogram of air.
2. as used in these regulations, the units of dose are:
  - a. *Gray (Gy)*—the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule per kilogram (100 rad).
  - b. *Rad*—the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 Gy).
  - c. *Rem*—the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).
  - d. *Sievert*—the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).
3. as used in these regulations, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I

QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

Type of Radiation	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent*
X, gamma, or beta radiation and high speed electrons	1	1.0
Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge	-	200.05
Neutrons of unknown energy	10	0.1
High energy protons	10	0.1

\*Absorbed dose in gray equal to 1 Sv or the absorbed dose in rad equal to 1 rem.

4. If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, as provided in Paragraph 3 of this section, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these regulations, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II

MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE

EQUIVALENT FOR MONOENERGETIC NEUTRONS

Neutron Energy (MeV)	Quality Factor (Q)	Fluence per Unit Dose Equivalent (neutrons cm <sup>-2</sup> rem <sup>-1</sup> )	Fluence per Unit Dose Equivalent (neutrons cm <sup>-2</sup> Sv <sup>-1</sup> )
2.5E-8 (Thermal)	2	980E+6	980E+8
1E-7	2	980E+6	980E+8
1E-6	2	810E+6	810E+8
1E-5	2	810E+6	810E+8
1E-4	2	840E+6	840E+8
1E-3	2	980E+6	980E+8
1E-2	2.5	1010E+6	1010E+8
1E-1	7.5	170E+6	170E+8
5E-1	11	39E+6	39E+8
1	11	27E+6	27E+8
2.5	9	29E+6	29E+8
5	8	23E+6	23E+8
7	7	24E+6	24E+8
10	6.5	24E+6	24E+8
14	7.5	17E+6	17E+8
20	8	16E+6	16E+8
40	7	14E+6	14E+8
60	5.5	16E+6	16E+8
1E+2	4	20E+6	20E+8
2E+2	3.5	19E+6	19E+8
3E+2	3.5	16E+6	16E+8
4E+2	3.5	14E+6	14E+8

\*Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

<sup>b</sup>Monoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

\*\*\*

[See Prior Definition]

*Unrestricted Area*—an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these regulations, "uncontrolled area" is an equivalent term.

\*\*\*

[See Prior Definitions]

*Week*—seven consecutive days starting on Sunday.

*Whole Body*—for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

\*\*\*

[See Prior Definitions]

*Year*—the period of time beginning in January used to determine compliance with the provisions of these regulations. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

\*\*\*

[See Prior Text]

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, LR 20: (June 1994).

James B. Thompson, III  
Assistant Secretary

RULE

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

Radiation Protection Regulations  
(LAC 33:XV.Chapters 4, 5 and 10)(NE11)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2101 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection Division regulations, LAC 33:XV.Chapters 4, 5, and 10 (Log NE11).

This rule amends the Radiation Protection Division's regulations concerning the standards for protection against radiation, industrial radiography storage surveys and quarterly audits, and safety requirements for industrial radiographic equipment, and notices and instructions given to radiation workers within the state. This regulation incorporates standards set by the NRC in their federal rule published final in the *Federal Register* (Volume 56, Number 98, Page 23391) on May 21, 1991. The NRC states in this rule that "Agreement States" have three years to adopt these regulations. The deadline for Louisiana to adopt this regulation will be early in 1994.

These regulations are to become effective upon publication in the *Louisiana Register*.

James B. Thompson, III  
Assistant Secretary

## RULE

### Department of Environmental Quality Office of Solid and Hazardous Waste

#### Louisiana Resource Recovery and Development Authority (LRRDA) (LAC 33:VII.Chapters 151-163) (SW10)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2301 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste Division Regulations, LAC 33:VII.Chapters 151-163 (SW10).

R.S. 30:2306 grants the Louisiana Resource Recovery and Development Authority (LRRDA) the option of adopting rules, bylaws and operating procedures. The authority, by majority vote, has adopted a motion to amend its rules. The rule establishes quarterly meeting dates, annual meeting date and terms for officers; reflects the LRRDA as a function within the DEQ and transfer of LRRDA functions to DEQ, Office of Solid and Hazardous Waste; establishes Tri-Parish Commission and sets contract requirements; and allows a full-service arrangement to include multiple arrangements with multiple vendors.

These regulations are to become effective upon publication in the *Louisiana Register*.

#### Title 33

#### ENVIRONMENTAL QUALITY

#### Part VII. Solid Waste

#### Subpart 3. Louisiana Resource Recovery and Development Authority

#### Chapter 151. General Provisions

#### §15103. Legislative Authority and Governance

\* \* \*

[See Prior Text in A]

B. The authority is subject to the provisions of the act and, as to rulemaking, the Administrative Procedure Act (R.S. 49:950 et seq.). In addition, the actions and activities performed or carried out by the authority and its contractors in accordance with the act must be in conformity with applicable law, policies and rules of the state, in accordance with the Louisiana Solid Waste Management Plan, and in accordance with all applicable statutes, permitting procedures and regulations of the Office of Solid and Hazardous Waste.

C. The authority is a function and responsibility of the Department of Environmental Quality and operates as a functional division within the Office of Solid and Hazardous Waste.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### §15105. Purposes of the Authority

A. The act established the authority to accomplish several purposes including the following, which shall be considered to be operating responsibilities of the authority in accordance with the statewide Solid Waste Management Plan developed by the Department of Environmental Quality in response to the

federal Resource Conservation and Recovery Act (RCRA), and which are to be considered public purposes:

\* \* \*

[See Prior Text in A.1-9]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### §15109. Definition

All terms used in these rules shall have their usual meaning unless the context otherwise requires or unless specifically defined in the act or in substantive regulations which have been promulgated by the authority or the Office of Solid and Hazardous Waste under Chapter 11 of Title 30 of the Louisiana Revised Statutes.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### §15111. Filings with the Authority

Whenever these rules or the act permit or require the filing of any notice, petition, document, or other correspondence with the Louisiana Resource Recovery and Development Authority, such filing shall be addressed and mailed to Louisiana Resource Recovery and Development Authority, Department of Environmental Quality, Office of Solid and Hazardous Waste, Box 82178, Baton Rouge, Louisiana 70884-2178.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### §15115. Effective Date and Duration

These rules of procedure shall become effective upon approval by the House Committee on Natural Resources and the Senate Committee on Environmental Quality and upon their publication in the *Louisiana Register*.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### §15117. Public Participation

The authority shall secure maximum input from interested groups and the public in the performance of its functions and shall provide information concerning its activities and solicit public participation by providing at least the following services:

1. notice of meetings as required by LAC 33:VII.15513;
2. public hearings which the chairman determines to be of interest to the public, or when requested by those groups and individuals impacted by actions under the authority's jurisdiction and control;



3. entry of a summary of authority actions in the newsletter of the Department of Environmental Quality, or publication by such other means as may be determined by the authority to be necessary or desirable; and

4. mailing of the approved or adopted minutes of meetings of the authority to those who request such minutes.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

### **Chapter 153. Membership and Organization**

#### **§15305. Representatives or Designees**

The secretary of the Department of Natural Resources and the secretary of the Department of Environmental Quality are the only directors who may designate a representative to act in their absence as a member of the authority. Should the secretary choose to designate a representative, such designation shall be made in writing. The secretary may, in writing, change or withdraw the designation at his discretion.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### **§15311. Vacancies**

\* \* \*

[See Prior Text in A - B]

C. Should a vacancy occur in a position occupied by a designee of the secretary of the Department of Natural Resources or the Department of Environmental Quality, the membership on the authority shall automatically revert to the secretary until or unless the secretary officially chooses a new designee.

\* \* \*

[See Prior Text in D]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### **§15313. Officers**

A. Chairman and Vice Chairman. The directors shall select a chairman and a vice chairman from within the authority's membership. The chairman and the vice chairman shall each serve for a period of two years or until a successor for each is elected. A chairman or vice chairman may be reelected to more than one term. In the absence of the chairman, the vice chairman shall preside.

\* \* \*

[See Prior Text in B - D.2]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### **§15315. Committees**

Special committees or task forces, as the directors from time to time may deem necessary to conduct studies or inquires or do other work of the authority, may be appointed by the chairman. The chairman shall be an ex officio member of all such committees or task forces. The chairman or his proxy shall be an ex officio member of the Tri-Parish Commission.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

### **Chapter 155. Meetings and Hearings**

#### **§15507. Regular Meetings**

Regularly scheduled meetings of the authority shall be held on the third Tuesday of January, April, July, and October unless otherwise ordered by the chairman. Unless otherwise stated in the notice of meeting, all meetings and hearings shall be held in Baton Rouge, Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

#### **§15509. Bi-annual Meeting**

The regular meeting held on the third Tuesday of April of each even numbered year shall be known as the bi-annual meeting and shall be for the purpose of electing officers, receiving reports of officers and committees, and for any other business that may arise.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

### **Chapter 157. Promulgation and Amendment of Rules**

#### **§15701. Promulgation of Rules**

All rulemaking authority under the Louisiana Resource Recovery and Development Authority is vested in and shall be exercised by the Louisiana Resource Recovery and Development Authority. In the exercise of this power, the authority shall follow the procedures set forth in the Louisiana Administrative Procedure Act. In addition, prior to or concurrent with the publication of these Rules of Procedure in the *Louisiana Register*, the rules shall be submitted to the House Committee on Natural Resources and the Senate Committee on Environmental Quality for their approval and consent.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2301 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

### **Chapter 163. Competitive Negotiations; Procurement of Goods and Services**

#### **§16301. Competitive Negotiations**

As authorized by R.S. 30:1150.7(A)(19), the following

procedures shall be used by the authority to conduct competitive negotiations for the procurement of full-service arrangements for the design, construction and operation of resource recovery facilities and systems as deemed necessary, desirable, or convenient by the authority. Use of this competitive negotiation procedure shall exempt the authority from the provisions of R.S. 39:1551-1736, R.S. 39:1481-1526, R.S. 38:2310-2316, and R.S. 38:2181-2225. Procurements not related to full-service arrangements for design, construction, and operation of resource recovery facilities and systems shall be accomplished under the provisions of LAC 33:VII.16303, 16305, and 16307 and other applicable law.

A. Definitions. In accordance with LAC 33:VII.15109 of these rules, the following special definitions are provided:

*Full-service Arrangement*—an arrangement wherein a single vendor or multiple vendors contract, with the authority to be responsible for, as a minimum, the design, construction, operation, and maintenance of a resource recovery facility or system. In order to accomplish said purpose, there may be needed multiple full-service arrangements with each full-service arrangement being provided by one or multiple vendors.

*Request for Proposal*—an official solicitation in writing prepared pursuant to this Section for the purpose of inviting two or more vendors to submit detailed proposals to supply services for the design, construction, operation, and maintenance of a resource recovery facility or system.

*Request for Qualifications*—an official solicitation in writing prepared pursuant to this Section for the purpose of inviting two or more vendors to submit a qualifications statement to be used in evaluating the capabilities of each vendor to successfully supply services for the design, construction, operation, and maintenance of a resource recovery facility or system.

*Vendor*—a person who proposes to provide or provides services for the design, construction, operation, and maintenance of a resource recovery facility or system.

\* \* \*

[See Prior Text in B - D.10]

11. Award of Contract(s). Once an agreement has been reached with a vendor as to satisfactory contractual terms and conditions, the contract(s) shall be prepared by the authority. The contract(s) shall be formally executed by both parties only after official ratification by a two-thirds majority of the authority; however, no full-service contract shall be executed with a corporation formed under the laws of any jurisdiction other than Louisiana until such corporation has qualified to do business in the state of Louisiana pursuant to R.S. 12:301. A Tri-Parish Commission contract with any vendor shall be formally executed by and let by the governing bodies of the three parishes, acting collectively and jointly. The award of any such contract shall be subject to prior approval and ratification by a two-thirds majority of the authority, and only then shall any such contract be let by the governing bodies of the three parishes, acting collectively and jointly.

\* \* \*

[See Prior Text in E - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), amended LR 8:520 (October 1982), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20: (June 1994).

James B. Thompson, III  
Assistant Secretary

## RULE

### Department of Environmental Quality Office of Solid and Hazardous Waste Solid Waste Division

#### Operator Certification and Training Program (LAC 46:XXIII.Chapters 1-9)(SW09)

Under the authority of R.S. 37:3151-3161 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the operator certification and training regulations, LAC 46:XXIII (SW09).

The rule adds solid waste processing facilities to the solid waste universe of facilities which require board certified operators, encourages the certification of DEQ employees, defines solid waste facilities by type, requires certified solid waste operators to be on site during the hours the facility is in operation, expands the regulations regarding exemptions, establishes the hours of training required for each level of certification and recertification, and imposes a \$100 late fee for recertification. The action was taken at the direction of the Board of Certification and Training for Solid Waste Disposal System Operators.

These regulations are to become effective upon publication in the *Louisiana Register*.

The full text of this regulation is available for inspection at Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

**RULE**

**Office of the Governor  
Division of Administration  
Office of the State Register**

Official Text of Published Documents (LAC I.501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Office of the Governor, Division of Administration, Office of the State Register, hereby amends LAC 1:501 as follows.

**Title 1**

**RULES ON RULES**

**Chapter 5. Effect of Publication**

**§501. Official Text of Published Documents**

**A. Asterisks**

1. Where more than one section of rules is being amended in a single document, and the sections are not consecutive, then the omitted sections are indicated by a row of three asterisks.

2. Where multiple sections are being amended and the sections are not consecutive but there are no omitted sections of the text, do not insert asterisks. Example: §§103 and 105 both being amended in a single amendment package would not have asterisks between them if no §104 exists.

3. Amending Entire Section. Asterisks may not be used in place of any material not needing revision when an entire chapter or other body of the rule subdivision is being amended. All language intended to be part of the new chapter must be included.

4. Amending Parts of a Section. When a designated subdivision of a section is being amended, a row of three asterisks is inserted to indicate any omitted subdivisions of the section, both before and after the amended portion. Any introductory language to a designated subdivision must be included in the text.

B. The text of any document, required or authorized to be published under this Title, shall from the date of such publication be the only valid and enforceable text of such document regardless of any discrepancy between such official text and the agency text of such document. Thereafter any amendment to such document shall be drawn as an amendment to the official text thereof.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of the State Register, LR 20: (June 1994).

**Whit Kling  
Assistant Commissioner**

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

Advertising by Dentists (LAC 46:XXXIII.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq. and R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.301, Advertising by Dentists.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§301. Advertising by Dentists**

A. The provisions of this Section prescribe advertising requirements in addition to those set forth in R.S. 37:774 and R.S. 37:775 for dentists licensed and practicing in this state. The provisions in this Section shall govern any and all forms of advertisements including but not limited to office signs, listings in yellow pages of telephone directories and advertisements in all forms of printed and electronic media.

B. The board has reviewed and approved the Standards for Advanced Specialty Education Programs set forth by the Commission on Dental Accreditation of the American Dental Association in the following specialties:

**C. Definitions**

*Dental Public Health*—the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care program, as well as the prevention and control of dental diseases on a community basis. Implicit in this definition is the requirement that the specialist have broad knowledge and skills in public health administration, research methodology, the prevention and control of oral diseases, the delivery and financing of oral health care, and the identification and development of resources to accomplish health goals.

*Endodontics*—the branch of dentistry that is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompasses the basic clinical sciences including biology of the normal pulp; the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular condition.

*Oral and Maxillofacial Surgery*—the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

*Oral Pathology*—the specialty of dentistry and discipline of pathology which deals with the nature, identification, and management of diseases affecting the oral and maxillofacial

regions. It is a science that investigates the causes, processes and effect of these diseases. The practice of oral pathology includes research; diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations; and management of patients.

**Orthodontics**—the area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations of their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiological and esthetic harmony among facial and cranial structures.

**Pediatric Dentistry**—is the practice and teaching of comprehensive preventive and therapeutic oral health care for children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical and/or emotional problems.

**Periodontics**—is that specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function and esthetics of these structures and tissues.

**Prosthodontics**—the branch of dentistry pertaining to the restoration and maintenance of oral function, comfort, appearance and health of the patient by the restoration of the natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissue with artificial substitutes.

D. Specialists must disclose the name of their specialty in print larger and/or bolder and noticeably more prominent than any services offered in their specialty or related area of dentistry.

E. Those dentists who have not completed a post-doctoral training program in a recognized specialty of dentistry listed in Subsection C of this Section must advertise their area of practice in such a way that the public is not misled into believing that the dentist has met the educational requirements for the specialties listed.

F. Anyone not qualified for the specialties listed in Subsection C must disclose "General Dentistry" or "Family Dentistry" in print larger and/or bolder and noticeably more prominent than any area of practice or service.

G. In radio or television advertising, the disclosure must be made in the same mode (visual or audio) as the representation concerning the area(s) of practice. Audio disclosures must be made at the same decibel level as the representation concerning the area(s) of practice.

H. Those group practices which include general dentists and specialists must list the phrase "General Dentistry and

Specialty Practice" or "Family Dentistry and Specialty Practice" larger and/or bolder and noticeably more prominent than any service offered. All dentists associated with the group and their area of practice shall be listed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March, 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20: (June 1994).

C. Barry Ogden  
Executive Director

## RULE

### Department of Health and Hospitals Board of Dentistry

#### Anesthesia/Analgesia Administration (LAC 46:XXXIII.Chapter 15)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq. and R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has adopted LAC 46:XXXIII.Chapter 15, Anesthesia/Analgesia Administration.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 15. Anesthesia/Analgesia Administration

#### §1501. Scope of Chapter

The rules of this Chapter govern the administration of anesthesia/analgesia by persons licensed to practice dentistry in the state of Louisiana to dental patients. The rules of this Chapter are promulgated in order to supplement the provisions of the Dental Practice Act, R.S. 37:751 et seq., particularly R.S. 37:793.

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 20: (June 1994).

#### §1503. Nitrous Oxide Inhalation Analgesia

A. No dentist shall use nitrous oxide inhalation analgesia unless said dentist has received authorization by the board evidenced by receipt of a permit from the board.

B. In order to receive authorization the dentist must show and produce evidence that he/she complies with the following provisions:

1. completion of a board-approved course which conforms to American Dental Association guidelines; and

2. provide proof of current certification in cardiopulmonary resuscitation, Course "C", Basic Life Support for the Health Care Provider as defined by the American Heart Association, or its equivalent.

**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 20: (June 1994).

**§1505. Conscious Sedation with Parenteral Drugs**

A. No dentist shall use parenteral drugs for the purpose of achieving conscious sedation unless said dentist has received authorization by the board evidenced by receipt of a permit from the board.

B. In order to receive authorization the dentist must show and produce evidence that he/she complies with the following provisions:

1. completion of an advanced training program beyond the pre-doctoral dental school level accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in Section 1505 of this Chapter; or

2. utilization of the services of a trained medical doctor, doctor of osteopathy trained in conscious sedation with parenteral drugs, certified registered nurse anesthetist, a dentist who has successfully completed a program consistent with Part II of the American Dental Association Guidelines on Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, or a qualified oral and maxillofacial surgeon provided that said doctor or certified registered nurse anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered; or

3. successful completion of a board-approved continuing education course as described in Part III of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry provided the applicant has held a license to practice dentistry for a minimum of three years. The board has determined that 80 hours of clinical airway management would be a minimum to achieve competency as described in Part III of the previously mentioned guidelines.

C. In addition to the requirements of Subsection B of this Part the dentist must provide proof of current certification in cardiopulmonary resuscitation, Course "C", Basic Life Support for the Health Care Provider as defined by the American Heart Association, or its equivalent.

**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 20: (June 1994).

**§1507. General Anesthesia/Deep Sedation**

When general anesthesia or deep sedation are administered, the provisions of this Subsection apply:

1. no dentist shall administer general anesthesia or deep sedation unless said dentist has received authorization by the board evidenced by receipt of a permit from the board.

2. in order to receive authorization the dentist must show and produce evidence that he complies with the following provisions:

a. completion of an oral and maxillofacial surgery training program accredited by the Commission on Dental Accreditation of the American Dental Association which

includes anesthesiology and related academic subjects as required in §1509 of this Chapter; or successful completion of a program which complies with Part II of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dental Education at the Advanced level.

b. provide proof of current certification in cardiopulmonary resuscitation, Course "C", Basic Life Support for the Health Care Provider as defined by the American Heart Association, or its equivalent.

**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 20: (June 1994).

**§1509. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Conscious Sedation with Parenteral Drugs and General Anesthesia/Deep Sedation**

**A. Nitrous Oxide Inhalation Analgesia**

1. To be permitted, the applicant must have successfully completed courses prescribed by the faculty of a dental school which would demonstrate mastery of scientific knowledge pertaining to use thereof and have documented a minimum of 12 successful cases of induction and recovery; or

2. At the post-doctoral level, the applicant must have successfully completed a continuing education course which includes a minimum of 14 hours, including a clinical component during which competency in nitrous oxide inhalation analgesia techniques are demonstrated.

**B. Conscious Sedation with Parenteral Drugs**

Receipt of formal post-doctoral training in the use of parenteral drugs and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 20 documented cases of parenteral sedation.

**C. Deep Sedation and General Anesthesia**

Successful completion of an American Dental Association accredited program in oral and maxillofacial surgery or a program which meets or exceeds the specifications outlined in Part II of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry adopted by the American Dental Association.

**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 20: (June 1994).

**§1511. Required Facilities, Personnel and Equipment for Sedation Procedures**

A. The following are minimum requirements for facilities and equipment that must be available for use with sedation procedures:

1. the dental operatory where sedation procedures are performed must be large enough to accommodate the patient adequately on a dental chair and to permit an operating team consisting of three individuals to move about the patient.

2. the dental chair must permit the patient to be positioned so that the operating team can maintain the airway,

quickly alter the patient position in an emergency, and provide a firm platform for performing cardiopulmonary resuscitation should it become necessary.

3. there must be a lighting system which is adequate to permit evaluation of the patient's skin and mucosal color.

4. there must be suction equipment which permits aspiration of the oral and pharyngeal cavities. A back-up suction device which can operate at the time of a general power failure must be available.

5. there must be an oxygen delivery system with adequate full-face masks and appropriate connectors capable of delivering a positive pressure oxygen supply to the patient.

6. nitrous oxide equipment should:

a. conform to all requirements as established by the Council on Dental Materials and Devices of the American Dental Association;

b. provide a maximum of 100 percent and never less than 20 percent oxygen concentration at appropriate flow rates;

c. have a functional fail-safe system;

d. utilize a scavenger system in working condition;

e. be free of any obvious leaks, such as those indicated by hissing sounds or poor connections or tears of the delivery tubing or reservoir bag.

7. ancillary equipment must be available in the operatory where the sedation procedure is being performed, must be maintained in good operating condition, and must include the following:

a. oral airways;

b. tonsillary or pharyngeal-type suction device adaptable to all office outlets;

c. sphygmomanometer of appropriate size for the patient and stethoscope;

d. adequate equipment for the establishment of an intravenous infusion when parenteral sedation procedures are performed;

e. pulse oximeter when parenteral sedation procedures are performed.

8. there must be emergency equipment and drugs available in an emergency kit or crash cart which is immediately available to the dental operatory where the sedation procedure is being performed. These kits must include the necessary drugs and equipment to resuscitate a non-breathing unconscious patient and sustain life while the patient is being transported. There should be a list in each kit of the contents and a record of when the contents were checked. The following drugs should be available in the kit:

a. epinephrine;

b. vasopressor;

c. corticosteroid;

d. bronchodilator;

e. appropriate drug antagonists;

f. antihistaminic;

g. anticholinergic;

h. coronary artery vasodilator;

i. anticonvulsant;

j. oxygen;

k. 50 percent dextrose or other antihypoglycemic; and

l. working electrocardiograph and defibrillator when

general anesthesia or deep sedation are utilized.

B. Personnel

1. The authorized dentist must insure that every patient receiving nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deep sedation or general anesthesia is constantly attended.

2. Direct supervision by the authorized dentist is required when nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deep sedation or general anesthesia is being administered.

3. When nitrous oxide inhalation analgesia is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.

4. When conscious sedation with parenteral drugs is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.

5. When deep sedation or general anesthesia is being administered two auxiliaries who are currently certified in basic life support must be available to assist the dentist in an emergency.

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 20: (June 1994).

#### §1513. Exceptions

A. The board, based on formal application stating all particulars which would justify the granting of such anesthesia/analgesia permit, may grant a permit authorizing the utilization of nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deep sedation or general anesthesia to those licensed dentists who have been using the requested sedation procedures in a competent and effective manner prior to the effective date of this Chapter, but who have not had the benefit of formal training as required in this Chapter or in R.S. 37:793.

B. The board shall continue to renew the anesthesia/analgesia permits of dentists possessing such permits at the time these rules become effective provided there have been no disciplinary actions requiring suspensions or revocations of said permits.

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 20: (June 1994).

C. Barry Ogden  
Executive Director



## RULE

### Department of Health and Hospitals Board of Dentistry

#### Continuing Education Requirements (LAC 46:XXXIII.Chapter 16)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq. and R.S. 37:760(8)(13), the Department of Health and Hospitals, Board of Dentistry has adopted LAC 46:XXXIII.Chapter 16, Continuing Education Requirements.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 16. Continuing Education Requirements

##### §1601. Scope of Chapter

The rules of this Chapter govern the board's minimum continuing education requirements for relicensure and recertification of dentists and dental hygienists as authorized by R.S. 37:760(13), and provides for record keeping, penalties, reporting, exemptions, approved courses of instruction, and all related matters. Except where noted, these rules shall apply equally to dentists and dental hygienists.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)(13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20: (June 1994).

##### §1603. Effective Date

Beginning January 1, 1995, dentists and dental hygienists licensed to practice in the state of Louisiana, in addition to other requirements, shall complete the minimum hours of continuing education set forth in this Chapter during each calendar year in order to renew or have recertified their licenses, permits or certificates necessary to practice dentistry or dental hygiene in this state. These continuing education requirements also apply to all dentists and dental hygienists licensed to practice in Louisiana, but are practicing outside of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)(13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20: (June 1994).

##### §1605. Penalties

Failure to comply with the requirements of this Chapter may be grounds for disciplinary action against the licensee under R.S. 37:776(A)(3)(24) for dentists, and R.S. 37:777(3)(18) for dental hygienists setting forth cause for the non-issuance, suspension, revocation, or imposition of restrictions on one's license to practice dentistry or dental hygiene, and/or imposition of a fine as set forth in R.S. 37:780(B).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)(13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20: (June 1994).

##### §1607. Exemptions

A. Continuing education requirements shall not apply to:

1. dentists enrolled in full-time post-graduate specialty training;
2. dental hygienists enrolled in full-time post-graduate training;
3. dentists who are retired from the practice of dentistry;
4. dental hygienists who are retired from the practice of dental hygiene;
5. dentists in the first calendar year of their graduation from dental school;
6. dental hygienists in the first calendar year of their graduation from dental hygiene school.

B. In the event of unusual circumstances or special hardship, the board may excuse licensees from continuing education requirements.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)(13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20: (June 1994).

##### §1609. Reporting and Record Keeping

A. Upon renewal of a dental or dental hygiene license, the licensee must list on a form provided by the board the date, location, sponsor, subject matter and hours completed during the past calendar year of continuing education courses. The licensee must attest to the truthfulness of his report by executing his signature where required on the reporting form.

B. The licensee shall retain receipts, vouchers, or certificates as may be necessary to document completion of the required number of continuing education hours. With cause the board may request such documentation. Without cause the board may request such documentation from licensees selected at random.

C. Each dentist and dental hygienist shall maintain records of his/her continuing education for three calendar years following the calendar year in which the course was completed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)(13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20: (June 1994).

##### §1611. Continuing Education Requirements for Relicensure of Dentists

A. Unless exempted under LAC 46:XXXIII.1607, each dentist shall complete a minimum of 20 hours of continuing education during each calendar year for the renewal of his/her license to practice dentistry.

B. At least one-half of the minimum credit hours (10) must be attained in clinical courses pertaining to the actual delivery of dental services to the patient.

C. No more than 10 hours of the required 20 hours can be completed from the following:

1. practice management courses;
2. audio and/or video tapes and those journals requiring completion of a written examination to secure proof of hours;
3. Three credit hours for successful completion of cardiopulmonary resuscitation (CPR) courses may be used to satisfy continuing education requirements.

D. Continuing education ordered as a result of disciplinary matters shall not serve as credit for mandatory continuing education unless specifically authorized in a consent decree or in an order issued by the board.

E. Dentists are not allowed continuing education credit for courses sponsored and/or approved for dental hygiene continuing education.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)(13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20: (June 1994).

**§1613. Continuing Education Requirements for Relicensure of Dental Hygienists**

A. Unless exempted under LAC 46:XXXIII.1607, each dental hygienist shall complete a minimum of 12 hours of continuing education during each calendar year for the renewal of his/her license to practice dental hygiene.

B. At least one-half of the minimum credit hours (six) must be attained in clinical courses pertaining to the actual delivery of dental services to the patient.

C. No more than six hours of the required (12) hours can be completed from the following:

1. practice management courses;
2. audio and/or video tapes and those journals requiring completion of a written examination to secure proof of hours;
3. three credit hours for successful completion of cardiopulmonary resuscitation (CPR) courses may be used to satisfy continuing education requirements.

D. Continuing education ordered as a result of disciplinary matters shall not serve as credit for mandatory continuing education unless specifically authorized in a consent decree or in an order issued by the board.

E. Dental hygienists are allowed continuing education credit for courses sponsored and/or approved for dentists continuing education.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)(13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20: (June 1994).

**§1615. Approved Courses**

A. Courses sponsored or approved by the following organizations shall be accepted by the board:

1. American Dental Association and its affiliate associations and societies;
2. American Dental Hygienists' Association and its affiliate associations and societies;
3. Academy of General Dentistry;
4. National Dental Association and its affiliate societies;
5. colleges and universities with dental programs which are accredited by the Commission on Dental Accreditation of the American Dental Association when continuing education courses are held under their auspices;
6. armed services and veterans administration dental departments;
7. national, state and district associations and/or societies of all specialties in dentistry recognized by the board, and study clubs approved by said specialty societies;
8. American Heart Association as a provider of cardiopulmonary resuscitation courses (Course "C" Basic Life Support for the health care provider).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 7:760(8)(13).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20: (June 1994).

C. Barry Ogden  
Executive Director

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

**Expanded Duty Dental Assistants Examinations  
(LAC 46:XXXIII.506)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq. and R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has adopted LAC 46:XXXIII.506, Dental Assisting National Board Examinations for Expanded Duty Dental Assistant certification.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 5. Dental Assistants**

**§506. Dental Assisting National Board Examinations for Expanded Duty Dental Assistant Certification**

A. The following examinations offered by the Dental Assisting National Board on a recurring basis are approved by the Louisiana State Board of Dentistry for certification in the Expanded Duty Dental Assistant status.

1. Certified Dental Assistant
2. Certified Oral and Maxillofacial Surgery Assisting
3. Certified Orthodontic Assisting

**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 20: (June 1994).

C. Barry Ogden  
Executive Director

## RULE

### Department of Health and Hospitals Board of Practical Nurse Examiners

Adjudication, License Suspension, Revocation, Financial  
Interests Disclosure, and Patient Referrals  
(LAC 46:XLVII.306 and 307)

The Board of Practical Nurse Examiners, under the authority vested in R.S. Title 37:961-979, amended LAC 46:XLVII, Chapter 3, at its meeting on June 3, 1994 as follows: repealed and repromulgated §307, Rules and Adjudication and License Suspension and Revocation Proceedings; §307 becomes new §306. Additionally, in accordance with Acts 675 and 827, 1993, the board adopted a new §307, Disclosure of Financial Interests and Prohibition on Remuneration for Patient Referrals.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

##### Subpart 1. Practical Nurses

#### Chapter 3. Board of Practical Nurse Examiners

#### §306. Rules and Adjudication and License Suspension and Revocation Proceedings

A. All adjudication proceedings (as defined in R.S. 49:951) and license suspension and/or license revocation or probation proceedings conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq.

B. All proceedings calling for the suspension, revocation or probation of a license shall begin with the receipt by the board of allegation(s) pertaining to the violation(s) by a licensee of any provisions of R.S. 37:961-979.

C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall not be revealed to any person except when such document(s) are offered for evidence in a formal hearing. Such communications will be in writing and signed by the party making the allegation(s).

D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing.

E. The allegation(s) against a licensee may be concluded in an informal proceeding without formal hearing if the executive director does not deem the allegation(s) to be sufficiently serious. The informal resolution of the allegation(s) may be done by correspondence between the executive director and a licensee; by conference of the executive director and a licensee; or by consent order between the board and a licensee.

F. If such allegation(s) are concluded by this informal procedure, any result and/or recommendations shall be submitted by the executive director to the board for approval.

G. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the executive director, a formal hearing shall be scheduled before a hearing officer designated by the board. A decision to initiate a formal complaint by the board expressing the allegation(s) and specific violation(s) of R.S. 37:961-979 may be made if one or more of the following conditions exist:

1. the allegation(s) are sufficiently serious;
2. the licensee fails to respond to the board's correspondence concerning the allegation(s);
3. the licensee's response to the board's correspondence is insufficient, unsatisfactory, or fails to be convincing that no action is warranted;
4. an informal proceeding has failed to resolve all of the issues or allegation(s).

H. Formal hearing procedures shall commence with the filing of a formal complaint by the board indicating the specific allegation(s) and violation(s) of one or more of the provisions under R.S. 37:961-979.

I. A notice of formal complaint shall be sent by certified mail to the last known address of the accused licensee. If the mailing is not returned to the board, it is assumed to have been received by said licensee as it is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

J. The licensee shall return his/her response to the complaint to the board within 10 days or shall be deemed to have waived his/her right to a hearing. In response, the licensee shall either deny or admit the allegations of the complaint and shall either request a hearing before the hearing officer or waive his/her right to said hearing.

K. If the licensee waives his/her right to a hearing or does not respond in writing within the time allotted, the hearing officer shall decide the case forthwith. The hearing officer shall make specific findings of fact, conclusions of law, and make recommendations to the board.

L. If a licensee requests a formal hearing before the hearing officer, the executive director or his/her designee shall schedule such hearing and notify the licensee of the place, date and time fixed for the formal hearing by certified mail at least 10 days prior to said hearing.

M. Except for conditions of extreme emergency, motions requesting the continuance of a formal hearing must be received by the board at least five days prior to the date fixed for a formal hearing. Such motion must express the specific reason(s) and show good cause why a continuance is warranted and be relevant for due process.

#### N. Discovery

1. Prior to a formal hearing an accused licensee shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a licensee as a result of his/her exercise of said right, shall be the sole responsibility and obligation of the licensee.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least five days prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused licensee. Such subpoenas include or are for the purpose of:

a. requiring that a person appear and give testimony in the formal hearing; and

b. subpoena duces tecum, requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:

i. the information requested is reasonable in terms of amount; and

ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;

iii. the information requested does not include those documents referred to in §307.C-D; and

iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. Prior to a formal hearing, an accused licensee shall, upon written notice received by the board at least five days prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Prior to a formal hearing an accused licensee, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness which will or may be called to give testimony in a formal hearing.

5. Depositions for the purpose of discovery are not permissible and may only be allowed for the perpetuation of a witness' testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before and after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request. Motions made during a formal hearing shall be made orally, as they become a part of the transcript of the proceeding.

O. During a formal hearing, the licensee or his/her attorney shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and cross-examine witnesses as well as call witnesses to give oral testimony on behalf of the licensee. All testimony given during a formal hearing shall be under oath and before a certified stenographer.

P. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding shall not be transcribed until such time as a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

Q. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board.

R. The board shall make a decision based on the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the licensee by certified mail.

S. Sanctions imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended by Act 1075, of the 1986 Regular Session, or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

T. A petition by a party for reconsideration or rehearing must be in proper form and filed within 30 days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

1. the board's decision is clearly contrary to the law and the evidence;

2. there is newly discovered evidence, which was not available to the board or the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

4. it would be in the public interest to further consider the issues and the evidence.

U. The grounds for disciplinary proceedings against a licensed practical nurse include, but are not limited to:

1. is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;
2. is guilty of a crime;
3. is unfit, or incompetent by reason of negligence, habit or other causes;
4. is habitually intemperate or is addicted to the use of habit-forming drugs;
5. is mentally incompetent; or
6. is guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:
  - a. failure to practice practical nursing in accordance with the standards normally expected;
  - b. failure to utilize appropriate judgement in administering nursing practice;
  - c. failure to exercise technical competence in carrying out nursing care;
  - d. violating the confidentiality of information or knowledge concerning a patient;
  - e. performing procedures beyond the authorized scope of practical nursing;
  - f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;
  - g. improper use of drugs, medical supplies, or patients' records;
  - h. misappropriating personal items of an individual or the agency;
  - i. falsifying records;
  - j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;
  - k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;
  - l. leaving a nursing assignment without properly notifying appropriate personnel;
  - m. failing to report, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;
  - n. has violated any provisions of this Part (R.S. 37:961-979 as amended 1991) or aid or abet therein.

V. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 20: (June 1994).

### **§307. Disclosure of Financial Interests and Prohibition on Remuneration for Patient Referrals**

A. As used in this chapter, the following terms shall have the meaning specified:

**Disclose to the Patient**—the practical nurse makes known to the patient at the time a referral is made that the practical nurse has a financial or ownership interest in the facility or entity to which the patient is referred. The practical nurse

shall also inform the patient of the patient's freedom to choose an alternate provider.

**Financial Interest**—any ownership or investment interest established through debt, equity, or other means and held by a practical nurse or a member of a practical nurse's immediate family, or any form of direct or indirect remuneration for referral.

**Health Care Provider**—a person, partnership, corporation, or any other organization licensed by this state to provide health care or professional services, including, but not limited to, providers of clinical laboratory services, diagnostic services, medicinal suppliers, therapeutic services, physicians, chiropractors, podiatrists, optometrists, physical therapists, psychologists, licensed professional counselors, registered or licensed practical nurses, pharmacists, and any officer, employee, or agent thereof acting in the course and scope of his/her employment.

**Ownership Interest**—the possession of equity in the capital, the stock, or the profits of an entity.

**Payment**—money or anything of monetary value, including gifts, gratuities, favors, entertainment or loans.

**Person**—an individual, a corporation, a company, an association, a firm, a partnership, or any other organization.

**Practical Nurse**—a licensed practical nurse and/or a practical nursing student/graduate.

**Referral**—the act of prescribing, ordering, directing, re-directing, or recommending to a patient a specific facility or entity which provides a health-related service, test, pharmaceutical appliance or device, by means of prescription, recommended course of treatment, or direction concerning diagnostic or therapeutic treatment or service.

#### **B. Disclosure of Financial Interests**

##### **1. Use of Patient Disclosure Forms**

a. It is the practical nurse's responsibility to disclose to the patient a financial or ownership interest when making a referral to any health care provider outside the same health care provider as that of the referring practical nurse. Meaningful disclosure shall be given to each patient at the time a referral is made. The disclosure must be made in writing. The board recommends that the disclosure be dated and signed at the time of referral by the practical nurse and the patient, and that the practical nurse maintain written evidence of the disclosure. If the practical nurse delegates the disclosure to another person in the practical nurse's office, the board recommends that the disclosure be written, dated, and signed by the person making the disclosure and by the patient.

b. The memorialization of the disclosure shall be substantially in the following form: I acknowledge that I have been advised by my practical nurse that he/she has a financial or ownership interest in the facility or entity to which he/she has referred me, and that my practical nurse has advised me that I am free to choose another facility or entity to provide the service, drug, device or equipment recommended.

c. Written evidence shall constitute presumptive evidence that the practical nurse made the required disclosure in an enforcement proceeding before the board. The disclosure to the patient is not the act of the patient signing the form, but is the act of the practical nurse disclosing to the

patient the nurse's financial or ownership interest and advising the patient of the patient's freedom of choice.

2. **Guidelines for Disclosure.** If the patient is a minor, unconscious, of unsound mind, or otherwise incompetent to understand freedom of choice in the selection of a facility or entity, disclosure shall be made to the guardian, spouse, or closest adult next of kin. Disclosure of a practical nurse's interest cannot be accomplished unless the patient is competent to understand his/her freedom of choice. A practical nurse will not be disciplined for failure to disclose if an emergency prevents consulting the patient or the patient's next of kin.

3. **Cross-Referral Arrangements.** A practical nurse shall not enter into any arrangement or scheme, including cross-referral arrangements, if the practical nurse knows, or should know that the arrangement or scheme has the principal purpose of ensuring referrals by the practical nurse to a particular entity, which referral, if made directly by the practical nurse would be a violation of this Section.

**C. Prohibition on Remuneration for Patient Referrals**

1. **Prohibited Referrals.** A practical nurse shall not offer, make, solicit, or receive any form of direct or indirect payment or remuneration or benefit for the referral or solicitation of patients for professional services.

2. **Cross-Referral Arrangements.** A practical nurse shall not enter into any arrangement or scheme, including cross-referral arrangements, if the practical nurse knows, or should know that the arrangement or scheme has the principal purpose of ensuring referrals by the practical nurse to a particular entity, which referral, if made directly by the practical nurse would be a violation of this Section.

**3. Permissible contracting activities**

a. A referral of a patient to another person or practitioner within the same health care provider, providing that the practical nurse is not paid on a split-fee basis, is not a violation of this Section.

b. Payments representing a return on investment based upon a percentage of ownership are not considered a direct or indirect payment for the purposes of this Section.

c. Any activity permissible under the corresponding provisions of Title XVIII of the Social Security Act shall not be a violation of this Section.

**D. Sanctions and Restitution Provisions**

1. Any practical nurse who violates the provisions of this Section shall be subject to the same sanctions as outlined in §306 of this Chapter.

2. Any practical nurse who violates the provisions in this Section shall refund all sums received in payment for the goods and services furnished or rendered without disclosure of financial interests. Such a refund shall be paid to the individual patient, third party, payor, or other entity to whom the payment is entitled.

3. All complaints of conduct alleged to be in violation of this Section shall be received and investigated by or under the direct control and supervision of the board or its counsel pursuant to the provisions of this Chapter as outlined in §306.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 20: (June 1994).

Terry L. DeMarcey  
Executive Director

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Animal Control Shelters (LAC 46:LXXXV.700, 704)**

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 has amended LAC 46:LXXXV.700 and adopted LAC 46:LXXXV.704.

This rule will allow licensed veterinarians to legally provide necessary legend (FDA-regulated) drugs to bona fide governmental employees working as animal control officers.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 7. Veterinary Practice**

**§700. Definitions**

**Animal Control Officer**—a bona fide employee of a governmental agency meeting the requirements of R.S. 37:1514(2).

\* \* \*

**Legend Drug**—any drug or medicinal agent which is not listed as a controlled substance by the U.S. DEA but which carries the legend "Federal (USA) law restricts this drug to use by or on the order 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 19:1328 (October 1993), amended LR 20: (June 1994).

**§704. Consulting and Providing Legend Substances**

A. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local governmental agency to perform animal control services on behalf of the local governmental agency seeks to administer legend drugs to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Louisiana Board of Veterinary Medicine and who obtains the legend drugs.

B. Said legend drugs must be stored and administered under the general supervision of the licensed veterinarian. General supervision means that the licensed veterinarian must provide the employee(s) of the animal control agency with



written instructions and follow-up assistance on the proper storage, use and administration of the drug(s) being provided.

C. The licensed veterinarian may submit to the board for review and/or approval, a written protocol of his supervision of the animal control agency's employees.

D. The licensed veterinarian shall also require the animal control agency's employees to maintain record keeping logs which shall include but would not be limited to the following:

1. date of each use of a legend drug;
2. species of animal;
3. estimated weight of animal;
4. dose administered;
5. name of animal control officer administering the drug.

E. Said records should be reviewed by the supervising veterinarian on at least a quarterly basis.

F. A licensed veterinarian who chooses to assist an animal control shelter in the method proscribed in this Section shall be solely responsible for determining which drugs he is willing to provide and in what quantities.

G. This Section does not pertain to any drugs(s) listed in any DEA classification schedule (also known as controlled drugs) including sodium pentobarbital.

H. The definitions located in §700 of this Chapter shall apply to all terms used in this Section.

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 20: (June 1994).

Vikki Riggle  
Executive Director

## RULE

### Louisiana Health Care Authority

#### Minimum Fee in Outpatient Clinics and Emergency Rooms (LAC 48:XI.1309)

Consistent with the legislative auditor's interpretation of Act 893 of 1991, the Louisiana Health Care Authority has adopted LAC 48:XI.1309 requiring a minimum payment for physician services or treatment in the outpatient clinics and emergency rooms of the 10 acute care hospitals, consistent with Louisiana statutes and federal Medicaid and Medicare law and regulations.

#### Title 48

#### PUBLIC HEALTH-GENERAL

#### Part XI. Hospitals

#### Subpart 3. General Hospitals

#### Chapter 13. Admissions, Eligibility, Fees

#### §1309. Minimum Fee in Outpatient Clinics and Emergency Room

A. Statement of Purpose and Scope. The Louisiana Health Care Authority Medical Centers will require payment of \$3.50 per visit for physician services in outpatient clinics and the emergency room for all patients, subject to the exceptions

specified in §1309.B and D of this Chapter. This fee is considered an "administrative charge."

#### B. Exceptions

1. Persons with Medicare or Medicaid coverage shall not be subject to the \$3.50 minimum payment.

2. Persons who are classified as "free care" under the liability limitation policy shall not be subject to the minimum charge.

3. Persons with other third party payors, such as commercial insurance, shall not be subject to the minimum payment.

C. Waiver of Minimum Payment. When a minimum payment is waived under the provisions of this rule, information provided to patients regarding that waiver should be provided privately or in such other manner as necessary to protect the privacy of the patient.

D. Potential Conflict with State Statutes or Federal Law or Regulations. Nothing in this policy is intended to be in conflict with federal or state law, or with federal rules and regulations pertaining to the provisions of services to the indigent, or to those Medicare or Medicaid eligible.

E. The effective date of this policy shall be July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:6.

HISTORICAL NOTE: Promulgated by the Louisiana Health Care Authority, LR 20: (June 1994).

William A. Cherry, M.D.  
Chief Executive Officer

## RULE

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

#### Sanitary Code—Ban of Prairie Dogs (Chapter III)

The Department of Health and Hospitals, Office of Public Health hereby adopts the following emergency rule in accordance with the Administrative Procedure Act, R.S. 49:953(B).

This rule is necessary in order that the department can prohibit the importation and/or sale of prairie dogs in Louisiana. Prairie dogs can harbor the hantavirus which has been responsible for the death of several persons in the southwestern area of the United States and for the death of one person in Louisiana.

#### Rule

The Office of Public Health is banning and prohibiting the importation and/or sale of prairie dogs in Louisiana in an effort to protect the citizens of the state, as well as native animals.

#### Chapter III

#### The Control of Rabies and Other Zoonotic Diseases

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#### Part 2. Other Zoonotic Diseases

3:009 Definition. *Prairie Dogs* are any burrowing rodents of the genus *Cynomys*. *Prairie dogs* can harbor the



hantavirus. Prairie dogs are also known to be a host for fleas, which carry the causative agent of Bubonic Plague, the bacteria *Yersinia pestis*. These fleas have the potential to infect other wild animals, as well as domestic animals and humans. Prairie dogs are not indigenous to Louisiana.

**3:010** The importation and/or sale of prairie dogs in Louisiana is prohibited.

**3:011** This part shall not apply to zoos approved by the American Association of Zoological Parks and Aquariums.

Rose V. Forrest  
Secretary

## RULE

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

#### Sanitary Code—Swimming/Bathing Places (Chapter XXIV)

In accordance with R.S. 40:5 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health is amending the Louisiana *Sanitary Code*, Chapter XXIV, in its entirety, pertaining to swimming pools and natural or semi-artificial swimming or bathing places.

Copies of this comprehensive amendment to Chapter XXIV of Louisiana *Sanitary Code* may be obtained from the Office of the State Register, 1051 Riverside North, Room 512, Baton Rouge, LA 70804. Please refer to Log 9406#067 when inquiring about this rule.

Rose V. Forrest  
Secretary

## RULE

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

#### Hospital Prospective Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted a rule for the Reimbursement of Inpatient Hospital Services in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The bureau's Medical Assistance Program reimburses providers enrolled in the hospital program for inpatient hospital services, as defined by 42 CFR 440.10. These enrolled providers must meet and maintain continued compliance with state hospital licensure regulations, all applicable federal and state certification and accreditation standards and the requirements of the bureau's provider agreement.

This rule may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, telephone (504)342-5015. Copies of this and all Medicaid rules and regulations are available at all parish Medicaid offices.

Rose V. Forrest  
Secretary

## RULE

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

#### Pre-admission Certification and Length of Stay Criteria for Inpatient Hospital Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153. The purpose of this rule is to control and monitor admissions, lengths of stay and expenditures in the Hospital Program.

#### Rule

Effective for dates of service July 1, 1994 and after, the Department of Health and Hospitals, Bureau of Health Services Financing, amends the methodology for Medicaid reimbursement of inpatient hospital services by requiring registration and length of stay assignment for all admissions to acute care and rehabilitation hospitals, and pre-admission certification and length of stay assignment for long term hospitals and distinct part psychiatric/substance abuse units in acute care general hospitals. Inpatient admissions for dual Medicare/Medicaid beneficiaries are not subject to these requirements when Medicare Part A benefits are still in effect. The state-operated hospitals because of certain TEFRA restrictions, and free-standing psychiatric hospitals, because of the existing pre-admission screening process mandated by DHH, are not subject to these requirements. Implementation of this rule results in the elimination of the 15-day service limit of the cost reimbursement methodology.

#### A. Prospective Length of Stay Review

The department requires that all hospitals subject to this rule participate in a prospective Length of Stay (LOS) review of admissions. Hospitals will be required to register each Medicaid admission no later than one business day after admission. Length of stay for each acute care/rehabilitation case will be determined by the fiscal intermediary staff using Interqual ISD, HCIA LOS Southern Region grand totals, and customized criteria as well as clinical information for the case provided by the hospital. The initial length of stay for acute (med-surg) and psychiatric admissions will be assigned at the 50th percentile based on the admitting diagnosis. The initial length of stay for each rehabilitation case will be assigned 14 days based on the lowest average length-of-stay from the

American Hospital Association Average Stay Study for Rehabilitation Conditions. Acute care, psychiatric, and rehabilitation admissions to long term hospitals will be assigned lengths of stay using the same criteria as that used in the other hospital settings for these patients. All other long term hospital admissions will be assigned an initial length of stay of 14 days.

Extensions of length of stay may be requested by the hospital when appropriate care of the client indicates the need for hospital days in excess of the originally approved number. The extension must be requested no later than the last authorized day or the last business day before the last authorized day. Extensions will be granted on a case by case basis and shall be based on clinical information provided by the hospital. The initial approved extension will be assigned at the 75th percentile for acute care (med-surg) and up to the 75th percentile for distinct part psychiatric/substance abuse units. Subsequent approved extensions may be submitted for consideration of up to three additional days. Subsequent approved extension requests for rehabilitation cases will be assigned up to seven days. Initial approved extensions for acute care, psychiatric and rehabilitation cases in long term hospitals will be assigned using the same criteria as that used in the other hospital settings for these patient types. All other long term hospital patient initial approved extensions will be assigned up to 14 days. Subsequent extension requests for these long term hospital cases will be assigned up to seven days. There is no limit on the number of extensions that can be requested.

#### B. Pre-admission Certification

The pre-admission certification requirement applies only to long term hospitals and distinct part psychiatric/substance abuse units in acute care general hospitals. Pre-admission certifications must be obtained prior to admission or on a concurrent basis, with provision for retrospective review only in exceptional circumstances. Medicaid reimbursement will not be authorized without completion of the pre-admission certification requirement. Pre-admission certification for all long term hospitals and distinct part psychiatric unit emergency admissions must be requested upon admission.

The pre-admission certification reviews are conducted by registered nurses (or licensed mental health professionals for psychiatric cases) in consultation with a physician. If the request for admission is denied, the hospital may request a reconsideration of the decision. The reconsideration process involves a physician to physician consultation between the treating physician or his designee and the physician of the fiscal intermediary within one business day of the denial notification. If the reconsideration process results in a denial of admission the hospital may initiate a formal appeal in writing to the Department of Health and Hospitals, Bureau of Appeals, in accordance with existing Department of Health and Hospitals' appeal procedures.

A hospital may request a retrospective review for Medicaid reimbursement when the patient's Medicaid coverage is unknown at the time of admission or when a patient has no or pending coverage at the time of admission.

The pre-admission certification criteria for psychiatric admissions are formulated according to categories for adults

and children and utilize the current revision of the *Diagnostic and Statistical Manual of Mental Disorders*.

Hospital participation in the requirements of A and B above shall be designated by the department through a phase-in process which commences on July 1, 1994 and is expected to conclude on October 1, 1994.

Rose V. Forrest  
Secretary

## RULE

### Department of Health and Hospitals Office of the Secretary Medical Disclosure Panel

#### Informed Consent (LAC 48:I.2371-2395)

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991 and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Medical Disclosure Panel, has adopted LAC 48:I.2371-2395, to establish which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and listed on the Consent Form to be signed by the patient and physician before undergoing such treatment or procedure. These rules are in addition to those published in the December 1992, December 1993, and February 1994 issues of the *Louisiana Register*.

#### Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Chapter 23. Informed Consent

##### §2371. Tubes in Ears

- A. Persistent infection;
- B. Perforation of eardrum or cyst behind the eardrum requiring surgical repair;
- C. Need to surgically remove tubes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

##### §2373. Adenoidectomy

- A. Bleeding;
- B. Nasal speech;
- C. Nasal regurgitation of food or liquids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

##### §2375. Tonsillectomy

- A. Bleeding;
- B. Injury to nerves to tongue;
- C. Nasal speech.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2377. Septoplasty**

- A. Bleeding;
- B. Infection;
- C. Injury to nerve of upper teeth;
- D. Septal perforation;
- E. Spinal fluid leak.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2379. Cauterization of Tissue in the Nose**

- A. Infection;
- B. Scarring with obstruction of breathing;
- C. Dryness of nose.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2381. Rhinoplasty**

- A. Bleeding;
- B. Infection;
- C. Disappointing cosmetic result or failure to achieve desired result;
- D. Impaired breathing through nose;
- E. Septal perforation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2383. Endoscopic Sinus Surgery**

- A. Bleeding;
- B. Infection;
- C. Scar formation;
- D. Spinal fluid leak with possible infection of brain tissue;
- E. Injury to eye, including blindness;
- F. Injury to sense of smell;
- G. Injury to tear duct drainage.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2385. Radical Neck (Extensive Neck Surgery)**

- A. Bleeding requiring transfusion;
- B. Injury to nerves of shoulder resulting in numbness, pain or loss of function;
- C. Injury to voice box resulting in hoarseness or speech impairment;
- D. Injury to nerve of diaphragm with possible impairment of breathing;
- E. Injury to nerve of tongue resulting in loss of sensation, loss or alteration of sense of taste or possible impairment of speech;
- F. Injury to mandibular branch of facial nerve resulting in loss of function of lip or cheek.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2387. Submandibular Gland Surgery**

- A. Bleeding;
- B. Infection;
- C. Injury to nerve of lip or tongue.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2389. Tympanoplasty (Operation on Eardrum)**

- A. Infection;
- B. Injury to nerve of tongue causing loss of taste;
- C. Loss of hearing;
- D. Perforation (non-healing);
- E. Ringing in ears;
- F. Dizziness;
- G. Graft failure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2391. Tympanoplasty with Mastoidectomy (Operation on Eardrum and Removal of Bone behind Ear)**

- A. Infection;
- B. Injury to nerves of tongue causing loss of taste;
- C. Injury to nerves of face causing paralysis;
- D. Loss of hearing;
- E. Ringing in ears;
- F. Dizziness;
- G. Hole in eardrum;
- H. Graft failure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2393. Direct Laryngoscopy (Passage of Lighted Tube into the Voice Box)**

- A. Persistent hoarseness;
- B. Broken teeth;
- C. Perforation of throat.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20: (June 1994).

**§2395. Parotidectomy (Removal of Salivary Gland near the Ear)**

- A. Bleeding;
- B. Infection;
- C. Facial nerve palsy;
- D. Numbness of ear.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health

Rose V. Forrest  
Secretary

**RULE**

**Department of Public Safety and Corrections  
Office of Alcoholic Beverage Control**

**Beer and Wine Sampling (LAC 55:VII.317)**

Under the authority of the Alcoholic Beverage Control Law, particularly R.S. 26:287 and R.S. 26:150(AA), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety, Commissioner of the Office of Alcoholic Beverage Control hereby amends the Liquor Credit Regulations, LAC 55:VII.317.D.6.

These regulations are amended to reflect the department's authority to permit beer and wine sampling on the premises of a Class A or B permit holder for the maximum duration of one day, restricted to sampling twice per month if the permit holder grosses 75 percent of its average monthly revenue from the sale of alcoholic beverages.

**TITLE 55**

**Part VII. Alcoholic Beverage Control**

**Chapter 3. Liquor Credit Regulations**

**§317. Regulation Number IX. Prohibition of Certain Unfair Business Practices in Malt Beverage Industry**

\* \* \*

**D. Exceptions**

\* \* \*

**6. Trade Calls**

a. Bar spending during trade calls, wherein the beer or wine purchased by a manufacturer or wholesaler for a consumer is consumed on retail licensed premises in the presence of the giver, shall be lawful so long as the state's laws regulating retail establishments such as the legal drinking age, etc., are observed and not more than \$150 is expended during the trade call. No such trade calls may occur on college campuses. Manufacturers and wholesalers may be accompanied by entertainers, sports figures and other personalities during trade calls. The trade calls may be pre-announced to consumers in the retail account through table tents, posters and other inside signs. No outside advertising of such events through signs or any media is allowed.

b. The gift of beer or wine as a purely social courtesy to unlicensed friends and associates of a manufacturer or wholesaler shall be lawful.

c. Beer or wine sampling for the purpose of determining consumer taste preferences may be conducted on premises holding a regular Class A or B permit, if the permittee grosses at least 75 percent of its average monthly revenue from the sale of alcoholic beverages.

i. No wholesaler or manufacturer shall furnish, give or lend any equipment, fixtures, signs, supplies, money, services or other thing of value, directly or indirectly, for such alcoholic beverage sampling.

ii. No sampling of product in a greater quantity than two ounces per bottle for each type of alcoholic beverage shall be offered or provided any one individual at any one sampling.

iii. All samplings shall be limited in duration to one day.

iv. No more than two samplings shall be conducted on the same licensed premises in each month.

v. Written notification shall be provided the Office of Alcoholic Beverage Control at least one week prior to the date of the sampling.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 26:287 and R.S. 26:150(A).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20: (June 1994).

Raymond E. Holloway  
Assistant Secretary

**RULE**

**Department of Public Safety and Corrections  
Office of Alcoholic Beverage Control**

**Prohibited Acts (LAC 55:VII.701)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 26:793 which authorizes the assistant secretary (commissioner) to promulgate rules concerning live entertainment, the Department of Public Safety, Office of Alcoholic Beverage Control, hereby adopts a rule concerning live entertainment and prohibited acts.

This regulation is adopted in order to maintain the ongoing continuity in the ability of the Office of Alcoholic Beverage Control to enforce the laws regulating the type of entertainment allowed on licensed premises on a statewide basis.

This rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Raymond Holloway  
Assistant Secretary

**RULE**

**Department of Public Safety and Corrections  
Riverboat Gaming Commission**

**Passenger Embarking (LAC 42:XIII.709)**

Under the authority of the Louisiana Riverboat Economic Development and Gaming Control Act, particularly R.S. 4:501 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the chairman has amended the Louisiana Riverboat Gaming Commission's rules, LAC 42:XIII.709.

The current language contained within LAC 42:XIII.709 reads:

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

This rule was non-specific as to whether or not there were any restrictions on the time periods within which passengers may embark or disembark from a riverboat during periods of unsafe weather or water conditions. The following rule will specify the restrictions, if any, placed upon passengers embarking and disembarking during periods of unsafe weather or water conditions.

LAC 42:XIII.709 is revised to reflect the Riverboat Gaming Commission's authority to promulgate rules concerning authorized routes, excursions, and berths.

**Title 42**

**LOUISIANA GAMING**

**Part XIII. Riverboat Gaming**

**Subpart 1. Riverboat Gaming Commission**

**Chapter 7. Operating Standards**

**§709. Passenger Embarking and Disembarking**

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

B. In the event that the vessel master, pursuant to the provisions to R.S. 4:525(B)(1)(a), certifies in writing that weather or water conditions make it unsafe for a riverboat to commence or continue on its authorized excursion, and gaming activities are conducted while the vessel is at dockside, there shall be no restriction on the embarking or disembarking of passengers during the period of that excursion.

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

HISTORICAL NOTE: Promulgated by the Department Public Safety and Corrections, Riverboat Gaming Commission, LR 19: 895 (July 1993), amended LR 20: (June 1994).

**Kenneth E. Pickering  
Chairman**

**RULE**

**Department of Public Safety and Corrections  
Riverboat Gaming Commission**

**Sale of Alcohol (LAC 42:XIII.704)**

Under the authority of the Louisiana Riverboat Economic Development and Gaming Control Act, particularly R.S. 4:501 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the chairman has amended the Riverboat Gaming Commission's rules by adopting LAC 42:XIII by adopting Section 704.

LAC 42:XIII.704 has been added to reflect the Riverboat Gaming Commission's responsibility and authority to promulgate rules concerning the conduct of the sale of alcoholic beverages granted to it by R.S. 4:501 et seq., specifically R.S. 4:552 of the Louisiana Riverboat Economic Development and Gaming Control Act.

**Title 42**

**LOUISIANA GAMING**

**Part XIII. Riverboat Gaming**

**Subpart 1. Riverboat Gaming Commission**

**Chapter 7. Operating Standards**

**§704. Sale of Alcoholic Beverages on Riverboats or Terminal and Docking Facilities**

With the exceptions of R.S. 26:493 and R.S. 26:493.1, and with the exception of the sale of alcoholic beverages on the riverboat or terminal and docking facilities during the hours of gaming activity, all other provisions of R.S. Title 26 and all the rules and regulations promulgated thereunder are by reference adopted by the commission and delegated to the Louisiana State Alcoholic Beverages Board and all other respective local authorities.

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

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 20: (June 1994).

**Kenneth E. Pickering  
Chairman**

**RULE**

**Department of Revenue and Taxation  
Office of the Secretary**

**Electronic Funds Transfer (LAC 61:I.4910)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation has amended LAC 61.I.4910 to revise the effective dates for electronic funds transfer of tax payments.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered  
by the Secretary of Revenue and Taxation**

**Chapter 49. Tax Collection**

**§4910. Electronic Funds Transfer**

**A. Electronic Funds Transfer Effective Dates**

1. Taxpayers whose payments in connection with the filing of any return or report, including declaration payments, during the prior 12-month period average \$100,000 or more will be required to remit the respective tax or taxes electronically or by other immediately investible funds, as required by R.S. 47:1519, effective as follows:

- a. gasoline dealers: tax periods beginning September 1, 1993;
- b. severance taxes: tax periods beginning September 1, 1993;
- c. corporation income and franchise taxes: tax returns for tax periods ending December 31, 1993;
- d. sales and withholding taxes: tax periods beginning March 1, 1994;

2. Effective August 1, 1994, the electronic payments or payment by other immediately investible funds will be required of all filers of the above described taxes whose payments during the previous 12-month period averaged \$50,000 or more.

3. Effective with the January 1995 taxable period, electronic payments or payment by other immediately investible funds will be required for filers of all other business taxes not mentioned above, whose payments during the previous 12-month period averaged \$50,000 or more.

4. Any taxpayer whose tax payments for a particular tax averages less than \$50,000 per payment may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. Once a taxpayer requests to electronically transfer tax payments he must continue to do so for a period of at least 12 months.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1519.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1032 (August 1993), repromulgated LR 19:1340 (October 1993), amended LR 20: (June 1994).

Ralph Slaughter  
Secretary

**RULE**

**Department of Social Services  
Rehabilitation Services**

**Independent Living Program (LAC 67:VII.1501)**

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services adopts revisions to its Independent Living (IL) policy manual.

The purpose of this rule is to provide federally mandated revisions to the rules governing the policy used by Louisiana Rehabilitation Services in implementing its IL program.

This rule supersedes all rules previously promulgated related to Louisiana Rehabilitation Services' IL policy manual.

IL policy has thus far been superficially incorporated into Louisiana Rehabilitation Services' general policy manual. It is now Louisiana Rehabilitation Services' intention to isolate IL policy into its own manual because of increasing expansion and complexity of the program.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Louisiana Rehabilitation Services**

**Chapter 15. Louisiana Rehabilitation Services**

**Independent Living Program Policy**

**§1501. Louisiana Rehabilitation Services Independent Living (IL) Program Policy Manual**

A. Policy Manual. IL policy manual fiscal year 1994 provides to eligible individuals with disabilities opportunities for independent living outcomes.

B. As a result of public hearings conducted on January 27, 1994, Louisiana Rehabilitation Services has changed its policy relative to the hearing impaired eligibility criteria to expand this criteria.

**AUTHORITY NOTE:** Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S. 36:477 (e), R.S. 46:331-335, R.S. 39:1595.3 and R.S. 39:1594 (I).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (Sept 1991), amended LR 20: (June 1994).

This change was reheard on April 25, 1994, and no further substantive changes were made.

Copies of the entire text of the policy manual can be obtained from Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, at the Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA, and at each of its nine regional offices.

Gloria Bryant-Banks  
Secretary

# NOTICES OF INTENT

## NOTICE OF INTENT

Department of Economic Development  
Board of Examiners of Certified Shorthand Reporters

### Methods of Reporting (LAC 46:XXI.511)

In accordance with R.S. 37:2554, the Administrative Procedure Act, notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters hereby adopts LAC 46:XXI.511. This rule defines the methods of court reporting and requires the court reporter to indicate their method of certification on the certification page of any verbatim record.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXI. Certified Shorthand Reporters

#### Chapter 5. Certificates

\* \* \*

#### §511. Methods of Reporting

A. Each reporter shall be certified in one of the following four methods of reporting.

1. Stenotype. A stenotype reporter is anyone who uses a stenotype machine and shorthand symbols to produce a verbatim transcript of any oral court proceeding, sworn statement, public hearing, deposition, or related proceeding.

2. Stenomask. A stenomask reporter is anyone who uses a stenomask machine, which consists of a microphone enclosed in a mask, to produce a verbatim transcript of any oral court proceeding, sworn statement, public hearing, deposition, or related proceeding.

3. Penwriter. A penwriter reporter is anyone who uses handwritten shorthand symbols to produce a verbatim transcript of any oral court proceeding, sworn statement, public hearing, deposition, or related proceeding.

4. Electronic. An electronic reporter is anyone who converts an electronic recording into a verbatim transcript of any oral court proceeding, sworn statement, public hearing, deposition, or related proceeding.

B. A reporter shall identify on the certification page of any verbatim record prepared by that reporter the method of reporting in which the reporter holds certification by the board.

C. A reporter shall practice only the method of reporting for which certified by the board and shall not mislead the public by purporting to utilize other methods for which the reporter has not been certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 20:

Interested persons may submit written or oral comments to Gay M. Pilié, Board of Examiners of Certified Shorthand Reporters, 325 Loyola Avenue, Suite 306, New Orleans, LA 70112, (504) 523-4306. Comments will be accepted through the close of business on July 20, 1994.

Peter Gilberti  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Methods of Reporting

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no anticipated effect on costs or savings to state governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no anticipated effect on revenue to state governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no anticipated effect on costs to nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no anticipated effect on competition or employment due to the proposed rule.

Peter Gilberti  
Secretary

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

Department of Economic Development  
Office of Financial Institutions

### Credit Union Service Contracts (LAC 10:IX.301 and 303)

Pursuant to R.S. 49:950 et seq., the commissioner of financial institutions gives notice of his intent to adopt a rule for the purpose of establishing prudential standards for state-chartered credit unions that invest in and make loans to credit union service organizations, authorized by R.S. 6:644(B)(3)(d) and R.S. 6:656(A)(4). The intended action of the agency, namely, adopting and promulgating the proposed rule, complies with R.S. 6:121(B)(1), R.S. 6:644(B)(3)(d) and R.S. 6:656(A)(4), laws administered by the Office of Financial Institutions. No preamble has been prepared.



## Title 10

# FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

## Part IX. Credit Unions

### Chapter 3. Credit Union Service Organizations

#### §301. Credit Union Service Contracts

A. A state-chartered credit union may act as a representative of and enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions. Agreements must be in writing, and shall clearly state that the commissioner of financial institutions, or his representative, will have complete access to any books and records of the credit union service organization as deemed necessary in carrying out his responsibilities under the Louisiana Credit Union Law.

B. If any agreement requires, the payment in advance of the actual or estimated charges for more than three months, such payment shall be deemed an investment in a credit union service organization and subject to the limitations delineated in R.S. 6:644(B)(3)(d) and R.S. 6:656(A)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:

#### §303. Investments in and Loans to Credit Union Service Organizations

A. Scope. Sections 644(B)(3)(d) and 656(A)(4) of Title 6 of the Louisiana Revised Statutes authorize state-chartered credit unions to invest in and make loans to credit union service organizations. This rule implements that statute by addressing various issues, including monetary limits on loans and investments, the structure of credit union service organizations, their customer base, and the range of services and activities that they may provide. The rule also establishes prudent standards for a state-chartered credit union's involvement with credit union service organizations, through provisions concerning conflicts of interest, accounting practices, and access by the Office of Financial Institutions to books and records. The rule applies only in cases where one or more state-chartered credit unions have invested in or made loans to an organization pursuant to Section 644(B)(3)(d) or 656(A)(4). The rule does not regulate credit union service organizations directly; instead, it establishes conditions of state-chartered credit union investments in and loans to such organizations.

B. Limits Imposed by R.S. 6:644(B)(4)(d) and R.S. 6:656(A)(4). The provisions of Chapter 8, Title 6, Louisiana Revised Statutes, Credit Unions:

1. authorize a state-chartered credit union to invest in shares, stocks, loans, or other obligations of credit union service organizations in amounts not exceeding, in the aggregate, one percent of the credit union's paid-in and unimpaired capital and surplus;

2. authorize a state-chartered credit union to make loans to credit union service organizations in amounts not exceeding, in the aggregate, one percent of the credit union's paid-in and

unimpaired capital and surplus;

3. require that a credit union service organization's activities be confined or restricted to credit unions and exist primarily to meet the needs of their member credit unions, and whose business relates to the daily operations of the credit unions they serve; and

4. require that a state-chartered credit union's investment in or loan to a credit union service organization must receive the prior approval of the board of directors and documented in its official minutes.

#### C. Definitions

*Affiliated Credit Union*—a credit union which has either invested in or made loans to a credit union service organization.

*Immediate Family Member*—a spouse or other family member living in the same household.

*Official*—any director or committee member.

*Paid-in and Unimpaired Capital and Surplus*—shares and undivided earnings.

*Senior Management Employee*—the credit union's president, vice president, secretary, treasurer, chief executive officer, any assistant chief executive officers, the chief financial officer, or any other elected officer of an affiliated credit union.

#### D. Regulatory Provisions

1. Limits on Funding. A state-chartered credit union, either alone or with other credit unions and/or with non-credit-union parties, may invest in and/or lend to a credit union service organization. A state credit union's investment in paid-in and unimpaired capital and surplus of a credit union service organization may not exceed, in the aggregate, one percent of the credit union's capital and surplus as of its last calendar year-end financial report. In addition, a state-chartered credit union's loans to credit union service organizations may not exceed, in the aggregate, one percent of the credit union's paid-in and unimpaired capital and surplus as of its last calendar year-end financial report.

2. Structure. A state-chartered credit union may invest in or lend to a credit union service organization only if the organization is structured as a corporation; a limited partnership; or an association.

a. Corporation. A credit union service organization chartered as a corporation must be adequately capitalized and operated as a separate entity. A state-chartered credit union investing in or lending to such a corporation must take all steps necessary to ensure that it will not be held liable for obligations of the corporation.

b. Limited Partnership. A state-chartered credit union may participate only as a limited partner in a credit union service organization structured as a limited partnership. As a limited partner, the credit union must not engage in those activities (e.g., control, management, decision making), which, under state law, would cause the credit union to lose its status as a limited partner, and, correspondingly, its limited liability, and be treated as a general partner.

c. Association. A state-chartered credit union may participate as a member of a credit union service organization structured as an association. A state-chartered credit union investing in or lending to such an association must take all

steps necessary to ensure that it will not held liable for any more than its proportionate share of the obligations of the association.

3. **Legal Opinion.** A state-chartered credit union making an investment in or loan to a credit union service organization must obtain written legal advice as to whether the credit union service organization is established in a manner that will limit the credit union's potential exposure to no more than the loss of funds invested in or lent to the credit union service organization.

4. **Customer Base.** A state-chartered credit union may invest in or loan to a credit union service organization only if the organization primarily serves credit unions and/or the membership of *Affiliated Credit Unions*, as defined in Subsection C.1 of this Section.

5. **Permissible Services and Activities**

a. A state-chartered credit union may invest in and/or loan to those credit union service organizations which provide only one or more of the following services and activities:

i. **Operational Services.** Credit card and debit card services; check cashing and wire transfers; internal audits for credit unions; ATM services; EFT services; data processing; shared credit union branch (service center) operations; sale of repossessed collateral; management, development, sale or lease of fixed assets; sale, lease or servicing of computer hardware or software; management and personnel training and support; payment item processing; locator services; marketing services; research services; record retention and storage; microfilm, microfiche, and optical disk services; alarm monitoring and other security services; debt collection services; credit analysis; consumer mortgage loan origination; loan processing, servicing and sales; coin and currency services; provision for forms and supplies.

ii. **Financial Services.** Financial services are limited to those activities as enumerated in 12 CFR §701.27(d)(5)(ii), and approved for federally-chartered credit unions operating in the state.

b. Additional services or activities MUST be approved by the commissioner of financial institutions before a state-chartered credit union may invest in or loan to the credit union service organization that offers the service or activity.

6. **Conflict of Interest**

a. Individuals who serve as officials of, or senior management employees of an affiliated state-chartered credit union, as defined in Subsection C.1 of this Section, and immediate family members of such individuals, may neither serve a credit union service organization in any capacity nor receive any salary, commission, investment income, or other income or compensation from a credit union service organization, either directly or indirectly, or from any person being served through the credit union service organization. This provision does not prohibit an official or senior management employee of a state-chartered credit union from serving on the board of directors of a credit union service organization, provided the individual is not compensated by the credit union service organization.

b. The prohibition contained in Subsection D.6.a of this Section also applies to any affiliated state-chartered credit union employee not otherwise covered if that employee is

directly involved in dealing with the credit union service organization, unless the board of directors determines that the employee's position does not present a conflict of interest.

c. All transactions with business associates or family members not specifically prohibited by this Subsection D.6 must be conducted at arm's length and in the interest of the credit union.

7. **Accounting Procedures; Access to Information**

a. **Credit Union Accounting.** A state-chartered credit union must follow generally accepted accounting principles (GAAP) in its involvement with credit union service organizations.

b. **Credit Union Service Organization Accounting; Audits and Financial Statements; OFI Access to Books and Records.** An affiliated state-chartered credit union must obtain written agreements from a credit union service organization, prior to investing in or lending to the organization, that the organization will:

i. follow GAAP;

ii. render financial statements (balance sheet and income statement) at least quarterly and obtain a certified public accountant audit annually and provide copies of such to the affiliated state-chartered credit union; and

iii. provide the commissioner of financial institutions, or his designated representatives, with complete access to any books and records of the credit union service organization, as deemed necessary in carrying out his responsibilities under the Louisiana Credit Union Law;

iv. notwithstanding the examinations fees, authorized by R.S. 6:646(B)(4), the commissioner may charge a fee of \$30 per hour per examiner for the purpose of determining whether an affiliated state-chartered credit union and the credit union service organization are in compliance with the Louisiana Credit Union Law and this rule. The cost of any such compliance review shall be billed directly to the credit union service organization.

E. **Other Laws.** A credit union service organization must comply with applicable state, federal and local laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:

All interested persons are invited to submit written or oral comments on the proposed regulation. Such comments should be submitted no later than August 1, 1994, at 9 a.m. to Sidney E. Seymour, Chief Examiner, Office of Financial Institutions, Box 94095, or in person at 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70804-9095.

In conformity with R.S. 49:953(A)(1)(b)(i), the proposed rule is to become effective on September 20, 1994.

Larry L. Murray  
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Credit Union Service Contracts  
(LAC 10:IX.301 and 303)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES AND UCC**

**Part III. Banks (formerly Part III. Homestead and Building  
and Loan Associations)**

**Chapter 19. Related Organizations and Services  
Subchapter B. Subsidiary Mortgage Corporations  
§§1921-1933. Repealed.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:237(B).

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Financial Institutions, LR 7:484 (October 1981), repealed LR 20:

**Part I. Financial Institutions (formerly Part I. Banks)**

**Chapter 5. Subsidiaries**

**§501. Definitions**

**Application**—shall consist of those forms as prescribed by the commissioner, along with all supporting documents and other information required by this rule, requesting approval for the proposed subsidiary.

**Commissioner**—the commissioner of financial institutions.

**Consolidated Entity**—the parent and all of its subsidiaries as reflected by financial statements prepared according to generally accepted accounting principles.

**Parent**—a financial institution which exercises control of a subsidiary formed or acquired under this rule as defined above.

**Subsidiary**—a corporation, including a service corporation, formed or acquired to engage in activities a part of or incidental to the business of banking, and controlled by a state-chartered financial institution. Control means the ownership, control, or power to vote, directly or indirectly, 25 percent or more of any class of voting securities of a corporation; or possessing control in any manner of the election of a majority of the directors; or the power to dictate the operations of the corporation; or as determined by the commissioner.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:121(B)(1), 6:242, 6:731 and 6:1138.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:

**§503. Application and Notification**

**A. Filing.** All applications filed in accordance with this rule shall be accompanied by a nonrefundable fee. The commissioner may approve a substantially complete application after consideration of the factors set forth in the following sections. The application will be considered approved if the commissioner does not issue written objection within 30 days of receipt of the application, or request additional time or information. Time spent requesting and waiting for additional information shall not count toward the 30-day objection period. Any material submitted must have the prior approval of the financial institution's board of directors before filing. All applications must be sent or delivered to the commissioner no later than 60 days prior to the acquisition or formation of the subsidiary corporation.

**B.** No subsidiary may be formed, acquired or operated for the purpose of or in such a manner as to circumvent any law or regulation governing the activities of the parent.

**C.** Financial institutions currently possessing subsidiaries shall register such subsidiaries with the commissioner, by

The estimated implementation cost for this regulation will be initial rule notification expense of \$120 and examiner cost of \$160, for a total cost of \$280. It is anticipated this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that there will be no additional requirements for new equipment or professional services.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated revenues to be collected as a result of the implementation of this rule will be approximately \$240 per year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated costs to directly affected persons or nongovernmental groups will remain largely unaltered by the implementation of this rule. The rule establishes prudential standards for Louisiana state-chartered credit unions that invest in or make loans to credit union service organizations. This rule implements certain statutes by addressing various issues, including the structure of the organizations, their customer base, and the range of services and activities that they may provide. The costs of implementation will involve legal, accounting, and compliance review costs. The benefits to be derived would include: limiting potential exposure to no more than the loss of funds invested in or lent to the credit union service organization; preventing any possible conflicts of interest; ensuring proper accounting practices are utilized; and providing access by this office to the books and records of all such organizations.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no impact on competition or employment in the public or private sector.

Larry L. Murray  
Commissioner

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Economic Development  
Office of Financial Institutions**

**Subsidiary Mortgage Corporations  
(LAC 10:III.1921-1933 and I.Chapter 5)**

Under the authority of the Louisiana Banking Law, R.S. 6:121(B)(1) and R.S. 6:242(A)(15), 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 allow state banks, savings banks and savings and loan associations to form or acquire subsidiaries for the purpose of engaging in certain activities enumerated in R.S. 6:101, et seq., deemed to be part of or incidental to the business of banking; or such other activities as may be authorized under state law or regulation. No preamble has been prepared.

These proposed rules are to become effective on September 20, 1994, or upon publication in the *Louisiana Register*.

letter, within 60 days following the effective date of this rule. At a minimum, the letter should include, for each subsidiary, the name, location, date established, activities, directors and officers, and percentage ownership by the parent.

D. The commissioner shall be notified in writing at least 30 days prior to the change in location of a subsidiary. Failure to notify the commissioner of a change in location of a subsidiary may result in enforcement action. The change in location will be approved if the commissioner does not issue a written objection within 10 days of receipt of the notice.

E. In the case of a failed or failing financial institution, the commissioner may waive any provision of this rule which is not required by statute, for the purpose of approving the operation of a subsidiary by an acquiring financial institution.

F. The following factors shall be considered for the prospective consolidated entity, as well as any additional factors deemed necessary and appropriate:

1. financial history and condition;
2. adequacy of capital;
3. future earnings prospects; and
4. management.

G. The commissioner may approve any request to establish or acquire a subsidiary if he finds that the proposed operation of the subsidiary does not violate the provisions of this rule or any other applicable provisions of law. Approval will be considered valid for one year from the expiration of the 30-day objection period. The commissioner may, in his sole discretion, assign written reasons for his decision which shall be released only to the applicant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:121(B)(1), 6:242, 6:731 and 6:1138.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:

#### **§505. Activities**

A. Activities allowed under this rule include:

1. the holding of certain equity investments or other securities;
2. the making, servicing and/or warehousing of loans;
3. the holding of premises or other assets of the parent;
4. management and resolution of problem assets;
5. electronic data processing;
6. management services, including asset management and marketing;
7. management advisory services;
8. authorized asset leasing;
9. electronic funds transfer machine leasing and/or management;
10. credit card issuance, lending and management;
11. stock brokerage and insurance services;
12. other activities permitted by state law, rule or policy which may be determined by the commissioner to be part of or incidental to the business of banking;

B. The applicant shall not enter into any purchase contract, lease, binding commitment or any other agreement to obtain premises for a proposed subsidiary which would cause the total investment in fixed assets of the consolidated entity to exceed 50 percent of total equity capital and reserves.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:121(B)(1), 6:242, 6:731 and 6:1138.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:

#### **§507. Regulation**

A. Transactions between a parent and subsidiary shall be consistent with safe and sound operation of the parent and shall be governed by all laws and regulations applicable to such transactions or to transactions between the parent and any other borrower, customer, depositor, vendor or other business relationship of the financial institution. Advances to a borrower by a parent and its subsidiaries shall be aggregated to determine compliance with legal lending limits. The parent's aggregate direct and indirect investments in and advances to the subsidiary shall not exceed an amount equal to the parent's legal lending limits.

B. The commissioner shall have the authority to examine each subsidiary. If the commissioner determines that the subsidiary is operating in an unsafe or unsound manner or in violation of any law or regulation, the subsidiary may be ordered to cease such activity, the parent may be ordered to divest itself of the subsidiary, and/or the commissioner may avail himself of any other enforcement actions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:121(B)(1), 6:242, 6:731 and 6:1138.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:

#### **§509. Miscellaneous**

A. Records. The books and records of each subsidiary shall be kept separate and distinct from those of the parent and other subsidiaries, and funds of the subsidiary shall not be commingled with those of the parent or other subsidiaries. Records of the subsidiary shall be maintained for the same length of time applicable to the parent.

B. Prohibited Stock Ownership. Under no circumstances shall the parent own any assessable stock of the subsidiary. Specifically, a parent shall not be allowed to obligate itself to a subsidiary in any manner such that the subsidiary may demand additional capital from the parent.

C. Branching. An approved subsidiary of a state bank, savings and loan association or savings bank shall not be considered a branch of the parent, provided that all services offered at the subsidiary's location are approved by the commissioner and do not duplicate services offered at locations of the parent which are considered branches of same, and provided that services offered at the subsidiary location are not such that the general public might believe that the subsidiary is a branch of the parent.

D. Electronic Funds Transfer Machines. No electronic funds transfer machine or similar electronic financial terminal, owned by the parent or any other entity, may be located on any premises of the subsidiary. This prohibition shall not apply if the subsidiary is located on the premises of a duly approved branch or main office of the parent.

E. Name of Subsidiary. The name of the subsidiary shall not itself contain the words "bank," "savings bank," or "savings and loan association," nor should the subsidiary's logo(s), trademark(s), advertising, marketing or operations suggest that the subsidiary offers banking services to the public or is a branch of the parent. However, the name, logo, trademark, advertising and marketing should convey that the

subsidiary is owned and operated by the parent.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:121(B)(1), 6:242, 6:731 and 6:1138.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:

All interested parties are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 1, 1994, at 4:45 p.m., to Gary L. Newport, Office of Financial Institutions, Box 94095, Baton Rouge, Louisiana 70804-9095, or by calling (504) 925-4660.

Larry L. Murray  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Authorized Activity and Subsidiaries**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated implementation cost for this regulation will be initial rule notification expense of \$1,260. The agency anticipates no new hardware, employee costs, or professional services will be required to implement this rule. The purpose of this rule is to enable state banks, savings banks and savings and loan associations to form or acquire subsidiaries to engage in the business of banking, a power contemplated in R.S. 6:242(C). These activities are already exercised at the bank level, so neither will result in additional time or expense to examine or regulate.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will result in an increase of \$6,000 in each of the FY 94-95, 95-96, and 96-97. This office will process approximately six applications per FY at \$1,000 per application. The new fees imposed, however, will be offset by a like reduction in general assessments. Hence, there will be no effect on revenue collections for the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

Other than a \$1,000 application fee, the proposed rule will have no material effect upon the operational costs of the institutions filing such applications. The establishment of subsidiaries will allow financial institutions more business opportunities and more flexibility, and in some cases, additional legal safeguards in designing their operational structures. Economic benefits will derive from the nature and purpose of the subsidiaries, and will be largely determined by the banks, savings banks and savings and loan associations themselves.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

No significant change in competition or employment in the public or private sector is anticipated.

Larry L. Murray  
Commissioner

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**8(g) Annual Program and Budget**

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 approved for advertisement the Quality Education Support Fund 8(g) Annual Program and Budget for Fiscal Year 1994-95 as stated below. This is an amendment to the 8(g) Program and Budget which appeared in the March, 1994 issue of the *Louisiana Register* and supersedes that notice of intent.

**8(g) Annual Program and Budget (FY 1994-95)**

**Competitive Allocation**

**I. Exemplary Competitive Programs Designed  
to Improve Student Academic Achievement  
or Vo-Tech Skills**

<b>A. Elementary/Secondary Education (Grades K-12)</b>	<b>\$ 2,850,000</b>
<b>B. Vocational Technical Education (Public Postsecondary)</b>	<b>750,000</b>

**Block Grant Allocation**

**II. Exemplary Block Grant Programs Designed  
to Improve Student Academic Achievement  
or Vo-Tech Skills**

<b>A. Elementary and Secondary Education</b>	<b>6,200,000</b>
1. Early Childhood Education (Pre-K - Third Grade)	
2. Student Enhancement (Grades 4 - 12)	
3. Educational Technology	
<b>B. Preschool/Early Childhood Program</b>	<b>3,410,000</b>
<b>C. Vocational Education</b>	<b>800,000</b>
1. Extension	
2. Accreditation/Certification	

**Statewide Allocation**

**III. Exemplary Statewide Programs Designed to  
Improve Student Academic Achievement or  
Vo-Tech Skills**

<b>A. Elementary/Secondary</b>	
1. Creative/Academic Scholars Programs	150,000
2. Mini Grant Awards of Excellence	200,000
3. Statewide Distance Learning Network	1,510,000
4. Enhancement of Secondary Math and Physics	100,000
5. Academic/Vocational Enhancement of BESE Special Schools	120,000
6. Multisensory Arts Program	602,022
7. LA Women in Politics Civics Project	50,000
<b>B. Vocational Education</b>	
1. Educate America/School to Work Program	50,000
2. Occupational Competency Testing Program	15,000
3. VTIE Certification Program	100,000
4. Statewide Quickstart Programs	700,000
5. Vocational Skills Enhancement Programs	1,500,000

<b>C. Professional Development</b>	
1. Leadership Academy: Assessment and Development	300,000
2. Innovative Professional Development Program	2,005,000
3. Tuition Exemption Basic Program	2,000,000
4. Instructional Enhancement Program	1,170,000
5. LaSIP Math/Science Initiative	1,000,000
6. Louisiana Geography Education Alliance	50,000
7. Accelerated Schools— Staff Development Program	110,000
8. High Schools that Work— Staff Development Program	260,000
9. Humanities Institutes	220,000
<b>IV. Research or Pilot Programs Designed to Improve Student Academic Achievement</b>	
A. Louisiana Educational Assessment Program	1,000,000
B. Accelerated Schools—Pilot Projects	350,000
C. High Schools that Work—Pilot Projects	312,000
<b>V. Purchase of Superior Textbooks, Library Books, and Other Instructional Materials</b>	
	3,000,000
<b>VI. Teaching of Foreign Languages in Elementary and Secondary Schools</b>	
	180,000
<b>VII. Scholarships or Stipends to Prospective Teachers in Critical Shortage Areas</b>	
A. Education Majors Program	1,000,000
B. Post-baccalaureate Scholarship Program	150,000
<b>Management and Oversight</b>	
Administration (.9%)	297,575
Fiscal/Programmatic Evaluation (1.1%)	357,974
<b>Total</b>	<b>\$32,869,571</b>

**AUTHORITY NOTE:** Promulgated in accordance with LA Constitution, Art. VII, Section 10.0, R.S. 17:3801.

Interested persons may comment on the proposed policy until 4:30 p.m., August 9, 1994 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: 8(g) Annual Program and Budget**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Board of Elementary and Secondary Education has adopted its Louisiana Quality Education Support Fund budget for FY 1994-95. This budget is funded with 8(g) dedicated funds. If the Legislature appropriates these funds as allocated by BESE, the cost over the 1993-94 budget will be \$422,615. Of this amount, statewide program funding will increase by \$932,022, vo-tech funding will decrease \$650,000, direct funding to LEAs will increase by \$160,000, and funding for administration/evaluation will decrease \$19,407.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenues to local education agencies for competitive projects and block grant awards will not exceed \$12,460,000.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Up to \$12,460,000 will be available for exemplary competitive projects and block grants for programs designed to improve student academic achievement.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Carole Wallin  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Lafourche Technical Institute System**

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved for advertisement, the following changes to the Lafourche Technical Institute System: (1) changed the name of Thibodaux Area Technical Institute to Lafourche Technical Institute, North Campus, (2) transferred the Golden Meadow Campus of South Louisiana Technical Institute to the Lafourche System and renamed it the Lafourche Technical Institute, South Campus. This is an amendment to the Louisiana Administrative Code, Title 28 as noted below:

**Title 28**

**EDUCATION**

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

**Chapter 1. Organization**

**§111. Vocational Technical Schools**

A. Postsecondary vocational technical schools under the jurisdiction of the board are:

\*\*\*

- 41. Lafourche Technical Institute System
  - a. Lafourche Technical Institute System, North Campus
  - b. Lafourche Technical Institute System, South Campus

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with the LA Constitution, Article VIII, Sec. 3(A); R.S. 17:1991-2009.

Interested persons may comment on the proposed policies changes until 4:30 p.m., August 9, 1994 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director



FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Lafourche Technical Institute System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to change the name of Thibodaux Area Technical Institute to Lafourche Technical Institute, North Campus and transfer the Golden Meadow Campus of South Louisiana Technical Institute, to the Lafourche system and renaming it the Lafourche Technical Institute, South Campus, will be approximately \$3,000. The implementation cost will be for purchasing new signs for both technical institutes, purchasing of new stationery, and notifying all concerned.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)

There will be no costs to persons or nongovernmental groups for this action.

IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

Marlyn Langley  
Deputy Superintendent

David W. Hood  
Senior Fiscal Analyst

NOTICE OF INTENT

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

Emission Inventory (LAC 33:III.919) (AQ94)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.919(AQ94).

The proposed change in the rule is needed to clarify the applicability of the requirements of facilities to make an annual emission inventory update. The clarified rule more clearly states that facilities experiencing a significant change in emissions of criteria pollutants over the past year must report their air emissions. A significant change was defined previously and continues in the proposed rule to include a change of 5 percent or more in emissions or a cessation of all activities and emissions; if neither of these provisions are met, the facility may send a certifying statement only.

Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air

Chapter 9. General Regulations on Control of Emissions  
and Emission Standards

§919. Emission Inventory

Emission inventory data shall be submitted to the Louisiana Department of Environmental Quality (DEQ) on magnetic media in the format specified by the Air Quality Division. Facilities with less than five point sources, may elect to submit Emission Inventory Coding (EIC) forms in lieu of the magnetic media. Facilities are defined as all emission points, fugitive, area, mobile, under common control on contiguous property. Point source is defined as the point of emission which should have a Source Classification Code. Stationary source is defined as a group of point sources. Detailed instructions are provided on an annual basis for completing and submitting emissions inventories which define requirements applicable to facilities, point sources, area sources and mobile sources.

\* \* \*

[See Prior Text in A - B.1]

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:

a. AEIU are required for any facilities subject to SIP regulation if a significant change in emission rates has occurred as defined in Subsection B.2.b and c of this Section;

\* \* \*

[See Prior Text in B.2.b through c]

d. if there are no significant changes in emission rates as defined in Subsection B.2.b and c of this Section, then only the certifying statement is required for annual submittal.

\* \* \*

[See Prior Text in B.3 through F]

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), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on July 29, 1994, at 1:30 p.m., in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact 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 Friday, August 5, 1994, 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 (504)765-0486. Commentors should reference this proposed regulation by AQ94.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Emission Inventory**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs are estimated. The change is for clarification only.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effects on revenue collection are anticipated. The change is for clarification only.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No costs and/or economic benefits are estimated. The change is for clarification only.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition and employment is anticipated from the clarification of the rule.

Gus Von Bodungen  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Fugitive Emissions Control for Ozone Nonattainment Areas  
(LAC 33:III.2122) (AQ84)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.2122 (AQ84).

The proposed rule supports activities under the CAAA (Clean Air Act Amendments) of 1990 to obtain a 15 percent reduction in VOC (Volatile Organic Compound) emissions in the ozone nonattainment area. The rule specifies fugitive monitoring requirements for process units in the ozone nonattainment area surrounding Baton Rouge; this area includes the six parishes of Ascension, East Baton Rouge, Iberville, Livingston, Point Coupee, and West Baton Rouge. The rule requires monitoring of potential leak sources (valves, pumps, compressors, pressure relief devices, agitators and connector);

defines a leak as detection of a specific ppmv (parts per million value) of VOCs; and sets the standards for documentation of the monitoring methods and results.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 21. Control of Emission of Organic Compounds  
Subchapter A. General**

**§2122. Fugitive Emission Control for Ozone  
Nonattainment Areas**

**A. Applicability**

1. This regulation is applicable to each process unit at petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry (SOCMI), the methyl tertiary butyl ether (MTBE) manufacturing industry, and the polymer manufacturing industry that contains any of the following components that are intended to operate in VOC service 300 hours or more during the calendar year: pumps, compressors, pressure relief devices, open-ended valves or lines, process drains, valves, agitators, and connectors.

2. Where the provisions of this Section are effective, process units to which this Section applies that are also subject to the provisions of LAC 33:III.2121 will not be required to comply with the provisions of LAC 33:III.2121. Process units that are currently being monitored under LAC 33:III.2121 for fugitives shall be subject to the requirements of that rule until January 1, 1995.

3. Reserved.

4. The requirements of this Section shall be effective starting January 1, 1995.

5. This Section is applicable to sources in areas classified nonattainment for ozone and designated as moderate, severe, serious, or extreme as defined in the Clean Air Act Amendments of 1990 (Public Law 101-549).

6. Applicable facilities as defined in Subsection A.1 of this Section which are subject to New Source Performance Standards, LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) may become exempt from this Section by:

a. submitting a written notice to the administrative authority\* informing them of the facility's request to become exempt from LAC 33:III.2122 and how LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) will be administered to obtain that exemption;

b. applying LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) to leak limitations specified in Subsection C.1 of this Section rather than 10,000 ppm as specified in LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V); and

c. including connectors as leak sources monitored and repaired using the restrictions in LAC 33:III.3730 to 3749 (Subchapter VV), 4780 to 4783 (Subchapter GGG), 4820 to 4826 (Subchapter KKK), or 5171 (Subchapter V) which apply to valves.

B. Definitions. Terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined below.

**Connector**—flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of equipment. Welded connections are not connectors.

**Good Performance Level**—an operating level reached when no more than 2.0 percent of the components in VOC service in a process unit are leaking at the leak rate definition or greater as determined by LAC 33:III.6077 (Reference Method 21, "Determination of Volatile Organic Compound Leaks").

**Heavy Liquid Service**—equipment that is not in VOC gas/vapor service or is not in VOC light liquid service.

**Inaccessible Valve/Connector**—a valve/connector that cannot be monitored without elevating the monitoring personnel more than two meters above a support surface.

**In Vacuum Service**—equipment operating at an internal pressure that is at least 20 inches of water (38 mm of Hg) below ambient pressure.

**Light Liquid**—a fluid with a vapor pressure greater than 0.3 kPa (0.0435 psia) at 20°C (68°F).

**Light Liquid Service**—equipment in liquid service contacting a fluid greater than 10 percent by weight light liquid.

**Liquid Service**—equipment which processes, transfers, or contains a VOC or mixture of VOC in the liquid phase.

**Process Unit**—a process unit that can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

**Process Unit Shutdown**—a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be effected. An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours is not a process unit shutdown. An unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start-up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown, is not a process unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping production are not process unit shutdowns.

**Unrepairable Component**—unrepairable components are those designated as requiring a process unit shutdown to repair and which are listed on a shutdown list for repairs.

### C. Fugitive Emission Control Requirements

1. No component shall be allowed to leak volatile organic compounds exceeding an instrument reading of 2,500 ppmv or greater for valves, connectors, pressure relief devices, process drains, and open-ended valves and lines; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators as outlined in Subsection D of this Section, when tested by LAC 33:III.6077. Any regulated component observed leaking by

sight, sound, or smell must be repaired according to Subsection C.3 of this Section, regardless of the leak's concentration. This includes flange and connection leaks found per Subsection D.3.b of this Section, pump and compressor seal leaks found during the weekly visual inspections, and any other regulated component found leaking.

2. No valve, except safety pressure relief valves, valves on sample lines, valves on drain lines, and valves that can be removed and replaced without a process unit shutdown, shall be located at the end of a pipe or line containing volatile organic compounds unless the end of such line is sealed with a second valve, a blind flange, a plug, or a cap. Such sealing devices may be removed only when the line is in use, for example, when a sample is being taken. When the line has been used and is subsequently resealed, the upstream valve shall be closed first, followed by the sealing device.

3. The operator shall make every reasonable effort to repair a leaking component, as described in this Subsection, within 15 days. If the component cannot be isolated or bypassed so as to significantly reduce or eliminate leakage, or if the repair of a component would require a unit shutdown, and if the shutdown would create more emissions than the repair would eliminate, the repair may be delayed to the next scheduled shutdown. The delay of repair shall not be any later than the next scheduled process unit shutdown. An early unit shutdown may be ordered if the total percentage of leaking and unrepairable components are excessive.

4. Percent of leaking valves and pumps at a process unit shall be determined for a test period as follows:

$$\% C_{lvp} = [C_{lv} + C_{lp}] / [C_{lv} + C_{lp}] * 100\% \quad \text{Eq. 1}$$

where:

$\% C_{lvp}$  = percent of a leaking components, where the component is the classification of valves and pumps.

$C_{lv}$  = number of valves found leaking during the monitoring period.

$C_{lp}$  = number of pumps found leaking during the monitoring period.

$C_{lv}$  = total number of valves monitored during the period.

$C_{lp}$  = total number of pumps monitored during the period.

5. Total percent of leaking and unrepairable valves and pumps shall be determined as follows:

$$\% C_{tlvp} = [C_{tlv} + C_{tlp}] / [C_{tlv} + C_{tlp} + C_{tlvp}] * 100\% \quad \text{Eq. 2}$$

where:

$\% C_{tlvp}$  = total percent of leaking and unrepairable valves and pumps.

$C_{tlv}$  = number of valves found leaking or defined as unrepairable.

$C_{tlp}$  = number of pumps found leaking or defined as unrepairable.

$C_{tlv}$  = total number of valves tested during the period.

$C_{tlp}$  = total number of pumps tested during the period.

$C_{tlvp}$  = total number of valves and pumps which were defined as unrepairable.

6. Percent of leaking connectors at a process unit shall be determined for a test period as follows:

$$\% C_{lc} = [ C_{lc} ] / [ C_{tc} ] * 100\% \quad \text{Eq. 3}$$

where:

$\% C_{lc}$  = percent of a leaking components, where the component is the classification of connectors.

$C_{lc}$  = number of connectors found leaking during the monitoring period.

$C_{tc}$  = total number of connectors monitored during the period.

7. Total percent of leaking and unrepairable connectors shall be determined as follows:

$$\% C_{tlc} = [ C_{tlc} + C_{tuc} ] / [ C_{tuc} + C_{tuc} ] * 100\% \quad \text{Eq. 4}$$

where:

$\% C_{tlc}$  = total percent of leaking and unrepairable connectors.

$C_{tlc}$  = total number of leaking connectors.

$C_{tuc}$  = number of connectors defined as unrepairable.

$C_{tuc}$  = number of connectors tested during the period.

D. Monitoring Requirements. The monitoring of the affected components shall be performed by the following schedule using the method described in Subsection C of this Section or one of the alternate monitoring programs in Subsection E of this Section.

1. Petroleum Refineries, SOCOMI, MTBE, and Polymer Manufacturing Industry

a. Monitor with a leak detection device one time per year (annually) the following items:

- i. process drains;
- ii. connectors in gas or light liquid service; and
- iii. open-ended valves and lines.

b. Monitor with a leak detection device four times per year (quarterly) the following items:

- i. compressor seals;
- ii. pressure relief valves in gas service;
- iii. valves in light liquid service;
- iv. pumps in light liquid service; and
- v. valves in gas service.

c. Monitor pump seals visually 52 times a year (weekly).

2. Natural Gas Processing Plants

a. Monitor pump seals and compressor seals visually 52 times a year (weekly).

b. Monitor with a leak detection device four times a year (quarterly) the following items:

- i. pumps, pump and compressor seals;
- ii. valves; and
- iii. pressure relief valves in gas service.

3. Facilities listed in Subsection D.1 and 2 of this Section

a. Monitor with a leak detection device any pressure relief valve within 24 hours after it has vented to the atmosphere. (For natural gas processing plants an immediate visual evaluation will be made.)

b. Monitor immediately with a leak detection device any component that appears to be leaking on the basis of sight,

smell, or sound. In lieu of monitoring, the operator may elect to implement actions as specified in Subsection C of this Section.

c. Inaccessible valves shall be monitored on an annual basis at a minimum.

d. Unsafe-to-monitor valves and connectors shall be monitored when conditions would allow these valves and connectors to be monitored safely (e.g., during shutdown).

4. Exemptions. Monitoring is not required on the following:

a. components subject to Subsection D.1 of this Section (petroleum refineries, SOCOMI, MTBE, and polymer manufacturing industry) which contact a process fluid that contains less than 10 percent VOC by volume or components subject to Subsection D.2 of this Section (natural gas processing plants) which contact a process fluid that contains less than 1.0 percent VOC by weight;

b. components in the petroleum refineries, SOCOMI, MTBE, and polymer manufacturing industry that contact only a process liquid containing a VOC having a true vapor pressure equal to or less than 0.3 kPa (0.0435 psia) at 20°C (68°F).

c. pressure relief valves in liquid service at SOCOMI and polymer manufacturing industry, except after venting;

d. pressure relief devices, pump seals or packing, and compressor seals or packing where leaks are vented to either a flare header or vapor recovery device;

e. equipment in vacuum service;

f. natural gas processing plants with less than 40 million cubic feet per day (mmcf) capacity that do not fractionate natural gas liquids;

g. components contacting only organic compounds exempted under LAC 33:III.2117 or mixtures of same with water;

h. pumps and compressors with double mechanical seal;

i. research and development pilot facilities and small facilities with less than 100 valves in gas or liquid service;

j. insulated connectors;

k. components that have been placed on a shutdown list for repairs are exempt from further monitoring until a repair has been attempted.

5. Alternate Monitoring Program. Any facility that already has in place a fugitive emission monitoring program which controls to a higher degree than required under this Section shall be exempted from this Section upon submittal of a description of the program to the administrative authority\* and approval thereof.

E. Alternate Control Techniques. The monitoring schedule in Subsection D of this Section may be modified as follows:

1. Alternate Standards for Valves and Pumps subject to Subsection D.1.b of this Section - Skip Period Leak Detection and Repair.

a. An owner or operator may elect to comply with one of the alternative work practices specified in Subsection E.1.b, c, or g of this Section. However, the administrative authority\* must be notified in writing before implementing one of the alternative work practices.

b. After two consecutive quarterly leak detection

periods with the percent of leaking valves and pumps (Eq. 1) equal to or less than 2.0, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and light liquid service and pumps in light liquid service.

c. After five consecutive quarterly leak detection periods with the percent of leaking valves and pumps (Eq. 1) equal to or less than 2.0, an owner or operator may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and light liquid service and pumps in light liquid service.

d. If the percent of leaking valves and pumps (Eq. 1) is greater than 2.0, or the total percent of leaking and unrepairable valves and pumps (Eq. 2) is greater than 4.0, the owner or operator shall comply with the requirements as described in Subsection D of this Section but subsequently can again elect to use this Subsection when the requirements are met.

e. The percent of leaking valves and pumps (Eq. 1) shall be determined by dividing the sum of components found leaking during the current monitoring period by the total number of valves and pumps which were tested and multiplying the results by 100 percent.

f. An owner or operator must keep a record of the percent of valves and pumps found leaking during each leak detection period and the total percentage of leaking and unrepairable valves and pumps.

g. Existing equipment that has been monitored under LAC 33:III.2121 for fugitives at the leak definition of 10,000 ppmv can initially elect to use this alternate standard if the unit has data documented by January 1, 1995, with the department that indicates the percent of leaking valves and pumps (Eq. 1) is less than or equal to 2.0 percent leak rate at 10,000 ppmv for the required time period.

2. Alternative Standards for Valves and Pumps - Increased Monitoring Frequency. If the percent of leaking valves and pumps (Eq. 1) in a test period is greater than 2.0, or the total percent of leaking and unrepairable valves and pumps (Eq. 2) is greater than 4.0, then an increase in the frequency of monitoring may be required by the administrative authority\*.

### 3. Alternate Standard for Connectors - Skip Periods

a. An owner or operator may elect to comply with one of the alternative work practices specified in Subsection E.4.b, c, or d of this Section. However, the administrative authority\* must be notified in writing before implementing one of the alternative work practices.

b. After one annual leak detection period with the percent of leaking connectors (Eq. 3) equal to or less than 2.0, an owner or operator may begin to skip one of the annual leak detection periods for the connectors in gas/vapor and light liquid service.

c. After two consecutive annual leak detection periods with the percent of leaking connectors (Eq. 3) equal to or less than 2.0, an owner or operator may begin to skip three of the annual leak detection periods for the connectors in gas/vapor and light liquid service.

d. Process units may elect to monitor one-fourth of the connectors in a process unit each year instead of all connectors

each year. If this option is used:

i. four consecutive annual periods must be completed with the percent of leaking connectors (Eq. 3) equal to or less than 2.0 to begin the alternate practice in Subsection E.4.b of this Section and eight consecutive annual periods must be completed with the percent of leaking connectors (Eq. 3) equal to or less than 2.0 to begin the alternate practice in Subsection E.4.c of this Section;

ii. the connectors must be selected using a random or pseudo-random method;

iii. during the four consecutive annual periods all connectors shall have been tested at least once and during the eight consecutive annual periods all connectors shall have been tested at least twice; and

iv. the procedures to be used for documenting the random or pseudo-random selection method and measures to ensure the testing of all connectors shall be documented and included in the report submitted to the department.

e. If the percent of leaking connectors (Eq. 3) is greater than 2.0, or the total percent of leaking and unrepairable connectors (Eq. 4) is greater than 4.0, the owner or operator shall comply with the requirements as described in Subsection D of this Section but subsequently can again elect to use this Subsection when the requirements are met.

f. The percent of leaking connectors (Eq. 3) shall be determined by dividing the number of connectors found leaking during the current monitoring period by the total number of components subject to the requirements of Subsection D of this Section and multiplying the results by 100 percent.

g. The total percent of leaking and unrepairable connectors (Eq. 4) shall be determined by dividing the sum of the number of connectors found leaking during the current monitoring period and the number of connectors which have been defined as unrepairable by the sum of the total number of connectors tested during the period and the number of connectors defined as unrepairable and multiplying the results by 100 percent.

h. An owner or operator must keep a record of the percent of leaking connectors found during each leak detection period and the total percent of leaking and unrepairable connectors.

4. Alternative Standards for Connectors - Increased Monitoring Frequency. If the percent of leaking connectors (Eq. 3) is greater than 2.0, or the total percent of leaking and unrepairable connectors (Eq. 4) is greater than 4.0, then an increase in the frequency of monitoring may be required by the administrative authority\*.

5. Alternate Standard for Connectors - Random 200 Connector Check. Process units may elect to perform a random 200 connector leak check provided they can document with the department that their connectors or valves meet the good performance level of 2.0 percent or less.

a. This check shall randomly select 200 connectors (or 10 percent, whichever is smaller) in the process unit for checking annually.

b. As long as the percent of leakers for the 200 connectors checked (Eq. 3) is less than or equal to 2.0, the process unit may remain on this reduced monitoring program.

c. If the percent of leakers for the 200 connectors checked (Eq. 3) is greater than 2.0, or the total percent of leaking and unreparable connectors (Eq. 4) is greater than 4.0, the unit must comply with the requirements in Subsection D of this Section but subsequently can again elect to use this Subsection if the percent of leaking connectors (Eq. 3) is less than or equal to 2.0.

6. Alternate Standard for Batch Processes. As an alternate to complying with the requirements in Subsection D of this Section an owner or operator of a batch process in VOC service may elect to comply with one of the following alternative work practices. The batch product-process equipment shall be tested with a gas using the procedures specified in Subsection E.7.a of this Section or with a liquid as specified in Subsection E.7.b of this Section.

a. The following procedures shall be used to pressure test batch product-process equipment using a gas (e.g., air or nitrogen) to demonstrate compliance.

i. The batch product-process equipment train shall be pressurized with a gas to the operating pressure of the equipment. The equipment shall not be tested at a pressure greater than the pressure setting of the lowest relief valve setting.

ii. Once the test pressure is obtained, the gas source shall be shut off.

iii. The test shall continue for not less than 15 minutes unless it can be determined in a shorter period of time that the allowable rate of pressure drop was exceeded. The pressure in the batch product-process equipment shall be measured after the gas source is shut off and at the end of the test period. The rate of change in pressure in the batch product-process equipment shall be calculated using the following equation:

$$\frac{P}{t} = \frac{(P_f - P_i)}{(t_f - t_i)} \quad \text{Eq. 5}$$

where:

$P/t$  = change in pressure, psia/hr.

$P_f$  = final pressure, psia.

$P_i$  = initial pressure, psia.

$t_f - t_i$  = elapsed time, hours.

iv. The pressure shall be measured using a pressure measurement device (gauge, manometer, or equivalent) which has a precision of  $\pm 2.5$  millimeters ( $\pm 0.05$  psig) of mercury in the range of test pressure and is capable of measuring pressures up to the relief set pressure of the pressure relief device.

v. A leak is detected if the rate of change in pressure is greater than 6.9 kPa (1 psig) in one hour or if there is visible, audible, or olfactory evidence of fluid loss.

b. The following procedures shall be used to pressure test batch product-process equipment using a liquid to demonstrate compliance.

i. The batch product-process equipment train, or section of the train, shall be filled with the test liquid (e.g., water, alcohol). Once the equipment is filled, the liquid source shall be shut off.

ii. The test shall be conducted for a period of at least 60 minutes, unless it can be determined in a shorter period of time that the test is a failure.

iii. Each seal in the equipment being tested shall be inspected for indications of liquid dripping or other indications of fluid loss. If there are any indications of liquids dripping or of fluid loss, a leak is detected.

iv. If a leak is detected, it shall be repaired and the batch product-process equipment shall be retested before VOCs are fed to the equipment.

v. If the batch product-process equipment fails the retest or the second of two consecutive pressure tests, it shall be repaired as soon as practicable, but not later than 30 calendar days after the equipment is placed in VOC service.

#### F. Recordkeeping

1. When a component which has a leak that cannot be repaired, as described in Subsection C of this Section, is located, a weatherproof and readily visible tag bearing an identification number and the date the leak is located shall be affixed to the leaking component. After the leak has been repaired the tag identifying the component as a leaking component may be removed.

2. A survey log shall be maintained by the operator and shall include the following:

- a. the name of the process unit where the leaking component is located;
- b. the name of the leaking component;
- c. the stream identification at the leak;
- d. the identification number from the tag required by Subsection F.1 of this Section;
- e. the date the leak was located;
- f. the date maintenance was performed;
- g. the date(s) the component was rechecked after maintenance, as well as the instrument reading(s) upon recheck (For natural gas processing plants the soap bubble test commonly performed in the industry is satisfactory.);
- h. a record of leak detection device calibration;
- i. a list of leaks not repaired until turnaround;
- j. a list of total number of items checked versus the total found leaking.

3. The operator shall retain the survey log for two years after the latter date specified in Subsection F.2 of this Section and make said log available to the administrative authority\* upon request.

G. Reporting Requirements. The operator of the affected facility shall, after each quarterly monitoring has been performed, submit a report listing all leaks that were located but not repaired within the 15-day limit along with a demonstration of achieving good performance level. These reports are due by the last day of January, April, July, and October. For units complying with the alternate control techniques a report shall be submitted by the last day of the month following the quarter that monitoring was performed. Such reports shall include the following:

1. the name of the unit where the leaking component is located and the date of last unit shutdown;
2. the name of the leaking component;
3. the stream identification at the leak;
4. the date the leak was located;

5. the date maintenance was attempted;
6. the date the leak will be repaired if the component is awaiting a shutdown;
7. the reason repairs failed or were postponed;
8. the list of items awaiting turnaround for repair;
9. the number of items checked versus the number found leaking;
10. the percent of components leaking for the test period;
11. the total percent of leakers;
12. an explanation of any random sampling method used to ensure periodic testing of all valves, pumps, and connectors; and
13. a signed statement attesting to the fact that all other monitoring has been performed as required by the regulations.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

A public hearing will be held on July 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact 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 Friday, August 5, 1994, 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 FAX (504)765-0486. Commentors should reference this proposed regulation by AQ84.

James B. Thompson, III  
Assistant Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Fugitive Emissions Control for Ozone Nonattainment Areas

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no significant change (cost or savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no significant change (increases or decreases) to revenue collections for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The facilities regulated under this proposed rule will experience no additional costs associated with the monitoring of valves, compressors or pumps because the valves, compressors and pumps are monitored under other rules. The lowering of the ppmv level which defines a leak does not significantly

impact the monitoring and documentation expense.

The facilities will experience an additional cost of \$1 to \$2 per connector which is monitored. Because of the alternate methods specified in Subsection E.5 of the rule, this expense will be limited to \$200 per process unit per survey. The total cost is anticipated to range from \$200,000 to \$600,000 for all facilities depending on good performance levels being achieved.

The benefit to the people of Louisiana is reduced air emissions of eight tons per day of volatile organic compounds (VOCs), or approximately 3,000 tons per year. This also helps Louisiana meet the Clean Air Act Amendment of 1990 requirements for ozone nonattainment areas to demonstrate a 15 percent reduction in VOC emissions and avoid federal sanctions.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on either competition or employment from this proposed rule.

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 Air Quality Division

##### Glycol Dehydrators (LAC 33:III.2116) (AQ96)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.2116, (AQ96).

The proposed rule will require smaller glycol dehydrators, those not subject to LAC 33:III.2115 or Chapter 51, to install devices to control VOCs and to monitor the still column temperature. Non-Part 70 sources will have up to two years to come into compliance with this proposed rule. Sources requiring a Part 70 permit will have one year to come into compliance.

#### Title 33 ENVIRONMENTAL QUALITY Part III. Air

##### Chapter 21. Control of Emission of Organic Compounds Subchapter A. General §2116. Glycol Dehydrators

A. Applicability. The provisions of this rule shall apply to the owner or operator of any glycol dehydrator that:

1. is not required to install controls according to LAC:33.III.Chapter 51; or
2. is not required to install controls according to LAC:33.III.2115.

##### B. Requirements

1. Any existing glycol dehydrator must annually achieve an average final exhaust temperature less than 110°F or



demonstrate to the administrative authority a 70 percent reduction of still-column emissions using methods found in Subsection D of this Section.

2. Any new glycol dehydrator, constructed after the date of promulgation of this rule, and not subject to LAC:33.III.2115 or Chapter 51, shall ensure an 85 percent reduction of still-column emissions using approved methods found in Subsection D of this Section.

C. Exemptions. A glycol dehydrator is exempt from the requirements of this Section if any of the following conditions are met:

1. the owner can demonstrate to the administrative authority that the glycol dehydrator operates fewer than 200 hours per year; or

2. the owner can demonstrate to the administrative authority that the glycol dehydrator does not emit total VOC emissions in excess of nine tons per year.

D. Test Methods. The emissions from uncontrolled glycol dehydrators affected by Subsection A of this Section shall be determined using one of the following methods:

1. rich/lean glycol mass balance using pressurized sample;

2. total capture stack condensation;

3. partial stack condensation;

4. conventional stack measurements using LAC 33:III:6071 and 6085 (Method 18 and 25); or

5. alternative methods of testing as approved by the administrative authority.

E. Compliance Schedule. All facilities affected by this Section shall be in compliance as soon as practicable, but in no event later than two years after promulgation of this rule, except those facilities required to submit a Part 70 permit. Facilities required to submit a Part 70 permit shall be in compliance within one year of date of promulgation of this rule.

F. Recordkeeping. The owner or operator of any facility subject to this rule shall maintain the following information on the premises, or an alternative location approved by the administrative authority for at least two years and shall make the following information available to representatives of the Louisiana Department of Environmental Quality upon request:

1. record of final exhaust temperature and time observed recorded twice a week on different days;

2. record of total hours of operation on an annual basis if claiming an exemption under Subsection C.1 of this Section; and

3. record of actual production per day and glycol circulation rate if claiming an exemption under Subsection C.2 of this Section.

#### G. Reporting Requirements

1. The owner or operator of a facility shall submit to the administrative authority a permit application after installation of controls unless exempt from permitting pursuant to LAC 33:III.Chapter 5.

2. If no permit is required pursuant to LAC 33:III.Chapter 5, the owner or operator of a facility shall submit to the administrative authority a new or updated emission inventory questionnaire after installation of controls.

3. The owner or operator of a facility shall submit to the administrative authority by March 31 each year (or other date

as requested by the administrative authority) an annual report containing the following information:

a. the annual average final exhaust temperature; and

b. a list of all temperature exceedances greater than or equal to 120°F, the date of each temperature exceedance, and a brief explanation describing the circumstances of the temperature exceedance.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR

A public hearing will be held on July 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact 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 Friday, August 5, 1994, 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 (504)765-0486. Commentors should reference this proposed regulation by Log AQ96.

James B. Thompson, III  
Assistant Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Glycol Dehydrators

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs (savings) accruing to state government.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no significant effect on revenue collections of state or local governmental units.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The oil and gas industry will be directly affected by the proposed action. Approximately 400 glycol dehydrators will be required to install controls after the promulgation of this rule. It is estimated that the cost of controls, including installation, will average \$10,000 per unit. Control of these sources will result in a revenue to the affected parties of at least \$750 per year per unit due to recovered product that is sold.

##### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The DEQ Air Quality does not anticipate any effects to competition and employment. The rule will be implemented statewide.

Gus Von Bodungen  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst



# NOTICE OF INTENT

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

### Insignificant Activities Permit Exemption (LAC 33:III.501) (AQ93)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.501.B.5 (AQ93).

This rule will revise the Louisiana Air Quality Permit Procedures. The revision seeks to define Insignificant Emission Sources and to exempt such sources from the requirement to obtain a permit. Failure to promulgate this revision will result in the following types of emission sources having to comply with obtaining a permit: miscellaneous equipment (maintenance or construction); exhaust emissions from cars, trucks, forklifts, etc.; office activities such as photocopying, blueprint copiers; site assessment work to characterize waste disposal or remediation sites; emissions from storage or use of water treating chemicals; emissions from food preparation at restaurants, cafeterias, and facilities; buildings and cabinets used for storage of chemicals in closed containers; etc.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 5. Permit Procedures

#### §501. Scope and Applicability

\*\*\*

[See Prior Text in A - B.4.b]

5. Insignificant Activities List. Those activities listed in the table below are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under this Chapter, provided upon investigation it is determined by the permitting authority that the source or source type will not significantly affect air quality. Any activity for which a state or federal applicable requirement applies is not insignificant, even if the activity meets the criteria below. The permitting authority shall obtain the approval of the administrator, in accordance with 40 CFR Part 70, for the listing of any source which might otherwise be regulated thereunder.

### INSIGNIFICANT ACTIVITIES LIST

#### A. BASED ON SIZE OR EMISSION RATE

Permit applications submitted under Subsection A of this Section for sources which include any of the following emissions units, operation, or activity must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III. Chapter 5:

1. fuel-burning equipment which uses a fuel, has a design rate  $\leq 10$  million BTU per hour, and is used solely for heating buildings for personal comfort, or for producing hot water for personal use;

2. gasoline storage tanks <250 gallons, providing that the aggregate emissions from all gasoline storage tanks <250 gallons does not exceed five tons per year;

3. diesel and fuel oil storage tanks <2000 gallons, providing that the aggregate emissions from all diesel and fuel oil storage tanks <2000 gallons does not exceed five tons per year;

4. stacks or vents to prevent escape of sanitary sewer gases through plumbing traps;

5. emissions from caustic storage tanks;

6. emissions from reciprocating pumps or compressor lubricating systems (i.e., oil mist); and

7. air conditioning or comfort ventilation systems not regulated under Title VI of the Clean Air Act.

#### B. BASED ON ACTIVITY

The following activities need not be included in a permit application:

1. activities which occur strictly for maintenance of grounds or buildings, including: lawn care, weed control, pest control, grinding, cutting, welding, woodworking, general repairs, and janitorial activities;

2. surface-coating of equipment during miscellaneous maintenance and construction activities, including spray painting, roll-coating and painting with aerosol spray cans, provided no paint or coating exceeds a maximum 3.5 lb/gal toxic VOC content or any requirements of limitations listed in LAC 33:III.2123. This activity specifically does not include any facility whose primary business activity is surface-coating or includes surface-coating of products;

**INSIGNIFICANT ACTIVITIES LIST**

3. miscellaneous equipment maintenance or construction unless otherwise regulated by state or federal regulation, which may include, but is not limited to, such activities as: welding, steam cleaning, equipment used for hydraulic or hydrostatic testing, miscellaneous solvent use<sup>1</sup>, sweeping, or non-asbestos insulation removal;

4. exhaust emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, and locomotives unless regulated by Title II and required to obtain a permit under Title V of the Clean Air Act;

5. office activities such as photocopying, blueprint copying, and photographic processes;

6. site assessment work to characterize waste disposal or remediation sites;

7. operation of groundwater remediation wells, including emissions from the pumps and collection activities. This does not include emissions from air-stripping or storage;

8. emissions from storage or use of water-treating chemicals, except for toxic air pollutants, for use in cooling towers, drinking water systems, and boilerwater/feedwater systems;

9. miscellaneous additions or upgrades of instrumentation or control systems;

10. emissions from food preparation at restaurants, cafeterias, and facilities where food preparation is not the primary activity;

11. emissions from air contaminant detectors, air contaminant recorders, combustion controllers, or combustion shutoff devices;

12. buildings, cabinets, and facilities used for storage of chemicals in closed containers, unless subject to applicable requirements;

13. use of products for the purpose of maintaining motor vehicles operated by the facility (i.e., antifreeze, fuel additives).

<sup>1</sup>State or federal regulations may apply.

**INSIGNIFICANT ACTIVITIES LIST**

**C. BASED ON TYPE OF POLLUTANT**  
Emissions of the following pollutants need not be included in a permit application:

1. water vapor;

2. oxygen;

3. carbon dioxide;

4. nitrogen;

5. hydrogen.

\* \* \*

[See Prior Text in B.6 - C.9]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011 and 2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on July 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact 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 Friday, August 5, 1994, 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 FAX to (504)765-0486. Commentors should reference this proposed regulation by AQ93.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Insignificant Activities Permit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs to state or local governmental units. By exempting insignificant activities from permit requirements the proposed rule revision would reduce the cost to state government that could otherwise be incurred in handling and processing air quality permits.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

These types of emissions have historically been exempted by

this department. There was no fee associated with an exemption letter, consequently, there will be no reduction in revenues to this agency. Likewise, local governmental units did not regulate permits or exemptions nor do they now. Therefore, there will be no reduction in revenues to these units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The Title V Operating Program regulations as written have the potential to affect many small businesses, area sources, and private citizens. The revisions to the rule as proposed in AQ93, clearly define what sources are exempt from obtaining a permit. Therefore, there will be no specific cost or economic benefit to persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The effect is mainly to exempt small units at major sources. These are not separate business entities and therefore would not have an adverse effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Mobile Sources (LAC 33:III.Chapter 19) (AQ78)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.2120, (Log AQ78).

The rule establishes provisions for the implementation of an enhanced inspection/maintenance (I/M) program for the control and abatement of motor vehicle emissions from internal combustion engines which meets the emission performance standard in accordance with 40 CFR, Part 51.

The purpose of implementing this enhanced I/M Program is to reduce the level of volatile organic compounds (VOCs), nitrogen oxides (NO<sub>x</sub>), and carbon monoxide (CO) emissions emitted by motor vehicles operating in the Baton Rouge nonattainment area.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on July 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact 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 Friday, August 5, 1994, 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 (504)765-0486. Commentors should reference this proposed regulation by Log AQ78.

This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, (504)342-5015 and at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508. Check or money order is required in advance for each copy of AQ78.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Mobile Sources**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

During the first three years of I/M testing, federal matching funds will supplement state-generated funds; the funding ratio will be 80% federal and 20% state. It is estimated that the initial total implementation cost in fiscal year (FY) 94-95 will be \$5.12 million. State-generated funds will account for \$1.024 million (20% of total cost). The second year of I/M testing will cost an estimated \$2.186 million, of which the state will pay \$437,291. In the third year of I/M testing, the state must generate \$619,227 to cover its portion of total costs. Governmental units (state and local) owning and operating vehicles in the six-parish area will be subject to increased safety inspection fees. The annual cost to government for this requirement is estimated at \$15,000. Governmental units in East Baton Rouge Parish will be subject to the I/M inspection fee for all vehicles subject to I/M requirements. In 1995 and 1996, the cost of vehicle emission testing for governmental units in East Baton Rouge Parish is estimated at \$30,000. Based on the maximum potential increase in inspection fees, this amount may increase to \$60,000 in 1997.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

State agency-generated funds may be obtained from up to a \$5 increase in the fee currently charged annually for DPS safety inspections in the six-parish area and up to a \$10 fee for years 1995 and 1996 charged biennially for I/M inspections in East Baton Rouge Parish. Automotive repairs performed for compliance with this rule will generate additional annual sales tax revenue.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Consumers will be subject to an increase of up to \$5 per year in DPS safety inspection fees. Owners of vehicles registered or required to be registered in East Baton Rouge Parish will be

subject to an I/M test fee every other year (biennial inspection program); in 1995 and 1996, this fee may be as much as \$10 and could increase to \$20 in 1997. Owners of vehicles that fail the I/M inspection will incur repair costs. It is estimated that 30% of vehicles subject to I/M will fail and require repair. The cost of repair will vary according to the reason for the failure. A vehicle failing an I/M test is required to expend up to a maximum of \$450 for repairs [\$450 adjusted annually in January by the percentage difference from the 1989 Consumer Price Index (CPI)]. Vehicle owners also face the indirect cost associated with the time to obtain inspection, repairs and reinspection (if necessary). It is estimated that the automotive repair industry will generate \$1.6 million in repair revenue. It is also estimated that 88 new jobs and 77 secondary jobs will be created in the automotive repair industry. The I/M testing contractor will have an estimated annual revenue of \$1.3 million.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition will be affected in the automotive repair industry. Initially, competition will lessen among existing businesses, as business volume will increase. As the program matures, new repair businesses are likely to enter the market, which will increase competition. Employment generated is projected as follows: 25 state jobs, 55 inspection contractor jobs, and 33 repair industry jobs.

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  
Air Quality Division**

**Clean Fuel Fleet Program and Fees  
(LAC 33:III.223 and 1951-1973) (AQ80)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.Chapter 19 (AQ80).

The federal CAAA (Clean Air Act Amendments) of 1990 require implementation of a Clean Fuel Fleet Program in ozone nonattainment areas classified serious and above. In Louisiana this encompasses Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes. The CAAA require any fleet operator who operates in this area 10 or more vehicles which are centrally fueled or capable of being centrally fueled, to comply with the requirements of the Clean Fuel Fleet Program. The program will phase in over a three-year period. In 1998, 30 percent of a covered fleet operator's new vehicle purchases must operate on an alternative fuel; by 1999, 50 persons; by 2000, 70 percent.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs**

**§223. Fee Schedule Listing**

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[See Prior Text in Fee Schedule Listing]

Additional Permit Fees and ADVF Fees		
Fee Number	Fee Description	Amount
	*** [See Prior Text]	
2700	Fleet Size:	
*Note 17*	10-25 vehicles	300
	26-50 vehicles	500
	51-100 vehicles	750
	101 + vehicles	1,000

**Explanatory Notes for Fee Schedule**

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[See Prior Text Notes 1 through 16]

Note 17 The fleet size is based on the number of covered vehicles in the covered fleet.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental 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 19:1419 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:

**Chapter 19. Mobile Sources  
Subchapter B. Clean-fuel Fleet Program  
§1951. Purpose**

The purpose of this rule is to reduce exhaust emissions from motor vehicles through a program that requires covered fleet operators to include clean-fuel vehicles (CFVs), on a percentage basis, in acquisitions of fleet vehicles. The Clean-fuel Fleet Program is mandated by the Clean Air Act Amendments of 1990, for vehicle fleets that operate in the Baton Rouge ozone nonattainment area which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

**§1953. General Provisions**

A. Applicability. Any person who operates a fleet of 10 or more covered vehicles that are centrally fueled or capable of being centrally fueled in the Baton Rouge ozone nonattainment area as defined in LAC 33:III.1951 shall comply with the rules set forth in this Subchapter. This includes persons that reside outside the covered area and operate such fleets in the

covered area. Three vehicle classes are covered by the program:

1. Light-duty Vehicles (LDVs) and Light-duty Trucks (LDTs) with a gross vehicle weight rating (GVWR) of less than or equal to 6,000 pounds;
2. LDTs with a GVWR greater than 6,000 pounds and less than or equal to 8,500 pounds; and
3. Heavy-duty Vehicles (HDVs) with a GVWR greater than 8,500 pounds and less than 26,000 pounds.

**B. CFV Purchase Requirements**

1. LDVs and LDTs—30 percent of new covered vehicle purchases/acquisitions, in Model Year (MY) 1998, 50 percent in MY 1999, and 70 percent in MY 2000 and thereafter.
2. HDVs—50 percent of new covered vehicle purchases/acquisitions in MY 1998 and 50 percent every MY thereafter.
3. Purchasing requirements specified in Subsection B.1 and 2 of this Section may be met through EPA-certified conversions of conventionally-fueled vehicles to CFVs or by use of purchase credits.

**C. Fleet Registration**

1. Covered fleets shall register with the administrative authority not later than September 1, 1997.
2. Those fleets which become covered after September 1, 1997, because of an increase in fleet size and/or central fueling capabilities shall register all vehicles in their fleet with the administrative authority within 90 days of attaining covered fleet status.
3. The following information shall be submitted when registering: total number of vehicles in fleet, vehicle make, vehicle model, vehicle year, vehicle identification number (VIN), license plate number, vehicle odometer reading, and vehicle GVWR.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

**§1955. Definitions**

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows:

**Capable of Being Centrally Fueled**—a fleet, or that part of a fleet, consisting of vehicles that can be refueled 100 percent of the time based on a location that is owned, operated, or controlled by the fleet operator, or is under contract with the fleet operator. A covered fleet operator who does not have a refueling location associated with his/her business or a contract for refueling will be considered capable of being centrally fueled based on the availability of a fueling location within a 1.4 mile radius of the fleet's operational location at which that fleet or part of that fleet can be refueled 100 percent of the time.

**Centrally Fueled**—a fleet, or that part of a fleet, consisting of vehicles that are fueled 100 percent of the time at a location that is owned, operated, or controlled by the covered fleet operator or is under contract with the covered fleet operator. This includes any vehicle that is garaged at a personal residence and that is centrally fueled 100 percent of the time.

**Clean Alternative Fuel**—any fuel, including methanol,

ethanol or other alcohols (including any mixture thereof containing 85 percent or more by volume of such alcohol with gasoline or other fuel), reformulated gasoline, diesel, natural gas, liquefied petroleum gas, and hydrogen, or power source (including electricity) used in a clean-fuel vehicle that complies with the standards and requirements applicable to such vehicle when using such fuel or power source.

**Clean-fuel Vehicles (CFVs)**—a vehicle which has been certified to meet, for any model year, a set of emission standards that classifies it as a low-emission vehicle (LEV), ultra-low-emission vehicle (ULEV), or zero-emission vehicle (ZEV).

**Contract Fueling**—an agreement under which fleet vehicles are required to be refueled at a service station or other facility with which the fleet operator has entered into a contract for such refueling purposes. Commercial fleet credit cards are considered to be a refueling agreement, since they are intended as a special fuel arrangement for fleet purchases alone.

**Converted Vehicle**—a vehicle that is retrofitted to use one of the alternative clean fuels and meets the emission standards set forth for that class of CFVs.

**Converter**—any person who manufactures or installs a conversion configuration on a vehicle in order to convert it to a clean-fuel vehicle which meets the emission standards for that class of CFVs. *Note:* Manufacturers of conversion kits, as well as installers, are responsible for demonstrating that vehicles converted to clean-fuel vehicles have a configuration that complies with clean-fuel vehicle emission standards.

**Covered Area**—the Baton Rouge ozone nonattainment area which is subject to the CAAA Clean-fuel Fleet Program provisions. The parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge are included.

**Covered Fleet**—ten or more motor vehicles in vehicle classes for which this rule is applicable and which are operated by a single person; operated in a covered area, even if the fleet is garaged outside the covered area; and centrally fueled or capable of being centrally fueled.

**Covered Fleet Operator**—a person who operates a covered fleet. For the purposes of this rule, all motor vehicles owned or operated, leased, or otherwise controlled by such person, by any person who supervises such person, or by any person under common supervision with such person shall be treated as owned by such person.

**Covered Fleet Vehicle**—a motor vehicle that is in a vehicle class for which standards are applicable under this rule and is part of a covered fleet that is centrally fueled or capable of being centrally fueled.

**Dealer Demonstration Vehicle**—a vehicle that is operated solely for the purpose of promoting motor vehicle sales or permitting potential purchasers to drive the vehicle for pre-purchase or pre-lease evaluation. ("Dealer" refers to any person who is engaged in the sale or distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.)

**Dual-fuel Vehicle**—any motor vehicle or engine that is designed to operate on two fuel sources. Each fuel source is stored in a separate fuel storage tank.

**Emergency Vehicle**—any vehicle that is legally authorized by

a governmental authority to exceed the speed limit to transport people and equipment to and from situations in which speed is required to save lives or property, such as a rescue vehicle, fire truck, or ambulance.

**Flexible-fuel Vehicle**—any motor vehicle which is designed to operate on multiple fuel sources. Each fuel source is stored in the same fuel storage tank.

**Fuel Provider**—a facility that provides refueling services to the general public.

**Gross Vehicle Weight Rating (GVWR)**—the weight specified by the vehicle manufacturer as the maximum allowable loaded weight (vehicle empty weight plus the weight of the driver, passengers, and payload) of a single vehicle.

**Heavy-duty Vehicle (HDV)**—a motor vehicle with a GVWR greater than 8,500 pounds, and identified as being in one of three subclasses:

1. **Light HDV (LHDV)**—a motor vehicle with a GVWR of 8,501 pounds through 19,500 pounds.

2. **Medium HDV (MHDV)**—a motor vehicle with a GVWR of 19,501 pounds through 26,000 pounds.

3. **Heavy HDV (HHDV)**—a motor vehicle with a GVWR of 26,001 pounds or greater.

**Inherently Low-emission Vehicle (ILEV)**—any LDV or LDT conforming to the applicable ILEV emission standards, or any HDV with an engine conforming to the applicable ILEV standards. No dual-fuel or flexible-fuel vehicles shall be considered ILEVs unless they are certified to the applicable ILEV standard(s) on all fuel types for which they are designed to operate. ILEV emission standards may be found in 40 CFR 88.311-93.

**Law Enforcement Vehicle**—any vehicle which is primarily operated by a civilian or military police officer or sheriff, or by personnel of federal, state, or municipal law enforcement agencies and which is used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities.

**Light-duty Vehicle (LDV)/Light-duty Truck (LDT)**—a motor vehicle with a GVWR of 8,500 pounds or less.

**Loaded Vehicle Weight**—the curb weight plus 300 pounds.

**Location**—any building, structure, facility, or installation, which is owned or operated by or under the control of a person, is located on one or more contiguous properties, and contains or could contain a fueling pump or pumps for the use of the vehicles owned or controlled by that same person.

**Low-emission Vehicle (LEV)**—a vehicle that meets the LEV certified emission standards. The LEV emission standards may be found in 40 CFR 88.104-94 and 105-94.

**Model Year (MY)**—the time frame (September 1 through August 31) during which annual fleet vehicle purchases, acquisitions, and conversions are computed. Any new vehicles purchased, acquired, or converted between September 1 and August 31 shall be counted toward the purchase requirement of the same year and shall be considered to be of the same model year as the January that falls between them.

**Motor Vehicle**—any self-propelled vehicle designed for transporting persons or property on a street or highway.

**Noncovered Fleet**—any fleet that is exempted from this rule

in accordance with LAC 33:III.1957.

**Nonroad Vehicle**—a vehicle or item of machinery that uses internal combustion engine but is not regulated as a motor vehicle or airplane under the Clean Air Act (e.g. farm and construction equipment).

**Operate In**—a covered fleet, whether registered inside or outside the covered area, that conducts business within the boundaries of the covered area, such as, but not limited to, the delivery of a product or a service, sales personnel calling on clients, making repair service calls, etc.

**Partially Covered Fleet**—any fleet that contains 10 or more covered vehicles, but also contains exempt vehicles.

**Test Weight (TW)**—the average of the curb weight and the GVWR.

**Ultra-low-emission Vehicle (ULEV)**—a vehicle that meets the ULEV certified emission standards. The ULEV emission standards may be found in 40 CFR 88.104-94 and 105-94.

**Zero-emission Vehicle (ZEV)**—a vehicle that meets the more stringent ZEV certified emission standards. The ZEV emission standards can be found in 40 CFR 88.104-94 and 105-94.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

#### §1957. Exemptions

The following fleet vehicles are exempt from the requirements of this Subchapter:

1. any vehicle with a GVWR greater than or equal to 26,000 lbs;
2. emergency or law enforcement vehicles;
3. nonroad vehicles (farm and construction vehicles);
4. fleets in the covered area with fewer than 10 vehicles;
5. vehicles in a covered fleet not capable of being centrally fueled;
6. vehicles parked at a private residence that are not already centrally fueled;
7. vehicles leased or rented to the general public;
8. vehicles held for sale by motor vehicle dealers (including dealer demonstration vehicles); and
9. vehicles used for motor vehicles manufacturer product demonstrations and tests.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

#### §1959. Emissions Standards

Clean-fuel vehicles must meet the applicable vehicle emission standards for their respective vehicle classes and categories. The emission standards tables are found in 40 CFR 88.104-94, 105-94, and 311-93.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

#### §1961. Credits Program

Operators of covered fleets that are registered or required to



be registered in the covered area and participating noncovered fleets, upon registering with the department, are eligible to participate in the credits program which allows purchase credits to be earned, banked, traded, or sold within the Baton Rouge nonattainment area in order to satisfy the Clean-fuel Fleet Program (CFFP) purchase requirements.

**A. Requirements**

1. A fleet must be registered with the administrative authority in accordance with rule and procedures established by the Clean-fuel Fleet Program.

2. Any fleet vehicle for which credit is being requested must be a clean fuel vehicle (CFV).

3. Any dual-fuel/flexible-fuel vehicle which a fleet owner purchases, acquires, or converts to comply with CFFP purchase requirements or to generate credits must be operated, while in the covered area, on the fuel(s) for which it was certified as a CFV.

**B. Credit Generation.** Operators of eligible fleets may generate credit by:

1. acquiring CFVs and/or converting vehicles to CFVs prior to model year 1998;

2. acquiring CFVs and/or converting more vehicles to CFVs than the CFFP requires in any year;

3. acquiring CFVs and/or converting vehicles to CFVs, which meet more stringent emission standards (ULEV, ZEV) than the minimum requirement (LEV); or

4. acquiring CFVs in exempted vehicle categories and/or converting exempted vehicles to CFVs.

**C. Credit Usage.** Operators of eligible fleets, in lieu of acquiring and/or converting vehicles to CFVs, may use banked, traded, or purchased credits as a means of meeting their CFFP purchase requirements.

**D. Credit Transactions**

**1. Credit Banking**

a. Credits which are not needed to meet a fleet's CFFP purchase requirements may be banked.

b. Banked credits may be held for use, traded, and/or sold at a later time with no depreciation of credits.

c. Banked credits may be used to meet compliance with the purchase requirements by redemption to the administrative authority at a later date.

d. Eligible fleet operators who voluntarily purchase CFVs after August 31, 1995, shall be eligible to earn and bank credits provided that all other requirements applicable to such purchases and vehicle use are met.

e. Credits for the LDVs and HDVs (including heavy-duty subclasses) are required to be banked, identified, and tracked separately.

**2. Trading, Purchasing, and Selling of Credits**

a. The trading, purchasing, and selling of credits is market-driven, with no monetary value set by the administrative authority\*.

b. Credits may be traded, purchased, or sold only among covered and participating noncovered fleets in the Baton Rouge nonattainment area.

c. Traded or purchased credits may be used to demonstrate compliance in the year of the trade/purchase or any subsequent year.

d. Credit transactions are prohibited between the LDV

and HDV weight classes.

e. Credit trading is allowed between all LDV and LDT subclasses.

f. Credit trading among the HDV subclasses is allowed only in a downward direction and without proration. That is, credits generated by the purchase of heavy HDVs can be used to demonstrate compliance with medium HDV or light HDV purchase requirements on a one-for-one basis. Trading in an upward direction, i.e., using credits generated by the purchase of light HDVs to satisfy medium HDV or heavy HDV requirements, is not permitted.

g. A covered fleet operator desiring to demonstrate full or partial compliance with covered fleet purchase requirements by the redemption of credits shall surrender sufficient credits as established by the CFFP. Credit tables can be found in Subsection E of this Section.

**E. Calculation of Credits.** Credits are appropriately weighted to reflect the level of emission reduction achieved by the respective class when compared to conventional vehicle standards for equivalent weight classes. Credit calculations and tracking will follow round-off procedures to two decimal places (hundredth's place). The following tables demonstrate "credit generation" and "credits in lieu of" values for LDVs and HDVs.

**Table 3.1**  
Purchasing More Vehicles than Required to Meet the Mandate

NMOG + NO <sub>x</sub>	LDV	LDT	LDT	LDT	LDT	LDT
	≤6000 lbs GVWR ≤3750 lbs LVW	≤6000 lbs GVWR ≤3750 lbs LVW	≤6000 lbs GVWR >3750 lbs LVW ≤5750 lbs LVW	>6000 lbs GVWR ≤3750 lbs TW	>6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	>6000 lbs GVWR >5750 lbs TW
LEV	1.00	1.00	1.39	.33	.43	.52
ULEV	1.09	1.09	1.52	1.00	1.39	2.06
ZEV	1.73	1.73	2.72	1.73	2.72	3.97

**Table 3.2**  
Purchasing a ULEV or ZEV to Meet the Mandate

NMOG + NO <sub>x</sub>	LDV	LDT	LDT	LDT	LDT	LDT
	≤6000 lbs GVWR ≤3750 lbs LVW	≤6000 lbs GVWR ≤3750 lbs LVW	≤6000 lbs GVWR >3750 lbs LVW ≤5750 lbs LVW	>6000 lbs GVWR ≤3750 lbs TW	>6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	>6000 lbs GVWR >5750 lbs TW
LEV	0.00	0.00	0.00	0.00	0.00	0.00
ULEV	.09	.09	.13	.67	.96	1.54
ZEV	.73	.73	1.34	1.40	2.29	3.45



**Table 3.3**  
Credit Needed in Lieu of Purchasing a LEV to Meet the Mandate

NMOG + NO <sub>x</sub>	LDV ≤6000 lbs GVWR ≤3750 lbs LVW	LDT ≤6000 lbs GVWR ≤3750 lbs LVW	LDT ≤6000 lbs GVWR >3750 lbs LVW ≤5750 lbs LVW	LDT >6000 lbs GVWR ≤3750 lbs TW	LDT >6000 lbs GVWR >3750 lbs TW ≤5750 lbs TW	LDT >6000 lbs GVWR >5750 lbs TW
LEV	1.00	1.00	1.39	.33	.43	.52

**Table 3.4**  
Purchasing More Vehicles than Required to Meet the Mandate

	Light HDV	Medium HDV	Heavy HDV
LEV	1.00	1.00	1.00
ULEV	1.87	1.87	1.87
ZEV	3.53	3.53	3.53

**Table 3.5**  
Purchasing a ULEV or a ZEV to Meet the Mandate

	Light HDV	Medium HDV
LEV	.00	.00
ULEV	.87	.87
ZEV	2.53	2.53

**Table 3.6**  
Credit Needed in Lieu of Purchasing a LEV to Meet the Mandate

	Light HDV	Medium HDV
LEV	1.00	1.00

**§1963. Emission Reduction Credits Program - Reserved**

**§1965. Recordkeeping Requirements**

A. Accurate records must be maintained to verify compliance with the Clean-fuel Fleet Program. All records shall be maintained for the current year plus the previous two years for the purposes of reporting and compliance auditing.

B. An annual report for LDVs and HDVs shall be forwarded to the administrative authority by October 1 to cover the previous model year's activities. Transactions will be recorded in the balance sheet by item number. An item sheet will accompany the balance sheet for each item entered.

C. Each balance sheet shall contain the following:

1. total number of new vehicles purchased;
  2. CFVs required;
  3. each transaction by item number and date;
  4. acquired credits and/or sold credits;
  5. beginning and ending credit balances; and
  6. company name, address, primary contact person, telephone number, date, and fleet operator signature.
- D. Each item sheet shall contain the following:
1. transaction item number and date;
  2. company name, address, primary contact person, telephone number;
  3. company name, address, primary contact person, telephone number, and item number of who purchased/sold the credits;
  4. vehicle identification number (VIN) of the purchased/converted vehicle(s);
  5. vehicle type of the purchased/converted vehicle(s);
  6. fuel type of the purchased/converted vehicle(s);
  7. certification number of the purchased/converted vehicle(s);
  8. license plate number of the purchased/converted vehicle(s);
  9. LEV equivalents; and
  10. any other information for clarification or verification.

E. The following records shall be maintained for compliance audit purposes:

1. annual report;
2. total number of vehicles (covered and exempt);
3. VIN, license plate number, type (LDV/HDV), and fuel type of each vehicle; and
4. any other information that may be deemed necessary by the administrative authority.

F. All records shall be maintained at a location within the covered area for those who reside inside the covered area or for those operators who reside outside the covered area at a site agreed to by the fleet operator and the administrative authority. The records shall be available for inspection by department personnel during reasonable business hours (8 a.m. to 5 p.m., Monday-Friday).

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

**§1967. Conversions to Clean-fuel Vehicles - Reserved**

**§1969. Fuel Provider Requirements**

Fuel providers are required by the Clean Air Act Section 246(e) "to make clean alternative fuels available to covered fleet operators at locations at which covered fleet vehicles are centrally fueled."

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

**§1971. Enforcement**

A. No person shall violate the provisions of this Subchapter.

B. No person shall knowingly:

1. make any false material statement, representation, or

certification in, or omit material information from or knowingly alter, conceal, or fail to file or maintain any document required pursuant to this Subchapter;

2. fail to report data as required under this Subchapter;
3. counterfeit or commerce in counterfeit purchase credit documents;
4. fail to meet purchase requirements;
5. fail to purchase the appropriate number of vehicles certified to clean-fuel vehicle emission standards for the present model year; or
6. use a fuel in a covered area other than that for which the vehicle was certified as a clean-fuel vehicle.

C. Failure to comply with the provisions of this Subchapter shall constitute a violation of the act and shall be subject to any enforcement action including penalties pursuant to R.S. 30:2025.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

#### **§1973. Fees**

Fees are defined in LAC 33:III.223.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

A public hearing will be held on July 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact 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 Friday, August 5, 1994, 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 Log AQ80.

James B. Thompson, III  
Assistant Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Clean Fuel Fleet Program and Fees  
(LAC 33:III.223 and 1951-1973) (AQ80)**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation costs to Louisiana Department of Environmental Quality will be approximately \$179,098. These costs will be agency self-generated by fee augmentation for increases in personnel, vehicles, office furniture, and operating costs. It is estimated that costs to other state agencies should not exceed \$1,000 per agency.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The state will generate revenue beginning in FY 97-98 through promulgation of fees under LAC 33:III.Chapter 2, relative to the Department of Environmental Quality's Air Program fee system, sufficient to fund the costs associated with requirements to be implemented by this rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Estimates of costs incurred to implement this program were obtained from the United States Environmental Protection Agency's Regulatory Impact Analysis for the federal Clean Fuel Fleet Program regulation, 40 CFR Part 88. EPA estimates the added cost for alternatively fueled light duty vehicles and trucks varies from \$175 for a vehicle fueled with reformulated gasoline to \$3,500 for electric vehicles. According to EPA estimates, by the year 2000 the fuel costs for conventional gasoline will be \$1.31/gal, \$1.36 for reformulated gasoline, \$1.12 for alcohol based fuels and electricity, \$1.09 for CNG and \$0.62 for LPG. All of the fuels will yield a savings over \$1.09 for CNG and \$0.62 for LPG. All of the fuels will yield a savings over conventional gasoline except for reformulated gasoline.

EPA also estimates that for heavy duty vehicles, the added cost for engine modifications will cost consumers from \$165 for heavy-duty gas engines and \$306 for heavy duty diesel engines. This includes the research and development effort as well as a retail mark-up of 29 percent.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Covered fleets may pass on the costs of compliance with the rule. It is anticipated that jobs will be created with the construction of new fueling infrastructures. There will be a potential increase in the number of employees to service and repair clean fuel vehicles. Additional jobs may also be generated from the production of clean alternative fuels.

Gustave Von Bodungen  
Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

### **NOTICE OF INTENT**

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

**Adjudications (LAC 33:I.Chapter 3) (OS16)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.Chapter 3, (OS16).

The proposed rules establish practical and easy-to-follow procedures for regulating adjudications before the department, from the time a hearing request is filed through final administrative disposition. The proposed rules will repeal all provisions governing adjudications in the Environmental Control Commission Rules of Procedure (August, 1980). Specific topics include: delegation of authority; requests for adjudicatory hearings; ex parte communication and recusation;

intervention; filing of pleadings, documents, and other items; prehearing procedures; discovery; evidence; subpoenas; interlocutory review; and review by the secretary of decisions by a presiding officer.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on July 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact 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 Friday, August 5, 1994, 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 FAX (504)765-0486. Commentors should reference this proposed regulation by Log OS16.

This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504)342-5015 and at the following DEQ locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3945 North I-10 Service Road West, Metairie, LA 70002; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508. Check or money order is required in advance for each copy of OS16.

James B. Thompson, III  
Assistant Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: *Administrative Procedures -  
Adjudications*

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule may result in some economic benefit through the elimination of the procedural confusion resulting from reliance upon antiquated rules developed for the agency's predecessor (Environmental Control Commission).

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed rule on competition and employment is anticipated.

William A. Kucharski  
Secretary

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

#### Commercial Operating Permit Evidentiary Hearings (LAC 33:V.303 and Chapter 7) (HW41)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V.303 and Chapter 7, (HW41).

These proposed rule changes require evidentiary hearings on operating permit applications for commercial hazardous waste treatment, storage, disposal, or recycling facilities. Procedures for adjudications are being consolidated in rules under the Office of the Secretary, LAC 33:I.Chapter 3. This action is required to clarify this section of the text and to facilitate the hearing process.

#### Title 33

#### ENVIRONMENTAL QUALITY

#### Part V. Hazardous Waste and Hazardous Materials

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

#### Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

#### §303. Overview of the Permit Program

\* \* \*

[See Prior Text in A - N]

#### O. Application Submitted

All formal permit applications (Part II) shall be submitted in quintuplicate in the form presented in LAC 33:V.515, 517, 519, and 521 and in conformance with all requirements established by the administrative authority. An additional 15 copies shall be provided for any application upon which an evidentiary hearing is to be held by the administrative authority.

\* \* \*

[See Prior Text in P - Q]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:

\* \* \*

**Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits**

**Subchapter A. Permits**

**§703. Permit Evaluation**

\* \* \*

[See Prior Text in A - C.3.d]

4. All draft permits prepared under this Section shall be accompanied by a fact sheet (LAC 33:V.703.D), and shall be based on the administrative record, publicly noticed (LAC 33:V. 715) and made available for public comment (LAC 33:V.707). The administrative authority shall give notice of opportunity for a public hearing (LAC 33:V. 711), and respond to comments (LAC 33:V.707).

\* \* \*

[See Prior Text in D. - D.2.f]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 20:

**Subchapter B. Hearings**

**§709. Evidentiary Hearings on Operating Permit Applications for Commercial Hazardous Waste Treatment, Storage, Disposal, or Recycling Facilities**

A. The purpose of an evidentiary hearing is to develop a record of facts, documents, testimony, and pleadings for submission to the administrative authority for consideration in making a permit decision.

B. An evidentiary hearing shall be held after the technical review on a permit application for operation of a commercial hazardous waste treatment, storage, disposal, or recycling facility. The administrative authority shall direct the Administrative Hearings Division to schedule an evidentiary hearing.

C. The administrative authority shall give public notice of the hearing at least 30 days prior to the date scheduled for commencement of the hearing.

D. Public notice shall be given for all evidentiary hearings.

1. The administrative authority shall mail a copy of a notice to the following persons (any person otherwise entitled to receive notice under this Subsection may waive his or her rights to receive notice for any classes and categories of permits):

- a. the applicant;
- b. the parish governing authority;
- c. those who request notice in writing and those who are on the area mailing list developed by the Hazardous Waste Division Permits Section.

2. The permit applicant shall publish a notice, provided by the administrative authority, in a daily or weekly major local newspaper of general circulation within the area affected by the facility or activity and in the official journal of the state.

3. The permit applicant shall provide for broadcasting the notice over a local radio station designated by the administrative authority.

4. The administrative authority shall require the applicant

to provide and pay for the notifications in LAC 33:V.709.D.2 and 3 and submit proof thereof.

E. All public notices issued under LAC 33:V.709.D.1 and 2 shall contain the following minimum information:

1. name and address of the office processing the permit action for which notice is being given;
2. name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
3. a brief description of the business conducted at the facility or activity described in the permit application;
4. name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the permit application;
5. a statement that intervention is required to participate at the hearing and a brief description of the procedures to qualify as an intervener;
6. date, time, and place of the hearing;
7. a brief description of the nature and purpose of the hearing; and
8. any additional information considered by the administrative authority to be necessary or proper.

F. Administrative procedures for adjudications contained in LAC 33:I.Chapter 3 may, at the discretion of the hearing officer, apply to evidentiary hearings except as provided in LAC 33:V.709.G and H or where they are incompatible with the purpose of the evidentiary hearing as stated in LAC 33:V.709.A.

G. The presiding officer shall not make findings of fact, conclusions of law, or recommendations or render decisions on the merits of the permit application. The presiding officer's authority terminates once the record is complete and has been transmitted to the administrative authority.

H. Administrative procedures for adjudications pertaining to intervention contained in LAC 33:I.323 shall apply to evidentiary hearings.

I. Upon completion of the evidentiary hearing, the administrative authority may require the applicant to submit additional relevant information to supplement the record.

J. No draft permit decision shall be issued until after the administrative authority has received and reviewed the record of the evidentiary hearing.

K. Unless otherwise directed by the secretary in writing, hearing officers hired pursuant to R.S. 30:2018 are hereby delegated authority to perform the functions of the presiding officer in evidentiary hearings.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:683 (August 1990), LR 17:362 (April 1991), LR 20:

**§721. Additional Information**

In addition to any other notice requirements of this Chapter, a copy of the fact sheet, Part 1 of the permit application, and the draft decision shall be mailed to the applicant, the United States Environmental Protection Agency, the governing authority for the parish in which the facility or activity is located or proposed, and the library repository specifically

designated to receive information concerning the facility.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 20:

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on July 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact 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 Friday, August 5, 1994, 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 FAX (504)765-0486. Commentors should reference this proposed regulation by Log HW41.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Evidentiary Hearings on  
Commercial Operating Permit Applications**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governments. This rule change should not have much impact on the workload of the offices that work under this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule change will have no effect on revenue collections of state or local governments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

This rule change will have little economic impact on directly affected persons or nongovernmental groups. Its purpose is to facilitate the evidentiary hearing process.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There is no effect on competition or employment. The purpose of this rule is to facilitate the evidentiary hearing process.

Glenn A. Miller  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Embalmers and Funeral Directors**

**Continuing Education (LAC 46:XXXVII.709)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to adopt LAC 46:XXXVII.709, Continuing Education.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXVII. Embalmers and Funeral Directors**

**Chapter 7. License**

**§709. Continuing Education**

A. In order to ensure that all licensees maintain and improve upon their professional skills, each person holding a license issued by the board is required to participate in continuing education as a condition for renewal of license(s) subject to the conditions described herein.

**B. Definitions**

*Accredited Sponsor*—a person or organization conducting or sponsoring a specific program of instruction which has been approved by the board.

*Approved Program*—a continuing education program activity which has received prior approval by the board.

*Hour of Continuing Education*—a 50-minute clock hour completed by a licensee in attendance at an approved continuing education program.

C. Standards for Course Approval. A continuing education activity will be considered for approval if the board determines that:

1. it constitutes an organized program of learning that contributes directly to the professional competence of the licensee;
2. it pertains to subject matter which relates to the practice of funeral directing, mortuary science or related subjects; and,
3. it is conducted by an individual(s) who has specialized expertise in the subject matter.

**D. Approval of Sponsors, Program and Activities**

1. Any person or organization who wishes to present an educational program must submit in a form approved by the board an application that outlines the course content, total hours of instructions, the date and location of training and the name(s) and professional qualifications of the instructor(s). Such application shall be submitted at least 30 days in advance of the proposed training and shall be accompanied by a nonrefundable fee in an amount set by the board. The board shall either approve or reject the application within 20 days of application and shall so notify the applicant in writing.

2. Any licensee who seeks credit for participation in an educational activity that did not receive prior approval by the commission may submit a request for post-approval of the activity. Such application shall be in a form approved by the

board and shall be submitted within 30 days of the completion of the activity along with a nonrefundable fee in an amount set by the board. The board shall either approve or reject the application within 30 days of application and shall so notify the applicant in writing. No requests for approval shall be accepted by the board less than 30 days prior to the license renewal date.

3. An appeal of denial of an application may be made, in writing, to the executive director who will rule on the appeal within 30 days. Such appeal must be filed in the board office within 15 days of notification of denial.

4. The board or its authorized representative may monitor, inspect or review any approved continuing education activity and upon evidence of significant variation in the program presented from the program approved, may disapprove all or any part of the approved hours granted the activity.

5. Any person or organization sponsoring or conducting an approved program shall submit, in a form approved by the board, a sworn affidavit attesting to the attendance and satisfactory completion of training of all persons in attendance. Such information shall be provided to the board within 15 days following the presentation of material. The board may initiate disciplinary action against any licensee who knowingly falsely certifies training or who attempts through subterfuge to by-pass the requirements listed herein.

6. A provider of an approved continuing education activity may charge a reasonable fee to that individual registered for the activity. An individual may not be required to pay an additional fee in the form of registration for ancillary activities or events that are concurrent to the approved continuing education activity if the individual wishes only to attend the continuing education portion of the program. All fees shall be uniformly charged to all registrants, unless the authorized sponsor wishes to exempt employees of the sponsoring organization.

#### E. Continuing Education Requirements

1. All persons licensed by the board shall complete a minimum of four hours of approved continuing education in each one-year period to coincide with the renewal date of the license as a requirement of license renewal.

2. Carryover credit of continuing education hours will not be permitted.

3. The maximum credit hours for participation in any course shall not exceed that number approved by the board.

4. A licensee may not receive credit for attending the same course more than once during the same one-year period.

5. No credit shall be granted for partial completion of any continuing education activity.

6. Two hours credit may be granted for attendance at an entire, regularly scheduled board meeting so long as the individual makes a prior request and follows board procedures.

7. A licensed individual who conducts an approved course may receive credit for attendance at continuing education. However, the requirements of Paragraph 4 of this Subsection will apply.

#### F. Exemptions/Waivers

1. Continuing education requirements for individuals newly licensed by examination shall be waived for the first time renewal of license.

2. Those individuals licensed in Louisiana but residing outside of the state shall be exempt from the continuing education requirements set forth in this rule. Any individual that returns to residence in this state shall within the first full year after their return, meet the continuing education requirements.

3. Those persons in a "retired or inactive" status will be exempted from the continuing education requirement. Any person changing from the "retired or inactive" status to an "active" status shall within the first full year after their change in status, meet the continuing education requirement.

4. Those persons in an active military status will be exempted, upon request, from the continuing education requirement. Upon release from active duty and return to residence in the state, the individual shall within the first full year after their release and return, meet the continuing education requirement.

5. Upon request, the executive director may authorize partial or full exemption to the continuing education requirements based on personal or family hardship. Such request must be made at least 30 days prior to the expiration of license and the executive director may require documentation of hardship.

#### G. Record-keeping Procedures

1. It shall be the responsibility of the board and the individual licensee to maintain records of continuing education of the individual.

2. All records pertaining to training will be retained by the sponsor for a period of not less than two years and shall be subject to examination by the board.

H. Failure to Comply. Failure by any licensee to comply fully with the continuing education requirements as presented in this rule will result in suspension of said license(s) and the board will notify, in writing, the licensee of the cancellation. An individual will be allowed to reinstate said license(s) only after application to the board, satisfactory completion of the required continuing education, and payment of a reinstatement fee of \$150. Such application for reinstatement shall not be made prior to 30 days after notice of cancellation is mailed and shall be made in such a manner as the board may require.

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 20:

Inquiries concerning the proposed rule may be directed in writing to Dawn P. Scardino, Executive Director, at the address below. Interested persons may submit written comments, date, views, or arguments no later than 30 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: Continuing Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no implementation cost to any state or local governmental unit.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated effect on revenue collections will be minimal. Most states requiring continuing education now have a nominal fee of between \$25 and \$35 to process an application for approval of a program for CEUs.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

The continuing education requirement will result in added costs to licensee and revenue to the providers of the offerings/programs. The providers will have to pay the fee for offering/program approval.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Dawn P. Scardino  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Examiners of Nursing Facility Administrators**

**Reciprocity (LAC 46:XLIX.1107)**

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules relative to licensing and regulating nursing facility administrators.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLIX. Board of Examiners of Nursing  
Facility Administrators**

**Chapter 11. Licenses**

**§1107. Reciprocity**

A.-B. ...

C. A temporary license for a period not to exceed three months may be issued to a fully qualified reciprocity applicant upon payment of a registration fee determined by the board.

D. The board shall also have power after due notice and an opportunity to be heard at a formal hearing, to revoke or suspend the endorsement of a nursing home administrator license issued to such person by such state.

E. The action of the board in revoking or suspending such license or registration shall be reviewable by the court under

and pursuant to the provisions of law provided for in such cases.

F. A Louisiana licensee who applies for reciprocity in another state must pay a \$25 fee to the board to cover costs of completing and mailing necessary forms to the other state.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2504 and R.S. 37:2508.

**HISTORICAL NOTE:** Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:1024 (August 1993), amended LR 20:

Interested persons may submit written comments through June 30, 1994 to Van Weems, Executive Director, State Board of Examiners of Nursing Facility Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA 70806.

Van Weems  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Reciprocity License Fee**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state and local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There will be no additional costs to directly affected persons. It will benefit the affected administrators in that they will gain reciprocity licensing earlier and be able to practice.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There will be no effect on competition.

Van Weems  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Physical Therapy Examiners**

**Operating Rules (LAC 46:XLV.Chapters 1-63)**

The Department of Health and Hospitals, Board of Massage Therapy, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby proposes to adopt rules relating to the practice of massage therapy.



The full text of the proposed rules may be viewed at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge LA. Please reference document 9406#096 when requesting these rules.

Interested persons may submit written comments by July 22, 1994 to Mary L. Donker, Box 13427, New Orleans, LA 70185. She is responsible for responding to the inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 10:30 a.m., July 29, 1994, in the first floor auditorium, Department of Transportation and Development Building, 1201 Capital Access Road, Baton Rouge, LA 70802. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Mary L. Donker  
Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Operating Rules**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Estimated costs for implementation of the proposed rules are \$8,601 in FY 93-94, \$51,973 in FY 94-95 and \$52,327 in FY 95-96. These costs include salaries for a part-time clerical position and a full-time investigator/inspector.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Estimated revenues generated from fees paid by massage therapists and massage establishments are \$7,500 for FY 93-94, \$55,400 for FY 94-95 and \$53,498 for FY 95-96.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

The costs for licensing affect those applying for licensure. The exam fees are \$75, annual license fees are \$50 and establishment annual fees are \$75.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There has been an increase from only one massage school to four massage schools in this state since the passage of the Massage Therapists and Massage Establishment Act. With these additions there has been an increase from 50 to over 100 new graduates. Of those graduating an estimated 66 percent will enter into private practice or work in a health spa, chiropractor's office, or in a beauty salon or hotel.

Mary L. Donker  
Chair

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Maternal and Child Health Block Grant**

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1994-95 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. A public hearing on the block grant is scheduled for Monday, August 8, 1994 in the Department of Health and Hospitals, Third Floor, Conference Room A, 1201 Capitol Access Road, Baton Rouge, LA, 70821.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed block grant orally or in writing. Written comments will be accepted through July 10, 1994. Comments may be addressed to Eric Baumgartner, M.D., Assistant Secretary, Office of Public Health, 8550 United Plaza Blvd., Suite 300, Baton Rouge, La, 70809. The application is available for review at any regional OPH facility.

Rose Forrest  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Maternal and Child Health Block Grant**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This block was implemented in FY 82. Neither an increase nor a decrease in implementation costs is expected, as DHH will continue to administer these programs in accordance with existing federal and state laws and regulations. No workload change is anticipated, as the same amounts and kinds of services are expected to be delivered.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collections is anticipated. Naturally, if the federal allotment to Louisiana for this block decreases, the state will be required to subsequently decrease the allotment to all programs covered under the block, but this is a factor beyond our control. The amount of the allocation for Louisiana for FY 94-95 is expected to be \$14,870,143 which is the same amount as FY 93-94.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

No direct effect is anticipated on patients, groups, units of local government or state agencies other than DHH.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect is anticipated on competition and employment, as the same kinds and amounts of services are to be offered. Should the amount of federal funds eventually appropriated be such a decreased level as to warrant reductions in staff, unemployment will result.

Eric T. Baumgartner, M.D., MPH  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals  
Office of Public Health

Sanitary Code—Mandatory Disinfection  
of Water Supplies (Chapter XII)

In accordance with the provisions of R.S. 40:5 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health hereby proposes to amend Chapter XII (Water Supplies) of the *Sanitary Code, State of Louisiana*, to require mandatory disinfection for all public water supplies except for those specifically exempted and/or those currently providing disinfection as required under the Federal Safe Drinking Water Act and subsequent Louisiana Total Coliform Rule. The existing provisions of §§12:021-1 to 12:021-4 are to be deleted and replaced with the following language:

Chapter XII. Water Supplies

Delete current sections §12:021-1 through 12:021-4 and replace with the following:

12:021-1 Mandatory Disinfection:

Routine, continuous disinfection is required of all public water systems other than those under Section 12:021-4 of these regulations. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

pH Value	Free Chlorine Residual
up to 7.0	0.4 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

THIS TABLE DOES NOT APPLY TO SYSTEMS USING CHLORAMINES.

All new groundwater systems installed after the effective date of these regulations shall provide at least 30 minutes contact time prior to the first customer. It is recommended that all existing systems provide the 30 minute contact time prior to the first customer. Additions to or extensions of existing systems are exempt from the 30 minute contact time.

Systems which use surface water or ground water which is under the influence of surface water shall meet the requirements of applicable sections of the Louisiana Surface Water Treatment Rule as it pertains to CT and Giardia and virus requirements for disinfection.

The effective date for all public water supplies serving a population of greater than 500 shall be July 1, 1995.

The effective date of mandatory disinfection for all public water supplies serving a population or 500 or less shall be July 1, 1996.

12:021-2 Minimum Disinfection Residuals:

A minimum disinfectant residual of detectable amount of total chlorine shall be maintained at all points throughout the distribution system at all times for chlorination methods other than chloramines. For very small water systems a residual of 0.2 mg/l free chlorine is generally required to maintain said systems.

12:021-3 Other Methods of Disinfection:

Where chlorination is not used as the primary disinfectant, chlorine or chloramines shall be used as the secondary disinfectant to provide the residuals required in 12:021-2. Other methods shall be evaluated on a case-by-case basis by the state health officer.

12:021-4 Variances to Mandatory Disinfection:

A variance may be granted by the state health officer, to a public water system provided the system meets one of the following criteria:

(a) if the public water system has not had a bacteriological maximum contaminant level (MCL) violation for the past three years;

(b) if the public water system, both existing and future installations, can prove that disinfection would create trihalomethane (THM) levels of 0.10 milligrams per liter or greater. The public water supply should explore alternate means of disinfection prior to requesting a variance. A variance can be granted for such systems, provided the system has the required equipment to verify that a detectable amount of chlorine residual is maintained at all times. For systems under 10,000 population served, said systems shall have 90 days after a TTHM (Total Trihalomethane) exceedance of 0.100 milligrams per liter is determined to request said variance;

(c) a variance shall be granted to a public water supply owned by and/or operated by, and/or created as a political subdivision in accordance with Article 6 Section 14 of the Constitution of the State of Louisiana.

(d) In reference to (a), (b), and (c) above, on a case-by-case basis, when a bacteriological MCL occurs and an administrative order shall be or has been issued to that particular water system, the said water system shall be subject to the orders of the state health officer to take whatever remedial actions that are deemed necessary to comply with all applicable rules, regulations, standards, and the *Louisiana Sanitary Code*, including, but not limited to, the Louisiana Total Coliform Rule.

12:021-4.1

Variances must be requested in writing and must be approved prior to the effective date of the mandatory disinfection requirement as prescribed in Section 12:021-1 except the new conditions that arise in 12:021-4(b).

12:021-5 Revocation of Variance:

A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system must install mandatory continuous disinfection as stated in Section 12:021-2 within the times specified in a compliance schedule

submitted to and approved by state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation. For systems affected under 12:021-4(b), revocations because of a bacteriological MCL shall be evaluated on a case-by-case basis by the state health officer.

**12:021-6 Batch Disinfection:**

State health officer may allow batch disinfection for emergency purposes. Batch disinfection shall not be considered a method of continuous disinfection.

**12:021-7 Records:**

Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of two years.

\* \* \*

A public hearing will be held at 1:30 p.m. on Thursday, July 28, 1994 in the first floor auditorium, Department of Transportation and Development Building, 1201 Capitol Access Road, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Interested persons may submit comments on the proposed rule to: C. Russell Rader, Chief Engineer, Department of Health and Hospitals, Office of Public Health, Engineering Services, Box 60630, New Orleans, LA 70160. Written comments may be submitted for two weeks after the public hearing date.

Rose V. Forrest  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Mandatory Disinfection of Water Supplies**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no cost to the state to implement this. There will be a small savings on P.H.U. sanitarians and lab time because less repeat samples will have to be taken, less weekend work will be required.

There will be no cost to local governmental units because they are exempted by Article 6 Section 14 of the Louisiana Constitution. Local governments do not do their own sampling, state staff does nearly all sampling.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no fees associated with this nor will there be any expenditures by the local governmental units covered under Article 6 Section 14 of the Louisiana Constitution.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The economic benefit will be derived from all public water supplies now being disinfected making all drinking waters safer. Safer water via disinfection is a major plus to tourism and travelers.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The only competition will be among the existing companies that sell chlorinators and chlorine.

There will be no impact on employment either positively or negatively, i.e., status quo.

Eric T. Baumgartner  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Adults with Serious Mental Illness,  
Children/Youth with Behavioral/Emotional Disorders**

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are hereby giving notice of intent to adopt the following rule under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, the Office of the Secretary and the Office of Mental Health are proposing to adopt this rule to redefine the populations of chronically mentally ill adults and seriously emotionally disturbed children, as adults with serious mental illness and children/youth with emotional/behavioral disorders. The purpose of this rule is to establish a clear, standardized definition for this population as the Office of Mental Health has not previously established a definition in rule. Both the Medicaid targeted case management program and the Mental Health Rehabilitation Services program, established in previous Medicaid rule, provide for eligibility for chronically mentally ill adults and seriously emotionally disturbed children as "defined by the Office of Mental Health." The changes will provide standardized criteria for medical eligibility for these two Medicaid programs.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments to the following address: Walter W. Shervington, M.D., Box 4049, Baton Rouge, LA 70821-4049. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on this matter at 10 a.m., July 29, 1994, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. The deadline date for receipt of all comments is 4:30 p.m. on the day following the public hearing.

Rose V. Forrest  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Definitions, Adults with Serious Mental Illness,  
Children/Youth with Behavioral/Emotional Disorders**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that there will be a cost savings to the state associated with the implementation of this proposed rule which cannot be determined at this time; however, savings are anticipated because the rule will assure appropriate eligible clients receive services provided, throughout the Medicaid program and Office of Mental Health.

Medicaid expenditure figures indicate that the targeted case management program grew 99.69 percent between 1992 and 1993 and 66.54 percent between 1993 and 1994. The Psychiatric Rehabilitation option, which was initiated in 1993, has shown an increase of 436.02 percent to date. These trends indicate a spiraling cost, which may be better controlled by promulgating this rule since it will enable better monitoring of service eligibility.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated impact on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There is no cost associated with this proposal to directly affected persons or nongovernmental groups. This definition identifies the population of persons to be served as adults with serious mental illness and children/youth with serious emotional behavior disorder.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Walter W. Shervington, M.D.  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Home Based Care Program**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Health and Hospitals, Bureau of Health Resources Management, HIV Program Office proposes to amend the Home Based Care Program to read as follows:

**Definitions**

When used in this subpart, unless expressly stated otherwise or unless the context of subject matter requires a different interpretation:

A. *Program* means the home based care program for HIV infected persons.

B. *Home Based Care* refers to medical, hospice, and

support services provided in the client's home by a licensed Home Health Care or Hospice agency.

C. *Poverty Guideline* means the federal income official poverty line applicable to a family of the same size as the applicant's as published annually in the *Federal Register*.

D. *Service Agency* or *Agency* refers to the licensed home health or hospice agency which has a contract to provide services.

E. *Department* means the Louisiana Department of Health and Hospitals.

**Services Covered by this Program**

All services provided under this program are to be performed in the home for HIV infected clients at a physician's order. Visits are limited to a maximum of once a day unless otherwise indicated.

**I. Home Based Care**

**A. Skilled nursing including but not limited to:**

1. medication preparation, administration, and monitoring;

2. care of peripheral and central access devices;

3. insertion, irrigation and maintenance of foley catheters;

4. complex wound care and dressing changes;

5. oxygen therapy and monitoring and other respiratory therapy;

6. venipuncture for laboratory studies;

7. client/significant other education:

medications and adverse effects;

diet;

self care;

disease process;

treatments;

custodial care;

infection control procedures;

8. aerosolized pentamidine treatments (IM pentamidine is not covered by this program);

9. palliative care focusing on pain relief and symptom control.

B. Home health aides (maximum of five visits per week) to assist with activities of daily living.

C. Supplies, durable medical equipment rental.

D. Medications at a maximum of 30 percent above cost. IV therapy needed more than once a day up to three times a day can be covered for up to eight weeks. Daily IV therapy can continue for the duration of the home based care. Medications covered are those provided under the Level 1, 2, or 3 state formularies or a formulary approved by the department through the LHCA HIV Ambulatory Care Sites.

E. Physical therapy.

F. Social worker services (maximum of two visits a week).

G. Routine diagnostic tests.

H. Nutritional therapy following the *Louisiana Medicaid Guidelines* including supplements at a maximum of 30 percent above cost. (Physician order need not specify enteral via tube for this program). Total parenteral nutrition is not covered by this program.

**II. Hospice Care**

A. Skilled nursing services: palliative care including but not limited to:

1. medication preparation, administration, and monitoring;

2. care of peripheral and central access devices;
3. insertion, irrigation and maintenance of foley catheters;
4. complex wound care and dressing changes;
5. oxygen therapy and monitoring and other respiratory therapy;
6. venipuncture for laboratory studies related to palliative care;
7. client/significant other education:
  - medications;
  - comfort measures;
  - self-care;
  - disease process;
  - treatments;
  - custodial care;
  - infection control procedures;
  - end stage care planning (anticipated signs and symptoms of approaching death);
8. palliative care focusing on pain relief and symptom control;
9. support for client, family, and significant others.

B. Home health aides (maximum of five visits per week) to assist with activities of daily living.

C. Supplies, durable medical equipment rental.

D. Medications at a maximum of 30 percent above cost. IV therapy needed more than once a day up to three times a day can be covered for up to eight weeks. Daily IV therapy can continue for the duration of the hospice care. Medications covered are those provided under Level 1, 2, or 3 State Formularies or a formulary approved by the department through the LHCA HIV Ambulatory Care Sites.

E. Social worker services (maximum of two visits per week).

F. Pastoral care.

G. Bereavement follow-up for significant others and family members.

H. Trained volunteers to provide support to the client and family through tasks such as shopping, sitting, running errands, preparing meals, and listening.

F, G, and H are not reimbursable services.

### III. Personal Care Attendant Services

A. Personal care attendants to provide services including light housework, grocery shopping, and cooking (maximum of five visits per week and 160 hours per client per twelve month period). Clients may be eligible for an additional 320 hours if they meet one of the following criteria:

1. patients currently receiving care from a licensed hospice agency;

2. prognosis of less than one month as determined by the primary care physician;

3. nursing home or residential care facility placement is not feasible within 30 days.

Each agency would be strictly controlled in the use of the extension. The referral must come from the client's primary care physician and must meet one of the guidelines above. Approvals would be granted on a case-by-case basis for up to four weeks at a time. Authority for approvals would rest with the HIV Program Office.

### Client Eligibility

A. Client must be HIV infected and require medical and/or nursing intervention.

B. Client desires home based care as determined and documented by the social worker/case manager, and client's primary care physician.

C. Service is not covered by any other third party coverage. This program should be used when all other sources of payment for home based care have been exhausted. This program will supplement gaps in existing third party coverage for services listed including covering beyond the amount and frequency covered by medicaid.

D. Client must have a household income less than 200 percent of the federal poverty guidelines updated annually and available resources less than \$4,000 based on Medicaid guidelines.

E. Client must have a physician who will provide orders in writing or verbally to the agency prior to the initiation of care, act as that client's primary care physician, maintain a consistent plan, and communicate changes from the initial plan directly to the agency or the physician must be willing to transfer the client to the care of the agency physician. If verbal orders are given to the agency, written orders must follow within 48 hours.

F. Client is certified by the agency and the client's physician as not being in need of acute care.

G. Client's physician or physician's associates are available 24 hours a day by phone or beeper or agrees that the home based care agency may refer the client to an emergency room for problems.

### Agency Requirements

A. Agency is licensed home health care or hospice provider.

B. Agency will confirm client's eligibility for the program as stated above before the initiation of care. If an agency initiates care prior to eligibility confirmation, it will be financially responsible for care for clients who are found to be ineligible for home based care assistance.

C. The home care nurse must obtain a clinical status report and home care orders from the physician for the referred client prior to beginning care, will conduct a first visit with the client and will develop a written plan of care. Progress notes will be kept and the client will be recertified for home based care and the plan of care updated at least every 60 days. The home based care nurse will maintain ongoing communication with the physician and case manager in compliance with Medicaid and Medicare Guidelines.

D. Home care will begin within 24 hours of discharge from inpatient setting or referral from physician unless otherwise specified.

E. Nurse will be available for consultation on a 24 hour, seven day a week basis.

F. Agency will participate in the Ryan White Consortium for the region to which they provide care and have a representative present at a minimum of 50 percent of the monthly consortium meetings.

### Application Guidelines

A client can be recommended for home based care services by the physician, nurse, social worker, or case manager

involved with the client's care. Client's eligibility must be verified by the service agency and verification provided to the department. Written orders for home based care services must be provided by the client's physician.

#### **Termination**

Eligibility for services under this program will be terminated if the client:

- A. subsequently is determined to have a household income greater than 200 percent of the federal poverty line;
- B. subsequently is determined to have assets of greater than \$4,000;
- C. is not stable enough to be cared for outside of the acute care setting as determined by the agency or the client's physician;
- D. moves from Louisiana;
- E. no longer has a stable home environment appropriate for the provision of home based care as determined by the agency or the case manager;
- F. no longer desires home based care;
- G. no longer medically requires home based care as determined by the agency or the physician.

#### **Reporting Requirements**

Agencies will submit invoices for services provided as required. Agencies will provide individual client service utilization reports as required under the Ryan White Uniform Reporting System. All eligibility forms and the signed plan of treatment are to be submitted within 48 hours of a referral.

#### **Fair Hearing**

Persons requesting and denied services under this program are entitled to request a conference and/or fair hearing to review the decision of the service agency.

#### **Payment for Services**

Payment for home based care services delivered under this program will be made directly to the service agency.

#### **Confidentiality**

The confidentiality of HIV and AIDS related information is required in accordance with R.S. 40:38.5. Each disclosure of confidential HIV-related information must be accompanied by the appropriate release.

#### **Forms**

The Department of Health and Hospitals, Office of Management and Finance, HIV Program Office has developed example forms that can be used in this program. These include client eligibility checklist and release of medical information form. In addition, a client service utilization report. While the specific forms do not need to be used, the information contained on the forms must be collected and provided to the department.

Interested parties may submit written comments to Jamie Pena, Coordinator, HIV Program Office, 1542 Tulane Avenue, New Orleans, LA 70112. Comments will be accepted through the close of business on July 28, 1994. A public hearing will be held on July 29, 1994 at the HIV Program Office at 1 p.m. All interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Rose V. Forrest  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home Based Care**

### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The implementation of the proposed rule change regarding additional PCA hours will cost approximately \$180,000 for the first fiscal year with 10 percent increase in each year thereafter. This total would be spread among 12 home based care agencies throughout the state. Based on cost projections, it is anticipated that each agency would be able to provide the additional hours utilizing their 94-95 contracted funds.

The proposed rule change regarding hospice services will not require any additional funds for implementation. Existing 94-95 home based care allocations will allow the provision of at least one hospice contract in each region of the state.

It is apparent that both of these rule changes will produce a savings to the state by keeping people out of the LHCA hospital system where it is least cost effective and efficient to care for terminally ill patients.

### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Without the implementation of these proposed rule changes, it is anticipated that both emergency room visits and LHCA hospital admissions would increase. The LHCA hospitals in most cases would not be able to bill/collect for these services if they are provided in the hospital as most clients will not be covered by private health insurance or Medicaid.

### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Additional PCA hours and hospice services will be provided to persons who would not otherwise be able to afford these types of care. The inability to pay for these services would result in the client having to choose between entering a hospital or not receiving care at all. These services will increase the quality of life for clients and allow them to remain at home in more comfortable surroundings.

### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is estimated that there will be no effect on competition and employment.

John Futrell  
Deputy Secretary

David W. Hood  
Senior Fiscal Analyst

## **NOTICE OF INTENT**

### **Department of Health and Hospitals Office of the Secretary Medical Disclosure Panel**

**Informed Consent—Intravenous Injection of Radiopaque  
Contrast Media (LAC 48:I.2430)**

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991 and Act 633 of 1993, the Department of Health and Hospitals, Office

of the Secretary, in consultation with the Medical Disclosure Panel, is proposing to adopt LAC 48.I.2430 in Chapter 23, Informed Consent, which requires which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing such treatment or procedure. This amends rules adopted in the February 1994 issue of the *Louisiana Register*, pages 193-194, by adding §2430.

**Title 48**

**PUBLIC HEALTH - GENERAL**

**Part I. General Administration**

**Chapter 23. Informed Consent**

**§2430. Intravenous Injection of Radiopaque Contrast Media (both ionic and nonionic)**

This procedure does not require disclosure of risks by the physician to the patient undergoing the treatment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E), et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 20:

Interested persons may submit written comments by July 26, 1994, to Donald J. Palmisano, M.D., J.D., Chairman, Medical Disclosure Panel, Department of Health and Hospitals, Box 1349, Baton Rouge, LA 70821-1349. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 11 a.m., July 26, 1994, Third Floor Education/Training Room, Department of Health and Hospitals, East Entrance, 1201 Capitol Access Road, Baton Rouge, LA 70802. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Rose V. Forrest  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Informed Consent—Intravenous Injection of Radiopaque Contrast Media**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no implementation costs anticipated from the adoption of these rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no effect projected on competition and employment from implementation of these rules.

John Futrell  
Deputy Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Insurance  
Commissioner of Insurance**

**Regulation 53—Basic Health Insurance Plan Pilot Program**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act and R.S. 22:247, the commissioner of insurance hereby gives notice of his intent to adopt Regulation 53. This regulation provides for the implementation of the Louisiana Basic Health Insurance Plan Pilot Program.

**Proposed Regulation 53**

**LA Health - Louisiana Basic Health Insurance Plan Pilot Program**

**Section 1. Purposes**

The purpose of this regulation is to provide for the implementation of the Louisiana Basic Health Insurance Plan Pilot Program (LA Health); and to provide for related matters.

**Section 2. Authority**

This regulation is issued pursuant to the authority vested in the commissioner under the Administrative Procedure Act and R.S. 22:244-247 of the Insurance Code.

**Section 3. Applicability and Scope**

These regulations shall apply to all insurance carriers, health maintenance organizations, employers, health care providers and individuals that apply to cover or to be covered by the Louisiana Basic Health Insurance Pilot Program (LA Health).

**Section 4. Definitions**

For purposes of this regulation, the Louisiana Basic Health Insurance Plan Pilot Program is to be referred to as LA Health.

For purposes of this regulation:

A. *Accidental Injury*—means bodily injury sustained as the result of an unforeseen event and which is the direct reason for receiving care and treatment (independent of disease, bodily infirmity or any other cause). Such care shall occur while coverage under the pilot is in force. It does not include injuries for which benefits are provided under any workers' compensation, employers' liability or for which another party is liable under automobile, property and casualty, and other coverage.

B. *Admission*—begins the first day an insured becomes a registered hospital inpatient and continues until insured is discharged from the facility.

C. *Adult*—is an individual who is greater than 24 but less than 65 years of age.

D. *Agent*—is an individual appointed in writing by an insurer to solicit applications for a policy of insurance or to negotiate a policy of insurance on its behalf licensed in accordance with R.S.22:1112.

E. *Applicant*—is an individual who applies for coverage under the LA Health plan.

F. *Authorized Carrier*—the health insurance carrier or health maintenance organization licensed and in compliance with the Insurance Code certified by the department to offer the LA Health plan.



G. *Benefit Payment*—the amount the authorized carrier will pay for covered services. See Sections 15-18 of this Regulation.

H. *Benefit Period*—one year, also referred to as *year or calendar year*. The benefit period does not begin before the insured's effective date. The benefit period does not continue after the insured's coverage ends.

I. *Clinic*—a facility for the diagnosis, care and treatment of outpatients.

J. *Commissioner*—the commissioner of insurance.

K. *Copayment*—the cost-sharing fee charged to an insured under LA Health as specified in the contract between the authorized carrier for LA Health and the insured.

L. *Department*—the Department of Insurance.

M. *Dependent*—

1. the spouse and all unmarried children under the age of 24;

2. children include natural children, legally adopted children and step-children. Also included are children (or children of a spouse) for whom an insured has legal responsibility resulting from a valid court decree. Foster children that an insured expects to raise to adulthood and that live with an insured in a regular parent-child relationship are considered children;

3. students who are unmarried children who have not yet attained the age of 24 and who are enrolled as full-time students and who are dependent upon the primary insured;

4. mentally retarded or physically handicapped children remain covered to age 21 at which time they are eligible for their own individual coverage;

5. a child's coverage ends when any of the following occurs:

a. marriage or attaining age 21 (whichever comes first);

b. termination of a an insured's coverage under the LA Health plan; or

c. if a child over age 21 no longer qualifies as a full-time student.

N. *Effective Date*—the date an applicant becomes eligible for coverage under an authorized carrier for the LA Health plan.

O. *Hospital*—an institution, licensed by the state, which:

1. provides inpatient services and is compensated by or on behalf of its patients;

2. primarily provides medical and surgical facilities to diagnose, treat and care for the injured or sick;

3. has a staff of physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners;

4. provides nursing care by registered nurses or licensed practical nurses on duty 24-hours-a-day.

NOTE: The term *hospital* does NOT mean:

1. an extended care facility, nursing home, community based care, or group home;

2. a place of rest;

3. a facility for the aged;

4. a custodial institution whose primary purpose is to furnish food, shelter, training, or unskilled or nonmedical services; or

5. an institution for exceptional or handicapped children.

P. *Insured*—an individual domiciled in this state who is eligible to receive benefits from an authorized carrier under the LA Health plan.

Q. *Mental and Nervous Disorders*—includes (whether organic or nonorganic, whether of biological, nonbiological, genetic, chemical, or nonchemical origin, and irrespective of cause, basis or inducement) mental disorders, mental illnesses, psychiatric illnesses, mental conditions and psychiatric conditions. This includes, but is not limited to, psychoses, neurotic disorders, schizophrenic disorders, affective disorders, personality disorders and psychological or behavioral abnormalities associated with transient or permanent dysfunction of the brain or related neurohormonal systems. This is intended to include disorders, conditions, and illnesses listed in Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R).

R. *Minor Dependent*—a dependent under the age of 24.

S. *Nonsmoker*—is an individual who has not smoked cigarettes, cigars, pipes or other substances within the past year.

T. *Participating Hospital*—a hospital located in Louisiana which has concluded a written agreement with, and in form approved by, an authorized carrier under the LA Health plan.

U. *Participating Provider*—a licensed health care provider who has concluded an agreement with, and in form approved by, an authorized carrier under the LA Health plan to serve those insured by LA Health.

V. *Provider*—includes any discipline licensed by the State of Louisiana to provide and be directly reimbursed for services covered by the LA Health plan including, but not limited to, the following:

1. doctor of medicine (M.D.) legally entitled to practice medicine and perform surgery by the Louisiana State Board of Medical Examiners;

2. doctor of chiropractic (D.C.) legally entitled to practice chiropractic services;

3. doctor of podiatric medicine (D.P.M.) legally entitled to practice podiatry;

4. all providers shall be licensed by the State of Louisiana.

W. *Pilot Plan*—a plan that provides an insured with health insurance under the LA Health program and is governed by R.S. 22:244-247 and authorized by the commissioner.

X. *Pilot Program*—the program of health insurance which is authorized by R.S. 22:244-247.

Y. *Semi-private Room*—a hospital room which has 2, 3, or 4 beds.

Z. *Service Area*—that part of the state of Louisiana in which the authorized carrier is applying to offer or is offering the pilot plan.

AA. *Skilled Nursing Care*—care required, while recovering from an illness or injury, which is received in a skilled nursing facility. This care requires a level of care or services less than that in a hospital, but more than could be given in the patient's home or in a nursing home not certified as a skilled nursing facility.

BB. *Smoker*—an individual who has smoked cigarettes, cigars, pipes or other substances within the past year or who

is currently smoking cigarettes, cigars, pipes or other substances.

**CC. Utilization Review**—a function performed by an authorized carrier under the LA Health plan or an entity selected by the carrier to review and approve whether the services provided, or to be provided are medically necessary, including but not limited to, whether acute hospitalization, length of stay, outpatient care or diagnostic services are appropriate.

#### **Section 5. Pilot Plan in General**

A. An authorized carrier under the LA Health plan shall deliver coverage for the plan through a fully insured individual health insurance policy or health maintenance organization membership plan. Each authorized carrier shall design the plan to minimize the cost of delivery and administration of the plan and medical services for covered benefits.

B. An authorized carrier may provide coverage to individuals or their dependents or both. However, an authorized carrier may offer coverage for all adults or all children, or the individual's entire family.

C. An authorized carrier may accept partial payment for individuals enrolled under the LA Health plan from such individual's employers, however, such payment shall not be considered to be part of that employer's group health insurance if the employer offers other health insurance. Furthermore, such payment by an employer shall not change the status of the coverage, it remains an individual policy.

D. Employers who agree to make partial payment for individuals enrolled under the LA Health plan may be authorized by the enrolled employee to deduct insurance premiums for the plan. Such a payroll deduction shall not be construed to alter the plan's status as an individual insurance policy.

#### **Section 6. Pilot Plan Authorized Carrier**

A. An authorized carrier shall be responsible for the operation of the LA Health plan for which it has been certified to operate.

B. An authorized carrier shall be authorized to participate in the LA Health plan by entering into a pilot plan agreement with the commissioner. The agreement shall incorporate the application procedure for health and accident insurance policy forms and shall be authorized until such policy forms have been approved. Such approval shall include any revisions to the application which are agreed upon by the commissioner and the authorized carrier.

#### **Section 7. Application Process**

A. An applicant to become an authorized carrier shall apply for authorization to operate a LA Health plan by submitting an application to the commissioner. The applicant shall provide at least the following information:

1. the name of the carrier and a description of its role in funding, insuring and operating the pilot plan;

2. a full description of how the pilot plan will operate, including plan benefits, coverage limitations, premiums, provider networks, managed care provisions and administrative procedures of the plan;

3. a listing of participating providers by service category and geographic service area;

4. a draft of all materials describing the LA Health plan that are intended for distribution to insured members;

5. a description of the financial and organizational resources supporting the pilot plan.

B. Applications submitted to the commissioner's office will furthermore be judged on their ability to attain the intent of the LA Health plan according to the following criteria:

1. their ability to guarantee issue of the LA Health plan to the eligible population;

2. their ability to provide the LA Health plan as a community rated product;

3. their ability to provide the LA Health plan at premium amounts which are significantly lower than premium amounts for standard market policies of health and accident insurance;

4. their ability to implement cost containment features;

5. the degree to which their plan of benefits under the LA Health plan emphasizes primary health care services designed to prevent to need for more expensive health care services; and

6. variance benefitting to the eligible LA Health population from the minimum standards established for the LA Health plan's benefits outlined in Sections 15-18 of this regulation.

C. Applications may be submitted to the commissioner's office on or after the effective date of this regulation. Applications received before the effective date shall be subject to any revisions required by changes in this regulation. Applications received in the commissioner's office after 90 days of the effective date of this regulation will not be considered.

#### **Section 8. Authorization of Pilot Plan**

A. The commissioner shall have sole discretion regarding the authorization of carriers under the LA Health plan. Applications will be evaluated by the commissioner in order of their receipt. The commissioner shall have sole discretion in determining if an application is complete. Within 30 days of receiving a complete application, but in no event prior to the effective date of this regulation, the commissioner shall provide a written notice of findings to the applying carrier. That notice shall:

1. specify approval or rejection of the application and the grounds for that decision or;

2. specify additional information which is needed to clarify the application and a deadline for submitting that information. Within 30 days of receiving timely additional information, the commissioner shall provide a written notice of findings as described in Section 8.A.1. If the additional information is not provided by the deadline, the application shall be rejected.

B. In evaluating and authorizing carriers under the LA Health plan, the commissioner may consider, but not be limited to, the following criteria:

1. the extent to which the plan helps the pilot program achieve a diversity of participants and plan designs;

2. the potential of the plan to fulfill the objectives of the pilot;

3. the financial and organizational resources of the carrier;

4. the ability of the plan to meet the evaluation criteria described in Section 10 of this regulation;

5. the resources available within the department to regulate the pilot program.

C. The LA Health plan shall not be issued or delivered to an applicant for the plan until a copy of the form is filed and approved by the commissioner. The commissioner shall review these forms in accordance with the Insurance Code.

D. Each authorized carrier in the pilot plan shall file with the commissioner the rates, rating plans, and rating systems that will be applicable to the LA Health plan.

E. The commissioner, in accordance with the Insurance Code, may make, or cause to be made, an examination of the books and records of the authorized carrier of the LA Health plan as the commissioner deems necessary to ensure compliance with these regulations and the pilot plan agreement.

#### **Section 9. Revocation of an Authorized Carrier's Authority**

A. The commissioner may revoke the authority of an authorized carrier at any time if, in the judgement of the commissioner, one or more of the following, or similar, conditions exist:

1. the authorized carrier's plan does not comply with R.S. 22:244-246 or the Insurance Code;

2. an authorized carrier becomes subject to suspension or revocation of its certificate or authority under the Insurance Code;

3. the authorized carrier's plan is deficient regarding timeliness, accuracy, customer service or other administrative practices;

4. the authorized carrier's plan does not meet the evaluation requirements or reporting requirements described in Section 10 of this regulation;

5. a breach of the plan of the authorized carrier agreement occurs;

6. the successful operation of the plan of the authorized carrier is jeopardized by a weakness in the financial or operational status of the authorized carrier.

B. The commissioner shall provide written notice to the authorized carrier in advance of any revocation.

C. In providing notice, the commissioner shall specify the concerns at issue and shall request a written statement for the authorized carrier, to be provided within 15 days of the date of notice, describing how they propose to remedy the concerns.

D. Upon completion of review of the proposed remedy, the commissioner shall provide a written response which:

1. approves the remedy; or

2. requests additional information; or

3. provides notice of the proposed revocation of the carrier's authority to participate in the pilot plan.

#### **Section 10. Evaluation and Reporting Requirements**

A. Each plan shall be evaluated by the commissioner on its ability to enhance the delivery and improve the cost effectiveness of medical services for the insured. This evaluation shall compare the results of the plan's coverage. The criteria and methodology for this evaluation shall be determined by the commissioner, with prior advice of authorized carrier. An authorized carrier shall agree to

participate in the evaluation process as a condition of operating under the LA Health plan.

B. An authorized carrier shall provide the following reports to the commissioner:

1. A written overview of plan results for each six months of plan operations. The report shall outline the operating results of the plan, including significant issues which arose and the responding actions taken by the plan and shall specify the number of insured and a demographic breakdown of those enrolled, the premiums collected, and utilization reports. The report shall be compiled after each six-month period of plan operation and shall be mailed to the commissioner by the 20th day of the subsequent month.

2. All reports required in accordance with Section 10.A.

C. Nothing in this rule shall be construed to limit the commissioner's authority to require information from an authorized carrier as necessary to monitor the carrier's compliance with the requirements of the LA Health plan.

#### **Section 11. Premium Taxes**

Premium taxes required under R.S. 22:1062 shall be imposed on an authorized carrier.

#### **Section 12. Guaranty Association**

All applicable assessments for the Louisiana Life and Health Insurance Guaranty Association shall be imposed on an authorized carrier in accordance with R.S. 22:1395.1-1395.19.

#### **Section 13. Health Insurance Agents**

For purposes of serving a LA Health plan policy, or soliciting prospective insureds for such a policy, agents possessing a health insurance license shall be deemed to be servicing and soliciting within the scope of their license, pursuant to R.S. 22:1111-1119 and 22:2011 of the Louisiana Insurance Code.

#### **Section 14. Eligibility**

A. Eligibility for coverage and the effective date for an insured shall be determined by the authorized carrier after an applicant has returned the application for coverage to the authorized carrier and has been approved by said carrier. Eligibility for the LA Health plan is limited to Louisiana residents with income levels below 250 percent of the federal poverty level. Individuals with major medical accident and health insurance coverage, individuals who are eligible for coverage under the Medicaid or Medicare programs, and those who have voluntarily canceled their accident and health insurance coverage during the last six months are not eligible under the LA Health plan. The only exception to this requirement is for those individual eligibles who are without coverage because their coverage furnished in accordance with R.S. 22:215.13, group health continuation coverage, has expired; or for those individual eligibles with significantly reduced coverage through benefit riders or limitations.

B. Eligible adults may choose to purchase coverage only for themselves or all their children, or the entire family.

C. Unmarried eligible dependent children are eligible for coverage to age 21. Those children who are full-time students (after high school) in an institution of higher learning may remain covered to age 24. Such children shall be dependents under federal income tax laws.

D. A newborn child or an adopted child is covered, subject to Section 14.E, from the moment of birth or date of assumption of legal responsibility to age 21 unless married before age 21 in the case of a family enrolled. The child's coverage is no different than that of the primary insured adult. An additional premium payment is required.

E. A newborn child or an adopted child of an enrolled individual is automatically covered for 31 days only in the case of an individual enrolled. In order for a newborn child or an adopted child to receive coverage past the 31st day, the enrolled individual shall complete an application form and pay the necessary premium for plan coverage.

F. If an eligible individual does not apply for coverage under the plan for himself or any eligible dependent, then application may be made later. If such individual is approved for coverage, the effective date of coverage will be the next month following approval of the application and payment of the necessary coverage.

G. Insureds may reduce the number of individuals covered at any time by submitting a change of coverage form. Such changes become effective on the due date of the LA Health plan contract.

#### Section 15. Benefits

A. The LA Health plan is a basic health insurance plan providing some primary and preventive health care services. Health care services are to be furnished by participating hospitals, clinics, and health care providers who have agreed to provide services under the LA Health plan. An authorized carrier shall supply insured individuals under the LA Health plan with a list of participating providers.

B. No requirement of the Louisiana Insurance Code relating to minimum required policy benefits, other than the minimum standards contained in this regulation or in R.S. 22:244-247, shall apply to the LA Health plan, its insureds or the authorized carrier.

C. The benefits provided by the LA Health plan are payable for services provided by a participating provider only. LA Health plan insureds shall receive care from a participating provider—no coverage is provided with any other providers. Insureds shall pay in full for care they receive if the provider they utilize is not a participating provider.

#### Section 16. Hospital Services

A. The LA Health plan provides for the following minimum or their actuarial equivalent inpatient hospital services:

1. 15 days of hospital inpatient care (hospital/medical) per calendar year. A \$50 per day copayment is required;

2. surgical procedures and related expenses are covered up to a maximum of \$5,000 per insured per calendar year. A \$50 per surgical copayment is required;

3. the LA Health plan will pay for covered expenses incurred for services in a participating hospital for the following services based on the limitations above;

a. daily room, board and general nursing care at the semi-private rate charged by the participating hospital;

b. confinement in an intensive care or coronary care unit with such payment being in lieu of expenses covered under Section 16.A.3.a;

c. services and supplies furnished by the participating hospital which are necessary for inpatient medical care and treatment including diagnostic X-ray and lab services;

4. maternity care;

5. newborn nursery care from the moment of birth;

6. medical care and treatment by a participating provider while confined as an inpatient in a hospital;

7. radiological services by a licensed radiologist while confined as an inpatient in a hospital;

8. radiation therapy.

B. The LA Health plan provides for the following minimum or their actuarial equivalent outpatient hospital services:

1. the LA Health plan shall pay covered expenses incurred for outpatient diagnostic services for pre-admission tests, diagnostic X-ray and laboratory services at a participating facility. The outpatient benefit is limited to \$1,000 per insured per calendar year;

2. payment of outpatient hospital services is prohibited on the date of admission or during an admitted stay in a hospital as an inpatient.

#### Section 17. Emergency Room Benefits

A. The LA Health plan provides for the following emergency room benefits:

1. outpatient health care received in the emergency room of a participating hospital is covered, limited to a maximum of \$1,500 per insured per calendar year. This benefit is subject to an \$85 copayment per visit;

2. the copayment of \$85 per visit shall be waived if such a visit is followed by an admission to the participating hospital for the care of the illness or injury for which the person was treated in the emergency room.

B. An insured receiving emergency room care resulting from an illness or injury outside the service area of the authorized carrier shall have benefits of 50 percent of those for services received at a participating hospital.

#### Section 18. Provider Services

A. The LA Health plan provides for the following minimum or their actuarial equivalent primary health care provider services:

1. The LA Health plan will provide for health care provider services with such care including the general treatment of illness and diagnostic studies used to diagnose the cause of an illness.

2. All care received by a LA Health insured shall be related to the cause or symptom of the insured's illness or injury. Payment will not be made for care and treatment which is not deemed medically necessary.

3. Participating provider office visits are subject to a \$10 per visit copayment. Covered services in the participating provider's office include:

a. laboratory and X-ray services;

b. immunizations for children under age 19;

c. prenatal care visits. Only one copayment for all visits shall be charged if the participating provider bills in one lump sum;

d. an annual physical exam.

4. Fees for X-ray and laboratory tests made on an outpatient basis for diagnosis or treatment of an illness are

covered when ordered by a participating provider. This benefit has a \$1,000 calendar year maximum and is subject to the insured paying either \$5 copayment or a maximum of 10 percent of the charge up to a maximum of \$1,100 per calendar year. The authorized carrier shall specify which option is to be taken in applying to participate in the LA Health plan.

5. Surgical and related expenses are covered under the LA Health plan up to a maximum of \$5,000 per insured per calendar year. A \$50 per surgical procedure copayment is required.

6. Maternity care is a covered service subject to the following copayment requirements:

- a. normal vaginal delivery - \$50 copayment;
- b. Cesarean delivery - \$100 copayment;
- c. if hospitalization follows delivery, the \$50 per day inpatient copayment shall apply.

B. Outpatient mental health care services provided by a provider licensed to diagnose and treat mental and nervous disorders are covered when provided by a participating provider up to a maximum of \$1,000 per calendar year with a \$10 per visit copayment.

C. Benefits for the following services are paid subject to the benefits listed in the regulation:

1. use of a participating hospital operating and treatment rooms and equipment;
2. diagnostic X-rays, laboratory procedures and medical diagnostic procedures used to determine the cause of an illness when performed within 14 days prior to participating hospital admission.

D. Benefits shall be provided for mammograms, a \$5 per screening copayment is required, when performed by a participating provider and performed with the following frequency:

1. once as a base-line mammogram for any female between 35 and 40 years of age;
2. once every two years for any female between 40 and 50 years of age;
3. once every year for any female age 50 or above; and
4. when recommended by a participating provider for a female at risk. Female at risk means a female:
  - a. who has a personal history of breast cancer;
  - b. who has a personal history of biopsy proven benign breast disease;
  - c. whose grandmother, mother, sister, or daughter has had breast cancer; or
  - d. who has not given birth prior to age 30.

E. Benefits are provided for one pap smear examination per year when performed upon recommendation of a participating provider. A \$5 per examination copayment is required.

F. Benefits are provided for annual prostate antigen tests for covered males who are 45 years of age or older; or covered males who are 40 years of age or older, if ordered by a participating provider. A \$5 per test copayment is required.

G. Benefits are provided for colon cancer screening when ordered by a participating provider. A \$5 per screening copayment is required.

#### Section 19. Limitations

##### A. Pre-existing conditions

1. Until coverage for an insured enrolled in the LA Health plan has been in force for 12 consecutive months, benefits for services to be paid to an authorized carrier shall not be available for any illness, injury or other condition for which:

a. the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment, or a condition for which medical advice or treatment was recommended by or received from a provider of health care services, within six months preceding the effective date of coverage of an individual insured.

2. Maternity benefits are available to an insured only if the date of conception occurred after the effective date of coverage under the LA Health plan.

3. No coverage is available to inpatient hospital admissions which begin before an insured's effective date.

#### Section 20. Exclusions

A. There is no benefit provided for the following:

1. any treatment or care not received from a participating hospital or participating provider;
2. private duty nursing;
3. prescription drugs (outpatient) or over-the-counter medicines. However, outpatient prescriptions may be covered by an additional rider to the LA Health plan;
4. inpatient treatment or counseling for mental and nervous disorders;
5. care for any condition or injury recognized as a compensable loss through any workers' compensation, occupational disease or similar law;
6. any disease or injury resulting from a war, declared or not, or resulting from any military duty;
7. any item, service, supply or care not specifically listed as a benefit under the LA Health plan;
8. care given by a medical department or clinic run by an insured's employer;
9. hospitalization and related services or care rendered if primarily for diagnostic studies;
10. care of corns, bunions (except capsular or related surgery), callouses, nails of the feet (except surgical removal), flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints related to the feet;
11. admission or continued hospital stay for care not medically required on an inpatient basis;
12. skilled nursing care;
13. eyeglasses, contact lenses, hearing aids, hearing devices or cochlear implants, and related examinations and services;
14. charges for convenience items during a hospital admission;
15. custodial care, rest cures or travel expenses, even if recommended for health reasons by a physician;
16. care, supplies or equipment not medically necessary for the treatment of injury or illness;
17. cosmetic or reconstructive surgery except to restore function of any body area which has been altered by disease, trauma, congenital/developmental anomalies or previous therapeutic processes;
18. care prescribed and supervised by other than a participating provider;

19. dental care and treatment, by a dentists or a health care provider, including dental surgery, dental appliances, dental prostheses such as crowns, bridges, or dentures; implants, orthodontic care, operative restoration of teeth (fillings); dental extractions (except impacted teeth); endontic care; apicoectomies, treatment of dental caries, gingivitis, or periodontal surgery, vestibuloplasties, alveoloplasties, dental procedures involving teeth and their bone or tissue supporting structures; frenulectomy; temporomandibular joint syndrome (TMJ) including related appliances; or other dental procedures. Except for the following treatments which shall be reimbursable at the levels specified in Section 18 of this regulation:

a. to correct traumatic injuries which occur while the insured is covered under the LA Health plan; or

b. to correct congenital defects of a child born under and who remains covered under the LA Health plan; or

c. for the extraction of impacted teeth after the required waiting period has been met;

20. surgical or medical care for obesity, weight reduction or dietary control;

21. surgical or medical treatment to modify the sex or services related to the treatment for impotence or other sexual dysfunctions or inadequacies;

22. professional ambulance service;

23. hair transplants, hair pieces, wigs, wig maintenance or prescriptions or medications related to hair growth;

24. advice or consultation given by any form of telecommunication;

25. services and supplies which are experimental or investigational in nature;

26. charges for failure to keep a scheduled visit or charges for completion of claim forms; charges for physician or hospital stand-by services; charges for holiday or overtime rates;

27. outpatient speech, occupational, cardiac rehabilitation or physical therapy;

28. outpatient use of durable medical equipment;

29. radial keratotomy; and surgery, services or supplies for the surgical correction of nearsightedness and/or astigmatism;

30. services related to or performed in conjunction with artificial insemination, invitro fertilization or infertility;

31. biofeedback, recreational, or educational therapy, or other forms of self-care or self-help training and any related diagnostic testing;

32. services for conditions related to autistic disease of childhood, hyperkinetic syndromes, learning disabilities, behavioral problems or mental retardation;

33. charges for treatment of a physical injury resulting from suicide or a suicide attempt, sane or insane;

34. intentionally self-inflicted injury;

35. injuries received while committing a crime.

#### **Section 21. Outpatient Prescription Rider**

An authorized carrier may offer as rider to the LA Health plan coverage for outpatient prescription drugs that includes a minimal copayment.

#### **Section 22. Premium Maximums, Method for Calculating**

A. Premiums charged for the LA Health pilot plans shall be based on the average standard rate charged by the five largest health and accident insurers offering individual coverage in the state as identified by the Louisiana Health Insurance Association's annual survey in accordance to R.S. 22:240F(3). Annual survey results may be obtained from the department. For the purpose of calculating the maximum premiums as established in Section 22.B of this regulation, insurers shall use the premiums identified in the Louisiana Health Insurance Association's Plan A and shall use the strict average of male and female rates.

B. Premium rates shall be community rated within each service area, but may vary according to an enrolled individual's status, i.e., adult or minor dependent and smoker or nonsmoker, as established in Section 22.B.1-3 of this regulation.

1. Adult individual rates shall be based on a per unit basis. Each individual's premium rate enrolled in the plan shall be no more than 60 percent of the strict average of the average individual standard rate charges for adults as identified in Section 22.A of this regulation.

2. For the purpose of establishing the premium rate for minor dependents, there shall be one rate regardless of the number of minor dependents enrolled under each plan policy. The premium rate for minor dependents shall be no more than 60 percent of the average individual standard charge for children as identified in Section 22.A of this regulation.

3. Rates may vary according to an individual's status as either a smoker or nonsmoker. For those individuals enrolled in the plan as a smoker, premium rates identified in this Section shall be based on the average individual standard rate charged for smokers as identified in this Section. For those individuals enrolled in the plan as a nonsmoker, premium rates identified in this Section shall be based on the average individual standard rate charge for nonsmokers as identified in Section 22.A of this regulation.

4. Where a sliding scale is utilized for setting an individual or family's premium payment amount (including any contribution which may be made by an employer), the maximum payment amount for the highest income level cannot exceed the upper limits established under Section 22.B.1-3 of this regulation.

#### **Section 23. Payment of Benefits**

A. An insured under the LA Health plan is entitled to benefits for covered services as specified in this regulation and in the contract between an authorized carrier and the insured.

B. Benefits will be provided only if covered services are prescribed by or performed by or under the direct supervision of a participating provider.

#### **Section 24. General Provisions**

A. All premium payments for coverage are due in advance. Monthly premium payments are for a complete month of coverage. There are no refunds and any cancellations will be effective on the first day of the month for which a premium has not been paid.

B. Any insured under the LA Health plan may be considered for reinstatement within six months of termination



no matter what the reason prior coverage was terminated.

C. If coverage is terminated due to lack of payments, the insured may reapply for coverage within 90 days and pay any premiums still due.

D. An insured under the LA Health plan may renew coverage by payment of the necessary premiums to the authorized carrier by the due date.

E. An authorized carrier may change the amount of monthly premium for the LA Health plan in compliance with the Insurance Code. Payment by the insured of the new rate is sufficient to indicate acceptance of the new rate.

F. The LA Health plan shall be governed by the laws and regulations of the State of Louisiana and specifically those of the LA Health plan. Nothing in the LA Health plan shall be construed so as to be in violation of any federal or state law or regulation with the exception of laws specifically preempted by R.S. 22:244-247.

#### Section 25. Termination of Coverage

A. An insured's spouse who would otherwise lose coverage due to a divorce or death is automatically eligible for coverage in his or her name.

B. Coverage for any child terminates the last day of the month during which such child is no longer eligible for coverage under the LA Health plan.

A public hearing on this proposed regulation will be held on July 25, 1994 in the Plaza Hearing Room of the Insurance Building, 950 North Fifth Street, Baton Rouge, LA, at 10 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to George Renaudin, Executive Director, Louisiana Health Care Commission, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504)342-1255. Comments will be accepted through the close of business, at 4:30 p.m., July 25, 1994. The proposed regulation is scheduled to become effective September 20, 1994.

James H. "Jim" Brown  
Commissioner of Insurance

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 53—Basic Health Plan Pilot Program

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that many uninsured individuals will be able to obtain health insurance coverage with authorized LA Health Plan carriers. This will result in an increase of revenue for state and local governments due to the collection of Insurance Premium Taxes. At the present time, due to insufficient data, it is not possible to determine the amount of additional revenue that could be collected.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is not sufficient data available at the present time to determine if there could be any costs and/or economic benefits to the health care insurers, or insureds.

##### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could possibly be an effect on competition since the purpose of the LA Health Plan is to provide affordable health insurance coverage to individuals that are presently uninsured. The LA Health Plan would also provide another option to individuals that are presently insured. It is possible that employment could be affected. As new carriers of the LA Health Plan are authorized to do business, hopefully new jobs will be created.

Brenda St. Romain  
Assistant Commissioner

David W. Hood  
Senior Fiscal Analyst

#### NOTICE OF INTENT

#### Department of Social Services Office of Family Support

#### AFDC Fraud Control Program (LAC 67:III.1503)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.1503, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to federal regulations at 45 CFR 235 which changed the federal financial participation rate for AFDC fraud control, the department proposes to remove a section of Subpart 2 which details such funding. The inclusion of this information in the *Louisiana Administrative Code* is deemed inappropriate. Some nonsubstantive language is also updated.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 2. Aid to Families with Dependent Children (AFDC)

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#### Chapter 15. General Program Administration

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#### Subchapter B. Fraud

#### §1503. Fraud Control Program

A. The Office of Family Support maintains a fraud control program in the Aid to Families with Dependent Children (AFDC) Program.

B. Under this program, the Office of Family Support may:

1. implement an administrative hearing procedure for AFDC fraud cases; and
2. disqualify the adult found guilty of AFDC fraud by a court or in an administrative hearing.

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AUTHORITY NOTE: Promulgated in accordance with P.L. 100-203 and 45 CFR 235.



**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Eligibility Determinations LR 14:439 (July 1988), amended by the Department of Social Services, Office of Family Support LR 20:

Interested persons may submit written comments by July 20, 1994 to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on July 26, 1994 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. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gloria Bryant-Banks  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: AFDC Fraud Control Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The only implementation cost to state government is the approximate \$100 charge for publishing the final rule. However, the subsection being removed from the LAC does concern the federal financial participation (FFP) rate which has recently been changed. Therefore, the existing rule would have impacted state general funds since the FFP or match rate changed from 75 percent to 50 percent toward certain costs for AFDC fraud control. There are no savings to the state. The rule has no economic impact on local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collection of the state or any governmental unit, although the existing rule would produce decreased revenue with the reduction of the FFP from 75 percent to 50 percent.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There will be no cost or economic benefit to any persons or nongovernmental groups.

**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 Transportation and Development  
Office of the General Counsel**

Debarment (LAC 70:I.Chapter 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to adopt a rule entitled "Conduct of Debarment Hearing" in accordance with Act 879 of 1993 (R.S. 48:295.1-295.4) and R.S. 36:504 (A)(3).

**Title 70**

**TRANSPORTATION**

**Part I. Office of the General Counsel**

**Chapter 11. Debarment Hearings of Contractors,  
Subcontractors, Consultants, and  
Subconsultants**

**§1101. Definitions**

*Chief Engineer*—the chief engineer of the Department of Transportation and Development pursuant to R.S. 36:508 or his/her designee, in the case of contract controversies, a committee appointed by him/her.

*Contract Controversy or Claim*—a request by a contractor for additional compensation or time extension, or for any other reason, arising out of a contract between the Department of Transportation and Development and a contractor which is entered into and administered by the Department of Transportation and Development pursuant to R.S. 48:251, et seq., and R.S. 48:285, et seq.

*Contractor*—consultants selected pursuant to R.S. 48:285 et seq. Contractor shall also include bidders or contractors on projects let pursuant to R.S. 48:251 et seq. and participation as joint venturer or subcontractor on department projects.

*Debarment*—the disqualification of a contractor to receive invitations for bids or requests for proposals or the award of any contract by the department and shall be applicable to selection of consultants by the department and participation as a joint venture, subcontractor, or consultant or subconsultant on department projects.

*Debarment Committee*—the committee consisting of the following persons acting upon a unanimous vote: the chief engineer of the department or his/her designee; the deputy secretary of the department or his/her designee; and the general counsel of the department or his designee.

*Hearing Authority*—the chief engineer or debarment committee adjudicating the hearings authorized by these rules as applicable to the nature of the hearing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:295-48:295.4, and R.S. 36:504(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 20:

**§1103. Initiation of Hearing**

A. Responsibility of Bidders and Offerors. A hearing held to consider the disqualification of a bidder or offeror shall be commenced with the giving of written notice issued by the chief engineer.

B. Protest of aggrieved person in connection with the solicitation, award, or issuance of written notice of intent to award.

1. Any person who is aggrieved in connection with the solicitation, award, or issuance of written notice of intent to award may protest to the chief engineer. Protests with respect to a solicitation shall be submitted in writing prior to the opening of bids. Protests with respect to the award of a contract or the issuance of written notice of intent to award a contract shall be submitted in writing within 30 calendar days after bid opening or 10 calendar days after contract award, whichever is later.

2. The written protest must state the issue(s) protested. The protest hearing is limited to the issues contained in the written protest unless there is a showing that an issue not mentioned ought to be examined in order to properly dispose of the matter, or, in the public interest, there is other good ground for consideration of other issues and evidence.

3. Upon receipt of a written protest in conformity with the preceding paragraph, the chief engineer shall cause to issue a written notice to the aggrieved person and shall also issue a written notice to all interested persons.

C. Suspensions and Debarments. A hearing for a candidate for suspension or debarment for cause from consideration for award of contracts or a suspension from such consideration during an investigation where there is probable cause for such debarment shall be initiated by issuance of written notice thereof.

D. Contract and Breach of Contract Controversies. Hearings on controversies between Department of Transportation and Development and a contractor based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission shall commence with issuance of written notice by the chief engineer motion for reasons set forth in the notice or at the request of the contractor communicated in writing to the debarment committee. However, failure of the contractor to give written notice of a contract controversy or claim upon reasonable discovery of the causes of a contract controversy shall be deemed to be a waiver of any damages to the contractor which the department could have precluded or mitigated had it been notified upon discovery of the contractor's intention to submit request for additional compensation or some extension in the form of a contract controversy or claim under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295-48:295.4, and R.S. 48:285, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 20:

#### §1105. Notice

A. The written notice required to be sent in order to commence a hearing within the foregoing section of these rules for the adjudicatory hearings provided to parties, aggrieved persons, or interested persons who do not waive their rights shall include:

1. a statement of the time, place, and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a reference to the particular sections of the statutes, rules and contract language involved;

4. a short and plain statement of the matters asserted.

B. If the hearing authority is unable to state the matters in detail at the time notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, the hearing authority shall issue a more detailed notice prior to the date set for the hearing.

C. In addition to the requirements of the notice set forth above, the notice may contain a statement advising all parties, aggrieved persons, or interested persons as applicable that failure to participate in the noticed hearing shall serve to waive any and all further administrative remedies.

D. Whenever practical, the notice shall be served by return receipt certified mail. Where time or other factors render mail service impractical, the hearing authority may effect service by any other means reasonably calculated to communicate the written notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295-48:295.4 and R.S. 36:504(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 20:

#### §1107. Hearing; Record

##### A. Hearing

1. An opportunity shall be afforded all parties, aggrieved persons, or interested persons to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

2. The hearing authority may, in its discretion, request written views from a Department of Transportation and Development section head which will be directly affected by the outcome of the adjudicatory hearing and give such weight to the submission as the facts and law require. A copy of such written submission shall be provided to all parties, aggrieved persons, or interested persons participating in the adjudicatory proceeding.

3. Informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

##### B. Record

1. The record shall contain:

- a. all pleadings, motions, intermediate rulings;
- b. evidence received or considered or a resume thereof if not transcribed;
- c. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;
- d. offers of proof, objections, and rulings thereon;
- e. proposed findings and exceptions;
- f. any decision, opinion, or report by the hearing authority at the hearing.

2. The hearing authority shall have all proceedings before it recorded electronically and may in its discretion, or shall upon written request of any party, aggrieved person, or interested person, cause to be made a full transcript of said proceedings.

a. The cost of a transcript shall be paid by Department of Transportation and Development when the hearing authority elects upon its motion to transcribe the proceedings. In such event, any party, aggrieved person, or interested person requesting a copy shall be given a copy upon first paying the

actual cost thereof or upon payment of the cost of a portion of the transcript if the request is for a particular portion of the transcript.

b. The cost of a transcript shall be paid by the party, aggrieved person, or interested person when a transcript is made at their request. Copies requested shall be paid for by the party, aggrieved person, interested person, or the hearing authority as the case may be.

3. Findings of fact made by the hearing authority shall be based exclusively on the evidence and on matters officially noticed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:295-48:295.4 and R.S. 36:504(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 20:

**§1109. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; and Confidential Privileged Information**

A. Rules of Evidence. The hearing authority (a) may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. It 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, aggrieved person, or interested persons 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 governmental agency of which the hearing authority desires to avail himself, 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. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

B. Official Notice. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within a governmental agency's specialized knowledge. Parties, aggrieved persons, or interested persons shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. A Department of Transportation and Development employee's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

C. Oaths and Affirmations. The hearing authority shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues. The hearing authority shall also have authority to raise issues not otherwise raised by persons party to a hearing where such an issue is pertinent to a proper disposition of the matter.

D. Subpoenas. The hearing authority shall have power to sign and issue subpoenas requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party, aggrieved person, interested person, or governmental agency who wishes to subpoena the witness first deposits 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 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, aggrieved person, interested person, or governmental agency who wishes to subpoena such witness as may be fixed by the hearing officer with reference to the value of the time employed and the degree of learning or skill required. Whenever any person summoned neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or give testimony, as required, the hearing authority may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.

E. Depositions and Discovery. The hearing authority or any party, aggrieved person, or interested person may take the depositions of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the record of the hearing. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by hearing authority in accordance with the rules of evidence provided in these rules.

F. Confidential and Privileged Information

1. Records and documents in the possession of a governmental body, the hearing authority or any officer or employee, including conclusions drawn therefrom which are deemed confidential and privileged shall not be made available for adjudication proceedings and shall not be subject to subpoena by any person or other state or federal agency.

2. Such records or documents shall only include any private contracts, geological and geophysical information and data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:295-48:295.4 and R.S. 36:504(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 20:

**§1111. Decisions and Orders of the Hearing Authority**

A. If the subject matter of the hearing is not resolved, the hearing authority, within 14 days of the conclusion of a protest hearing, or within a reasonable time of the conclusion of a hearing to determine responsibility, suspension or debarment, or a controversy between the state and a contractor, shall issue a written decision stating the reasons for the action taken and informing the party, aggrieved person, or interested person of

the right to administrative review and thereafter judicial review where applicable. A copy of the decision or order shall be mailed or otherwise furnished the party, aggrieved person, or interested person immediately.

B. The decision of the hearing authority shall become final and conclusive unless the decision is fraudulent or the party, aggrieved person, or interested person adversely affected by the decision or order has timely appealed administratively to the secretary of the Department of Transportation and Development.

The final decision of the hearing authority shall not be subject to the review of the secretary when the decision is rendered in a proceeding to determine responsibility of a bidder or offeror. Notice of the right to judicial review of the final decision shall accompany service of the final decision.

C. A bidder or offeror who is disqualified shall have the right to request a rehearing before the debarment committee. This right must be exercised within 10 days of the date of receipt of the decision of disqualification. The grounds for rehearing shall be limited to the following:

1. the decision or order is clearly contrary to the law and the evidence;
2. the party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
3. there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or
4. there is other good ground for further consideration of the issues and the evidence in the public interest.

The request for rehearing on behalf of a bidder or offeror disqualified after hearing on his responsibility shall be in writing and shall set forth the grounds which justify a rehearing. In the event a rehearing is granted by the hearing authority, it shall be confined to the grounds upon which the rehearing was granted.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:295-48:295.4 and R.S. 36:504(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 20:

#### **§1113. Administrative Appeal to the Secretary**

A. The secretary of the Department of Transportation and Development shall have authority to review and determine any appeal by a party, aggrieved person or interested person who has intervened in a hearing before the hearing authority from a determination by the hearing authority, from an adjudication on a protest of a solicitation, award, or intent to award, a suspension or debarment, or a controversy between the state and a contractor.

##### **1. Scope of Appellate Review by the Secretary**

a. An appeal to the secretary shall be limited to a review of the record of the proceedings before the hearing authority and written briefs submitted by or on behalf of persons who have appealed.

b. A person seeking review by the secretary of a decision by the hearing authority may, within the time limitations fixed herein-below for appeals, raise by separate written documents:

i. the existence and discovery since hearing of new evidence important to the issues which he could not have with due diligence obtained before or during trial; or

ii. the existence of issues not previously considered which ought to be examined in order to properly dispose of the matter. Upon receipt of such separate written document, the secretary, should he deem the assertions well founded, may either remand the matter to the hearing authority or grant a hearing to consider the assertions himself. In either event, the evidence or submissions of said hearing shall be incorporated into the record and considered in the administrative appeal.

B. Appeal of Protest Hearing. An aggrieved person or an interested person who has participated in the proceedings before the chief engineer appealed from shall file an appeal to the secretary within seven days of receipt of the decision of the chief engineer. The secretary shall decide within 14 days whether the solicitation or award or intent thereof was in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation. A copy of the decision of the secretary on the appeal shall be mailed or otherwise furnished immediately to the aggrieved person or interested person who has appealed or otherwise participated in the appeal from the decision of the hearing authority. The decision of the secretary on the appeal shall be final and conclusive unless:

1. the decision is fraudulent; or
2. the person adversely affected by the decision of the chief engineer has timely appealed to the court prior to the commencement of work on the contract.

C. Appeal of Suspension or Debarment Hearing. A party shall file his appeal with the secretary from a suspension or debarment hearing within 14 days of the receipt of the decision of suspension or debarment from the debarment committee. The secretary shall decide within 14 days whether, or the extent to which, the debarment or suspension was in accordance with the constitution, statute, regulations, and the best interests of the state and was fair. A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person or any other party interviewing. The decision of the secretary on the appeal shall be final and conclusive unless:

1. the decision is fraudulent;
2. the debarred or suspended party has timely appealed to the court in accordance with R.S. 48:295.3. The filing of a petition in the Nineteenth Judicial District Court shall not stay the decision of the debarment committee except as is provided under the section entitled "Procedure Upon Judicial Review" of this rule.

D. Appeal of Contractor Controversy. A party shall file his appeal with the secretary within 14 days of the receipt of the determination under R.S. 48:295.3. The secretary shall decide within 60 days the contractor or breach of contract controversy. A copy of the decision shall be mailed or otherwise furnished immediately to the contractor. The decision of the secretary on appeal shall be final and conclusive unless:

1. the decision is fraudulent; or

2. the contractor has appealed to the Nineteenth Judicial District Court within 90 days of receipt of the secretary's decision. The filing of a petition in the Nineteenth Judicial District Court shall not stay the decision of the chief engineer except as is provided under the section entitled "Procedure Upon Judicial Review."

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:295-48:295.4 and R.S. 36:504(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 20:

### §1115. Judicial Appeal from Administrative Decisions

A. Solicitation and Award of Contracts. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a bidder, offeror, or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation. Such actions shall extend to all kinds of actions, whether for monetary damages or for declaratory, injunctive, or other equitable relief. Any action under this paragraph shall be commenced within 15 days after receipt of the decision of the secretary.

B. Debarment or Suspension. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the constitution, statutes, regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief. Any action under R.S. 48:295.4 shall be commenced within 60 days after receipt of the decision of the secretary under R.S. 48:295.3.

C. Actions Under Contracts or for Breach of Contract. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a contractor who contracts with the state, for any cause of action which arises under or by virtue of the contract, whether the action is on the contract or for a breach of the contract or whether the action is for declaratory, injunctive, or other equitable relief. Any action under this paragraph shall be commenced within 90 days after receipt of the decision of the secretary or of determination by the chief engineer of final acceptance or completion of the contract, whichever is later. Any action filed prior to final acceptance or completion shall be deemed premature to avoid piecemeal litigation of multiple contract controversies or claims under a single project. The contractor shall not seek amounts in addition to those requested by the contractor or claimed or presented at the hearing before the chief engineer.

D. Disqualification of Bidders or Offerors. A bidder or offeror disqualified after a hearing conducted pursuant to R.S. 48:295 shall have a right of appeal to the Nineteenth Judicial District Court. Any action for review of a hearing conducted pursuant to R.S. 48:295 shall be commenced within 60 days after receipt of the decision of the secretary or within 60 days of the receipt of a decision on an application for rehearing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:295-48:295.4 and R.S. 36:504(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 20:

### §1117. Procedure Upon Judicial Review

A. An appeal to the Nineteenth Judicial District Court for review of a decision of the debarment committee shall be instituted within the time delays established in the preceding section entitled "Judicial Appeal from Administrative Decisions" by the filing of a petition. An appeal to the decision of the secretary involving the responsibility of a bidder or offeror shall likewise be filed within the delay provided in the preceding section and shall be instituted by the filing of a petition.

B. The filing of the petition does not stay enforcement of a decision in proceedings involving responsibility of a bidder or offeror, suspension or debarment, or controversies between the state and a contractor. The secretary may grant, or the Nineteenth Judicial District Court may order, a stay upon appropriate terms.

The filing of a petition shall stay progress of a solicitation or award of a contract unless the hearing authority makes a written determination that the awarding of the contract is necessary without delay to protect the substantial interests of the state. Upon such determination, no court shall enjoin progress under the award except after notice and hearing.

C. Review. The review shall be conducted by the Nineteenth Judicial District Court without a jury, except in cases of contract controversies which may be heard by a jury de novo and shall be confined to the record. In case of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs. There shall be no right of review by a trial de novo except as provided in this paragraph.

D. Judgment on Review. The court may affirm the decision of the secretary, as the case may be, or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

1. in violation of constitutional or statutory provisions;
2. in excess of the statutory authority of the agency;
3. made upon lawful procedure;
4. affected by other error of law;
5. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
6. manifestly erroneous in view of the reliable, probative, and substantial evidence on the whole record. In the application of the rule, where the department has the opportunity to judge the credibility of witnesses by first hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the department's determination of credibility issues.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:295-48:295.4 and R.S. 36:504(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 20:

### §1119. Appeals

Review of a final judgment of the district court to the Court of Appeal for the First Circuit shall be taken as in other civil cases.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:295-48:295.4 and R.S. 36:504(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 20:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: Lawrence A. Durant, General Counsel, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, phone (504) 379-1207.

Jude W.P. Patin,  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Debarment**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated implementation costs or savings to state or local governmental units in connection with this proposed rule. The debarment committee will be composed of current Department of Transportation and Development employees. The department has sufficient personnel currently on staff to implement all phases of the proposed procedure, including transcription of testimony.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no direct effect on revenue collections of state or local governmental units if this rule is implemented.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no direct economic costs or benefits to most affected contractors, subcontractors, consultants or subconsultants who participate in the debarment hearing procedure. However, those parties who request transcripts or subpoenas will incur minimal costs for those services.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There should be no direct effect on competition or employment except insofar as unworthy contractors, subcontractors, consultants and subconsultants will be eliminated as eligible for DOTD projects.

Jude W. Patin  
Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Treasury  
Board of Trustees of the Teachers' Retirement System**

**DROP Policy—Affidavit**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Teachers' Retirement System approved amendments to the policies for implementation of the Deferred Retirement Option Plan as follows:

\* \* \*

17. If a member fails to return a completely executed and notarized Affidavit of Plan Election to choose a retirement benefit option by 90 calendar days after their receipt of the unsigned affidavit, or by 90 calendar days after the beginning of their DROP participation, whichever is later, they will be deemed not to have elected to participate in DROP. Employee and employer contributions and appropriate interest or actuarial cost must then be remitted to TRSL for the prior period of TRSL employment in order to receive service credit for that period.

For purposes of this section, the signed affidavit must be postmarked no later than 90 calendar days after receipt by member of the unsigned affidavit or by 90 calendar days after the beginning of their DROP participation, whichever is later.

18. A member shall not begin their DROP participation until TRSL has received a fully completed, signed and witnessed original Application for Service Retirement, Form 11A, and a fully completed, signed and witnessed original Application for DROP, Form 11F. FAX copies will not be accepted for this purpose.

Interested persons may comment on the proposed policy in writing until 4:30 p.m., July 29, 1994, at the following address: Bonita B. Brown, Assistant Director, Teachers' Retirement System, Box 94123, Baton Rouge, LA 70804-9123.

James P. Hadley, Jr.  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: DROP Policy—Affidavit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Teachers' Retirement System of Louisiana (TRSL) will save over \$40,000 in reduced retirement/survivor benefits payable within 10 years after the effective date of the rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no change in revenue collections of state or local government.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Members who enter the Deferred Retirement Option Plan (DROP) will have to make a decision concerning their benefit option and beneficiary at the time of entry.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition or employment.

James P. Hadley, Jr.  
Director

David W. Hood  
Senior Fiscal Analyst



## NOTICE OF INTENT

### Department of Treasury Bond Commission

#### Deadline and Financial Statements

The Department of Treasury, State Bond Commission proposes to amend Rules 2 and 4 regarding deadlines and financial statements. The proposed rules provide that all documentation be received no later than 10 working days prior to Bond Commission meetings at which the items will be considered. Financial statements from entities requesting to incur debt must be provided to the Bond Commission for review prior to applications being placed on the final agenda.

#### Rule Number 2

Applications, to include the name, address, and telephone number of the responsible official, must be filed with the commission at least 20 working days prior to the commission meeting at which the application will be considered. However, the secretary of the commission may approve a later filing for an emergency or an extraordinary situation. One copy of any related resolution or ordinance, certified by a duly authorized official, and one copy of the financial statements described in Rule Number 4 shall be submitted with the application. Unless otherwise provided by these rules, all information relating to an application shall be submitted to the commission no later than 10 working days prior to the commission meeting at which the application will be considered; otherwise, the application will not be docketed for consideration.

#### Rule Number 4

Rescind existing Rule Number 4 in its entirety and reenact Rule Number 4 with the following provisions:

Financial statements, as described below, must be submitted with all applications to incur debt:

If the recently completed operating year ended less than 90 days prior to the date of the application to incur debt, the following financial statements must be submitted with the application:

a. financial statements covering all funds for the second preceding year, and,

b. interim financial statements, for the General Fund and for the fund from which the debt will be paid, from the date of the last financial statements to three months prior to the date of the application.

If the most recently completed operating year ended 90 days or more prior to the date of the application to incur debt, the following financial statements must be submitted with the application:

a. prior year financial statements covering all funds, and,

b. interim financial statements, for the General Fund and for the fund from which the debt will be paid, from the date of the prior year financial statements to three months prior to the date of the application.

Interested persons are invited to submit written comments on this proposed rule. Such comments should be submitted no

later than Friday, July 15 at 4:30 p.m. to Rae Logan, State Bond Commission, Box 44154, Baton Rouge, LA, 70804.

Mary L. Landrieu  
State Treasurer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Deadline and Financial Statements

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no estimated costs and/or economic benefits to directly affect persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Rae W. Logan  
Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Treasury Bond Commission

#### State Debt Limit

Whereas, Article VII, Section 6(F) of the Louisiana Constitution (Acts 1993, No. 1044, §1, approved October 16, 1993, effective November 17, 1993) and R.S. 39:1367 (Acts 1993, No. 813, §1, effective July 1, 1993) established a limitation on the amount of net state tax supported debt which may be issued in any fiscal year; and

Whereas, these provisions of the constitution and laws of the state of Louisiana provide certain duties and responsibilities of the State Bond Commission (the "commission"); and

Whereas, in carrying out these duties and responsibilities, the commission must annually establish the limitation on the issuance of net state tax supported debt and must determine if debt issues presented for approval by the commission are to be included in net state tax supported debt; and

Whereas, R.S. 39:1367 defines "net state tax supported debt" but does not illustrate specific types of debt which are included in this definition,

Therefore be it resolved that the commission adopt the following rule which encompasses the full and complete authority to be followed by the commission in implementing the state debt limit and Article VII, Section 6(F) and of R.S.



39:1367, as now or hereinafter amended, are by reference made a part hereof.

### Rule

The State Bond Commission shall annually establish the maximum dollar amount which may be expended in any year for servicing net state tax supported debt, as such terms are defined by law (the "debt limit"). This is to be a computation based on the formula used in R.S. 39:1367 (as now or hereinafter amended) and shall include an estimate of the par amount of bonds which can be issued, and shall report such debt limit to the Legislature, the governor and the Joint Legislative Committee on Capital Outlay by November 1 of each year.

For purposes of this rule, the following debt and types of debt are determined to be net state tax supported debt and shall be included in the debt limitation established annually by the State Bond Commission (for specific issues and amounts of the inclusions listed below the commission will cross reference the Louisiana Division of Administration, Statewide Reporting):

#### 1. General Obligation Bonds Secured by the Full Faith and Credit of the State

General obligation bonds secured by the full faith and credit of the state shall include general obligation bonds issued pursuant to Article VII, Section 6 of the State Constitution, R.S. 39:1316-1366 and other constitutional and statutory authority supplemental thereto as well as bonds which were authorized or issued prior to the adoption of the State Constitution of 1974 which are currently backed by the full faith and credit of the state ("General Obligation Debt Equivalents"). As of the date of the adoption of this rule, this category includes the following: general obligation bonds, highway construction bonds; capital improvement bonds; Charity Hospital of Louisiana (New Orleans) bonds; higher education bonds.

#### 2. Debt Secured by Capital Leases of Immovable Property Payable by the State or Annual Appropriations of the State

Debt secured capital leases of immovable property payable by the state or annual appropriations of the state shall include debt secured by revenues derived from lease payments by and between the state and any agency, corporation, public trust, authority, or political subdivision whether paid from the Bond Security and Redemption Fund or by direct State General Fund appropriation but not backed by the full faith and credit of the state.

For purposes of this rule, capital leases are as defined by generally accepted accounting principals. As of the date of the adoption of this rule, this category includes the following: office facilities corporation bonds; LPFA - Hotel Dieu, 1992; Louisiana office building corporation bonds; Louisiana correctional facilities corporation bonds.

#### 3. Debt Secured by Statewide Tax Revenues or Statewide Special Assessments

Debt secured by statewide tax revenues or statewide special assessments shall include revenue debt having a specifically identified major tax, licenses or fee dedication. As of the date of the adoption of this rule, this category includes the following: Louisiana Recovery District bonds;

gasoline and fuels tax revenue bonds (Transportation Trust Fund).

#### 4. Bonds Secured by Self-supported Revenues which in the First Instance may not be Sufficient to Pay Debt Service and will then Draw on the Full Faith and Credit of the State

Bonds secured by self-supported revenues which in the first instance may not be sufficient to pay debt service and will then draw on the full faith and credit of the state shall include those revenue bonds which are self-supporting but which have a lien on or guaranty of either the Bond Security and Redemption Fund or indirectly by State General Fund appropriation. As of the date of the adoption of this rule, this category includes certain bonds of the following issuers: Ascension St. James Bridge Authority, Lake Charles Harbor Authority, Crescent City Connection, Louisiana Agricultural Authority, Colleges and Universities, Greater Baton Rouge Port, Port of New Orleans, Greater New Orleans Expressway Commission.

For purposes of this rule, the State Bond Commission, when unable to determine the classification of a debt issue as net state tax supported debt under the provisions of R.S. 39:1367 or the rules of the commission, may request an advisory opinion of the legislative auditor of the proper classification of such debt issue based upon the criteria of the Governmental Accounting Standards Board codification of Governmental Accounting and Financial Reporting Standards. The State Bond Commission may also request an opinion of the attorney general of the proper classification of such debt based upon the constitution and laws of the state of Louisiana. Both such opinions may be considered by the commission prior to any determination of the classification of such debt issue as net state tax supported debt.

Interested persons are invited to submit written comments on this proposed rule. Such comments should be submitted no later than Friday, July 15 at 4:30 p.m. to Rae Logan, State Bond Commission, Box 44154, Baton Rouge, LA, 70804.

Mary L. Landrieu  
State Treasurer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Debt Limit

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no estimated costs and/or economic benefits to directly affect persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Rae W. Logan  
Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

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

#### DeSiard Netting Prohibition (LAC 76:VII.173)

The Louisiana Wildlife and Fisheries Commission hereby advertises its intent to adopt the following rule prohibiting the use of gill nets and trammel nets in the upper end of Bayou DeSiard located in Ouachita Parish.

#### Title 76

#### WILDLIFE AND FISHERIES

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

#### Chapter 1. Freshwater Sports and Commercial Fishing

#### §173. Netting Prohibition—Bayou DeSiard

The Wildlife and Fisheries Commission hereby prohibits the use of gill nets and trammel nets in that portion of Bayou DeSiard, Ouachita Parish, bounded on the north by U.S. Highway 165 near Sterlington, and on the south by Shorty Payne Road near Black Bayou.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:22(B).

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:

Interested persons may submit written comments on the proposed rule to Bennie J. Fontenot, Jr, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Tuesday, August 2, 1994.

John F. "Jeff" Schneider  
Chairman

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: DeSiard Netting Prohibition (LAC 76:VII.173)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out by existing enforcement personnel through routine patrol activities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will have no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule will have no revenue impact on the user groups of the lake.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule will have no impact on competition and employment.

Joe L. Herring  
Secretary

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

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

#### Reptiles and Amphibians (LAC 76:VII.101)

The Department of Wildlife and Fisheries does hereby give notice of its intent to establish regulations which govern the collection, captive maintenance, research and management of native species of reptiles and amphibians. The reptile and amphibian industry of Louisiana represents a sustainable and renewable resource, valuable to the economy providing income to approximately 321 collectors and 29 wholesale/retail dealers. The reptile and amphibian harvest program is in keeping with wise wildlife management techniques based upon scientific research.

The Louisiana Wildlife and Fisheries Commission does hereby authorize and delegate to the secretary of the Department of Wildlife and Fisheries, the authority to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to filing of the fiscal and economic impact statements, the filing of the notice of intent and preparation of reports and correspondence to other agencies of government.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part XV. Reptiles and Amphibians

#### Chapter 1. Guidelines

#### §101. Recreational and Commercial Harvests; Prohibitions

A. Purpose. These regulations are to govern the collection, captive maintenance, research and management of native and certain exotic species of reptiles and amphibians. Consistent with the constitutional authority and legislative mandates, the Louisiana Wildlife and Fisheries Commission, Louisiana Department of Wildlife and Fisheries and the Louisiana Reptile and Amphibian Task Force support the following guidelines, principles and regulations for collectors, buyers/dealers and scientists handling native species of reptiles and amphibians.

#### B. General Considerations

1. The living conditions of animals held in captivity at field sites should be appropriate for that species and contribute to their health and well-being. The housing, feeding, and nonmedical care of the animals will be directed by a person trained and experienced in proper care, handling, and use of the species being maintained. Mixed housing is also appropriate for holding or displaying certain species.

2. Individuals of endangered or threatened taxa should neither be removed from the wild (except in collaboration with conservation efforts), nor imported or exported, except in compliance with applicable regulations.

3. Removal from the wild of potentially tending individuals of species known to tend nests should, as a general principle, be avoided during the nesting season unless justified for scientific reasons.

#### C. Collecting

1. Live-capture techniques should prevent or minimize damage to the animal.

2. Traps should be checked at least daily when weather conditions threaten survival of trapped animals. Investigators must make every effort to prevent trap deaths from exposure, drowning, cardiogenic shock, or capture myopathy.

3. Collecting should always be conducted so as to leave habitat as undisturbed as possible. Permanent removal of more than 50 percent of the animals from any breeding or hibernation aggregation should be avoided unless justified in writing for scientific reasons by the investigator. Similarly, relative large collections of gravid females from any populations for destructive sampling should be avoided unless justified for scientific reasons.

#### D. Methods of Collection (56:632.6)

1. The use of gasoline, chemicals, or other volatile substances to flush reptiles and amphibians from natural hiding places, nests, or dens is prohibited.

2. The destruction of natural habitats is prohibited. All logs, rocks, stumps, and other natural objects may be turned over or moved, but they must be replaced in their original position upon completion of the collector's inspection.

3. Any trap or other device designed to capture reptiles or amphibians, which remains in the field unattended, must bear a tag with the name, address, and license number of the collector. All such devices must be checked every 24 hours or they must be rendered unworkable during periods of nonuse.

#### E. Restraint and Handling

1. General Principles. The decision to use physical or chemical restraint of wild amphibians or reptiles should be based upon knowledge of behavior of the animals, and availability of facilities. Collectors and dealers should determine and use the least amount of restraint necessary to do the job in a humane manner. Because amphibians or reptiles, especially venomous species (including those with toxic skin secretions), may be capable of inflicting serious injury either on themselves or those handling them, some form of restraint often is prudent. Species should not be confined with other species (other than food prey) that they may injure. The well-being of the captive animal is of paramount importance; improper restraint, especially of frightened animals, can lead to major physiological disturbances that can result in deleterious or even fatal consequences.

2. Animals are best handled quietly and with the minimum personnel necessary. Darkened conditions tend to alleviate stress and quiet the animals and are recommended whenever appropriate. When handling large reptiles, netting or maneuvering or dropping them into a bag via hook, tongs, etc., is preferable inasmuch as they may suffer disproportionately great damage while struggling.

#### F. Housing and Maintenance

1. Normal field maintenance should incorporate, as far as possible, those aspects of natural habitat deemed important to the survival and well-being of the animal. Adequacy of maintenance can be judged, relative to the natural environment, by monitoring a combination of factors such as changes in growth and weight, survival rates, breeding success, activity levels, general behavior, and appearance.

Consideration should be given to providing an environment that includes features such as natural materials, refuges, perches, and water baths. Natural foods should be duplicated as closely as possible, as should natural light, moisture, and temperature conditions unless alterations of these are factors under investigation.

2. Frequency of cage cleaning should represent a compromise between the level of cleanliness necessary to prevent disease, and the amount of stress imposed by frequent handling and exposure to unfamiliar surroundings and bedding.

#### G. Turtle Rules and Regulations

1. *Turtle Trap*—any device constructed with horizontal funnel entrances not positioned in tandem, or opening on the upper surface, with or without attractants, with openings in the upper surface to allow constant functional breathing of any air-breathing captured specimens, designed to attract and/or capture turtles in aquatic habitats.

a. Each trap or device shall be clearly marked as "TURTLE TRAP."

b. Trap or device placement in the water column shall provide continuous breathing opportunities for the captured specimens by having openings in the upper surface to allow functional breathing of the captured specimens.

c. All fish and/or other nontarget species other than watersnakes and salamanders (e.g., amphiumas) shall be released into the wild upon discovery or within 24 hours, whichever comes first.

d. Possession of finfish in the field while engaging in the commercial turtle trapping operations shall be prohibited.

e. A Reptile and Amphibian Collector's License is required to sell turtles or other reptiles and/or amphibians captured with legal commercial fishing gear or by other legal methods.

#### 2. Alligator Snapping Turtle (*Macrolemys temmincki*)

##### a. Size Limit

i. Commercial take: all turtles shall be 15 inches carapace length or greater (all turtles less than 15 inches shall be released at the time of capture).

(a). Reptile and Amphibian Collector's License is required as provided in 56:632.4 (\$25).

(b). Holder of a collector's license shall not possess turtles less than 15 inches carapace length by claiming provisions of G.2.a.ii.

(c). Carapace length measures the straight line distance along the midline of the carapace.

ii. Recreational take: no size limit. Basic recreational fishing license is required as provided in 56:632.1.

iii. Reptile and Amphibian Wholesale/Retail Dealer's License is required as provided in 56:632.5.

(a). Mandatory records include weights and carapace length measurements recorded by reptile and amphibian wholesale/retail dealer at the time of purchase; to be available for department inspection upon demand.

(b). Size restriction and measuring equipment effective for a three year period (January 1, 1995 - December 31, 1998); following that period an evaluation of size limit shall be evaluated by the department.

##### b. Possession Limit

i. Recreational take: four per day per person.

ii. Commercial take: no limit on numbers taken.

H. Green Anole Rule. It shall be illegal to sell or purchase any Green Anole (*Anolis carolinensis*) with a snout-vent length of less than 1¾ inches or an overall length of less than 5 inches with the tail intact.

I. Checklist of native or established amphibians and reptiles of Louisiana as listed by Dundee and Rossman, 1989, *The Amphibians and Reptiles of Louisiana*, LSU Press.

1. Salamanders

Spotted Salamander (*Ambystoma maculatum*)  
Marbled Salamander (*Ambystoma opacum*)  
Mole Salamander (*Ambystoma talpoideum*)  
Small-mouthed Salamander (*Ambystoma texanum*)  
Eastern Tiger Salamander (*Ambystoma tigrinum tigrinum*)

Two-toed Amphiuma (*Amphiuma means*)  
Three-toed Amphiuma (*Amphiuma tridactylum*)  
Spotty Dusky Salamander (*Desmognathus fuscus conanti*)

Southern Dusky Salamander (*Desmognathus auriculatus*)  
Southern Two-lined Salamander (*Eurycea cirrigera*)

Three-lined Salamander (*Eurycea longicauda guttolineata*)  
Dwarf Salamander (*Eurycea quadridigitata*)  
Four-toed Salamander (*Hemidactylium scutatum*)  
Slimy Salamanders (*Plethodon glutinosus* complex)\*

Southern Red-backed Salamander (*Plethodon serratus*)  
Webster's Salamander (*Plethodon websteri*)  
Gulf Coast Mud Salamander (*Pseudotriton montanus flavissimus*)  
Southern Red Salamander (*Pseudotriton ruber vioscai*)

Gulf Coast Waterdog (*Necturus beyeri*)  
Red River Waterdog (*Necturus maculosus louisianensis*)  
Central Newt (*Notophthalmus viridescens louisianensis*)

Western Lesser Siren (*Siren intermedia nettingi*)

\* *Plethodon glutinosus* includes *P. mississippi* and *P. kisatchie* which can be distinguished only by biochemical methods.

2. Toads and Frogs

Dwarf American Toad (*Bufo americanus charlesmithi*)  
Oak Toad (*Bufo quercicus*)  
Southern Toad (*Bufo terrestris*)  
Gulf Coast Toad (*Bufo valliceps*)  
Fowler's Toad (*Bufo woodhousii fowleri*)  
Northern Cricket Frog (*Acris crepitans crepitans*)  
Southern Cricket Frog (*Acris gryllus gryllus*)  
Bird-voiced Treefrog (*Hyla avivoca*)  
Cope's Gray Treefrog (*Hyla chrysoscelis*)  
Greater Gray Treefrog (*Hyla versicolor*)

Green Treefrog (*Hyla cinerea*)  
Northern Spring Peeper (*Hyla crucifer crucifer*)  
Pine Woods Treefrog (*Hyla femoralis*)  
Barking Treefrog (*Hyla gratiosa*)  
Squirrel Treefrog (*Hyla squirella*)  
Ornate Chorus Frog (*Pseudacris ornata*)  
Strecker's Chorus Frog (*Pseudacris streckeri*)  
Upland Chorus Frog (*Pseudacris triseriata feriarum*)

Greenhouse Frog (*Eleutherodactylus planirostri*)  
established exotic

Eastern Narrow-mouthed Frog (*Gastrophryne carolinensis*)  
Eastern Spadefoot (*Scaphiopus holbrookii holbrookii*)

Hurter's Spadefoot (*Scaphiopus holbrookii hurterii*)

Southern Crawfish Frog (*Rana areolata areolata*)  
Dusky Gopher Frog (*Rana areolata sevosia*)  
Bullfrog (*Rana catesbeiana*)  
Bronze Frog (*Rana clamitans clamitans*)

Pig Frog (*Rana grylio*)  
Pickerel Frog (*Rana palustris*)  
Southern Leopard Frog (*Rana sphenoccephala*)

3. Turtles

Common Snapping Turtle (*Chelydra serpentina serpentina*)  
Alligator Snapping Turtle (*Macrochelys temminckii*)

Southern Painted Turtle (*Chrysemys picta dorsalis*)

Eastern Chicken Turtle (*Deirochelys reticularia reticularia*)

Western Chicken Turtle (*Deirochelys reticularia miaria*)

Mississippi Map Turtle (*Graptemys kohnii*)  
Ringed Map Turtle (*Graptemys oculifera*)  
Ouachita Map Turtle (*Graptemys pseudogeographica ouachitensis*)

Sabine Map Turtle (*Graptemys pseudogeographica sabinensis*)

Alabama Map Turtle (*Graptemys pulchra*)  
Mississippi Diamondback Terrapin (*Malaclemys terrapin pileata*)  
River Cooter (*Pseudemys concinna* complex)

Florida Cooter (*Pseudemys floridana* complex)

Gulf Coast Box Turtle (*Terrapene carolina major*)

Three-toed Box Turtle (*Terrapene carolina triunguis*)

Ornate Box Turtle (*Terrapene ornata ornata*)

Red-eared Slider	( <i>Trachemys scripta elegans</i> )	Southern Black Racer	( <i>Coluber constrictor priapus</i> )
Mississippi Mud Turtle	( <i>Kinosternon subrubrum hippocrepis</i> )	Mississippi Ringneck Snake	( <i>Diadophis punctatus stictogenys</i> )
Razor-backed Musk Turtle	( <i>Sternotherus carinatus</i> )	Great Plains Rat Snake	( <i>Elaphe guttata emoryi</i> )
Stripe-necked Musk Turtle	( <i>Sternotherus minor peltifer</i> )	Corn Snake	( <i>Elaphe guttata guttata</i> )
Stinkpot	( <i>Sternotherus odoratus</i> )	Black Rat Snake	( <i>Elaphe obsoleta obsoleta</i> )
Gopher Tortoise	( <i>Gopherus polyphemus</i> )	Texas Rat Snake	( <i>Elaphe obsoleta lindheimeri</i> )
Midland Smooth Softshell	( <i>Apalone mutica mutica</i> )	Western Mud Snake	( <i>Farancia abacura reinwardtii</i> )
Gulf Coast Smooth Softshell	( <i>Apalonemutica calvata</i> )	Rainbow Snake	( <i>Farancia erytrogramma erytrogramma</i> )
Gulf Coast Spiny Softshell	( <i>Apalone spinifera aspera</i> )	Eastern Hognose Snake	( <i>Heterodon platyrhinos</i> )
Pallid Spiny Softshell	( <i>Apalone spinifera pallida</i> )	Prairie Kingsnake	( <i>Lampropeltis calligaster calligaster</i> )
<b>4. Lizards</b>		Mole Kingsnake	( <i>Lampropeltis calligaster rhombomaculata</i> )
Eastern Slender Glass Lizard	( <i>Ophisaurus attenuatus longicaudus</i> )	Speckled Kingsnake	( <i>Lampropeltis getulus holbrooki</i> )
Western Slender Glass Lizard	( <i>Ophisaurus attenuatus attenuatus</i> )	Louisiana Milk Snake	( <i>Lampropeltis triangulum amaura</i> )
Eastern Glass Lizard	( <i>Ophisaurus ventralis</i> )	Scarlet Kingsnake	( <i>Lampropeltis triangulum elapsoides</i> )
Mediterranean Gecko	( <i>Hemidactylus turcicus turcicus</i> ) established exotic	Eastern Coachwhip	( <i>Masticophis flagellum flagellum</i> )
Green Anole	( <i>Anolis carolinensis</i> )	Gulf Salt Marsh Snake	( <i>Nerodia clarkii clarkii</i> )
Southern Fence Lizard	( <i>Sceloporus undulatus undulatus</i> )	Western Green Water Snake	( <i>Nerodia cyclopion</i> )
Northern Fence Lizard	( <i>Sceloporus undulatus hyacinthinus</i> )	Yellow-bellied Water Snake	( <i>Nerodia erythrogaster flavigaster</i> )
Southern Coal Skink	( <i>Eumeces anthracinus pluvialis</i> )	Blotched Water Snake	( <i>Nerodia erythrogaster transversa</i> )
Five-lined Skink	( <i>Eumeces fasciatus</i> )	Broad-banded Water Snake	( <i>Nerodia fasciata confluens</i> )
Southeastern Five-lined Skink	( <i>Eumeces inexpectatus</i> )	Diamond-backed Water Snake	( <i>Nerodia rhombifer rhombifer</i> )
Broad-headed Skink	( <i>Eumeces laticeps</i> )	Midland Water Snake	( <i>Nerodia sipedon pleuralis</i> )
Southern Prairie Skink	( <i>Eumeces septentrionalis qobtusirostris</i> )	Rough Green Snake	( <i>Ophedrys aestivus</i> )
Ground Skink	( <i>Scincella lateralis</i> )	Black Pine Snake	( <i>Pituophis melanoleucus lodingi</i> )
Six-lined Racerunner	( <i>Cnemidophorus sexlineatus sexlineatus</i> )	Louisiana Pine Snake	( <i>Pituophis melanoleucus ruthveni</i> )
<b>5. Snakes</b>		Graham's Crayfish Snake	( <i>Regina grahamii</i> )
Midwest Worm Snake	( <i>Carphophis amoenus helenae</i> )	Delta Glossy Crayfish Snake	( <i>Regina rigida deltae</i> )
Western Worm Snake	( <i>Carphophis amoenus vermisi</i> )	Western Glossy Crayfish Snake	( <i>Regina rigida sinicola</i> )
Northern Scarlet Snake	( <i>Cemophora coccinea copei</i> )	Pine Woods Snake	( <i>Rhadinaea flavilata</i> )
Buttermilk Racer	( <i>Coluber constrictor anthicus</i> )	Marsh Brown Snake	( <i>Storeria dekayi limnetes</i> )
Black-masked Racer	( <i>Coluber constrictor latrunculus</i> )	Texas Brown Snake	( <i>Storeria dekayi texana</i> )
Tan Racer	( <i>Coluber constrictor etheridgei</i> )	Midland Brown Snake	( <i>Storeria dekayi wrightorum</i> )
Eastern Yellow-bellied Racer	( <i>Coluber constrictor flaviventris</i> )	Florida Red-bellied Snake	( <i>Storeria occipitomaculata obscura</i> )
		Southeastern Crowned Snake	( <i>Tantilla coronata</i> )

Flat-headed Snake	( <i>Tantilla gracilis</i> )
Western Ribbon Snake	( <i>Thamnophis proximus proximus</i> )
Gulf Coast Ribbon Snake	( <i>Thamnophis proximus orarius</i> )
Eastern Ribbon Snake	( <i>Thamnophis sauritus sauritus</i> )
Eastern Garter Snake	( <i>Thamnophis sirtalis sirtalis</i> )
Rough Earth Snake	( <i>Virginia striatula</i> )
Western Smooth Earth Snake	( <i>Virginia valeriae elegans</i> )
Eastern Coral Snake	( <i>Micrurus fulvius fulvius</i> )
Texas Coral Snake	( <i>Micrurus fulvius tenere</i> )
Southern Copperhead	( <i>Agkistrodon contortrix contortrix</i> )
Western Cottonmouth	( <i>Agkistrodon piscivorus leucostoma</i> )
Eastern Diamondback Rattlesnake	( <i>Crotalus adamanteus</i> )
Canebrake Rattlesnake	( <i>Crotalus horridus atricaudatus</i> )
Western Pygmy Rattlesnake	( <i>Sistrurus miliarius streckeri</i> )
6. Alligator	
American Alligator	( <i>Alligator mississippiensis</i> )

J. Restricted Amphibians and Reptiles

1. The species listed below are deemed to be especially sensitive to overcollection in the state of Louisiana because of low population levels and/or limited ranges (according to Dundee and Rossman, 1989, *The Amphibians and Reptiles of Louisiana*, LSU Press, and any pertinent subsequent scientific literature). Collection of these species from the wild in Louisiana for commercial or personal purposes is hereby prohibited. Scientific collecting of these species will be allowed by permit under the following conditions:

a. one voucher specimen of these species per site may be collected to document range extensions or confirm the current occurrence of a species suspected to have been extirpated at a site (i.e. not collected in the past 20 years); collecting more than one specimen of these species shall require written justification submitted to and approved by Department of Wildlife and Fisheries, the approved number then being indicated on the permit;

b. up to five individuals of these species found dead may be salvaged;

c. any number of individuals of these species may be captured, processed (i.e. measured, marked, tissue samples taken by means deemed acceptable by Department of Wildlife and Fisheries, etc.) and released alive where originally found as part of a legitimate scientific study.

2. As more information concerning the status of these and other amphibians and reptiles becomes available, species may be removed from or added to this list.

3. List of Restricted Amphibians and Reptiles

- Ambystoma tigrinum*—tiger salamander
- Plethodon serratus*—southern red-backed salamander
- Plethodon websteri*—Webster's salamander

*Pseudotriton montanus*—mud salamander

*Pseudotriton ruber*—red salamander

4. List of Threatened or Endangered Amphibians and Reptiles. In addition to those listed above, the following species are listed as threatened or endangered in Louisiana (LAC 76:I.317) and may not be collected.

*Chelonia mydas*—green sea turtle

*Eretmochelys imbricata*—hawksbill sea turtle

*Lepidochelys kempii*—Kemp's ridley sea turtle

*Dermodochelys coriacea*—leatherback sea turtle

*Caretta caretta*—loggerhead sea turtle

*Gopherus polyphemus*—gopher tortoise

*Graptemys oculifera*—ringed sawback turtle

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:

The regulations governing the reptile and amphibian harvest program may be viewed at the Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA, phone (504)765-2811.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., Tuesday, August 2, 1994, to Johnnie W. Tarver, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

John F. "Jeff" Schneider  
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Reptiles and Amphibians (LAC 76:VII.101)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No additional costs involved.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collection anticipated for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No cost and/or economic benefits that directly affect persons or nongovernmental groups is expected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition and employment results from this rule.

Joe L. Herring  
Secretary

David W. Hood  
Senior Fiscal Analyst

# POTPOURRI

## POTPOURRI

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Horticulture Commission

### Retail Floristry Examinations

The next retail floristry examinations will be given July 25 through 29, 1994 at 9:30 a.m. at the 4-H Mini Farm Building, LSU Campus, Baton Rouge, LA. The deadline for sending application and fee is June 23, 1994 at 4:30 p.m. No applications will be accepted after June 23, 1994.

Further information pertaining to the examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Bob Odom  
Commissioner

## POTPOURRI

Department of Environmental Quality  
Office of Air Quality and Radiation Protection

### Beauregard Parish Redesignation

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that a change in the "State Implementation Plan" for ozone abatement procedures has been initiated as follows:

Redesignation of Beauregard Parish to ozone attainment status is being proposed by Louisiana. Beauregard Parish was previously designated as incomplete. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the revised state implementation plan (SIP) was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A copy of the SIP changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at either:

- (1) DEQ Headquarters, Air Quality Regulatory Division, 7290, Bluebonnet, Second Floor, Baton Rouge, LA;
- (2) State Library of Louisiana, the Louisiana Section, 760 North, Third Street, Baton Rouge, LA; or,
- (3) DEQ Southwest Regional Office, 3519 Patrick Street, Room 265A, Lake Charles, LA.

The redesignation package is also distributed to 25 other depository libraries throughout the state, which include McNeese State University, Lether E. Frazar Memorial Library in Lake Charles, LA. Please contact the library for viewing times.

A public hearing to receive comments on this proposed redesignation will be held at 7 p.m. on Friday, July 22, 1994, in the Beauregard Parish Police Jury's Board Meeting Room, Second Street, DeRidder, LA.

Interested persons are invited to attend the public hearing and submit oral comments on the proposal. Written comments concerning the SIP change are also invited and should be submitted no later than August 1, 1994 to: Annette H. Sharp, DEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. Telephone: (504) 765-0219.

Gus Von Bodungen  
Assistant Secretary

## POTPOURRI

Department of Environmental Quality  
Office of Air Quality and Radiation Protection

### Grant Parish Redesignation

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that a change in the "State Implementation Plan" for ozone abatement procedures has been initiated as follows:

Redesignation of Grant Parish to ozone attainment status is being proposed by Louisiana. Grant Parish was previously designated as transitional. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the revised state implementation plan (SIP) was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A copy of the SIP changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at either:

- (1) DEQ Headquarters, Air Quality Regulatory Division, 7290, Bluebonnet, Second Floor, Baton Rouge, LA;
- (2) State Library of Louisiana, the Louisiana Section, 760 North Third Street, Baton Rouge, LA; or
- (3) DEQ Southwest Regional Office, 3519 Patrick Street, Room 265A, Lake Charles, LA.

The redesignation package is also distributed to 25 other depository libraries throughout the state, which include McNeese State University, Lether E. Frazar Memorial Library in Lake Charles, LA. Please contact the library for viewing times.

A public hearing to receive comments on this proposed redesignation will be held at 7 p.m. on Monday, July 25, 1994, in the Grant Parish Police Jury's Meeting Room, Courthouse, 200 Main Street, Colfax, LA.

Interested persons are invited to attend the public hearing and submit oral comments on the proposal. Written comments concerning the SIP change are also invited and should be submitted no later than August 2, 1994 to: Annette H. Sharp, DEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. Telephone: (504) 765-0219.

Gus Von Bodungen  
Assistant Secretary



## POTPOURRI

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

#### Lafourche Parish Redesignation

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that a change in the "State Implementation Plan" for ozone abatement procedures has been initiated as follows:

Redesignation of Lafourche Parish to ozone attainment status is being proposed by Louisiana. Lafourche Parish was previously designated as incomplete. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the revised state implementation plan (SIP) was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A copy of the SIP changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at either:

- (1) DEQ Headquarters, Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA;
- (2) DEQ Southeast Regional Office, 3945 North I-10 Service Road, West, Metairie, LA; or,
- (3) DEQ Bayou Lafourche Regional Office, 104 Lococo Drive, Raceland, LA.

The redesignation package is also distributed to 25 other depository libraries throughout the state, which include the Jefferson Parish Library in Metairie, LA, and Nicholls State University, Allen J. Ellender Memorial Library in Thibodaux, LA. Please contact those libraries for viewing times.

A public hearing to receive comments on this proposed redesignation will be held at 7 p.m. on Thursday, July 21, 1994, in the Lafourche Parish Health Unit, 2535 Veteran's Boulevard, Thibodaux, LA.

Interested persons are invited to attend the public hearing and submit oral comments on the proposal. Written comments concerning the SIP change are also invited and should be submitted no later than July 29, 1994 to: Annette H. Sharp, DEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. Telephone: (504) 765-0219.

Gus Von Bodungen  
Assistant Secretary

## POTPOURRI

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

#### Lafayette Parish Redesignation

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that a change in the "State Implementation Plan" for ozone abatement procedures has been initiated as follows:

Redesignation of Lafayette Parish to ozone attainment status is being proposed by Louisiana. Lafayette Parish was previously designated as transitional. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the revised state implementation plan (SIP) was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A copy of the SIP changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at either:

- (1) DEQ Headquarters, Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA;
- (2) State Library of Louisiana, the Louisiana Section, 760 North Third Street, Baton Rouge, LA; or,
- (3) DEQ Acadiana Regional Office, 100 Asma Boulevard, Suite 151, Lafayette, LA.

The redesignation package is also distributed to 25 other depository libraries throughout the state, which includes the University of Southwestern Louisiana, Edith Garland Dupre Library in Lafayette, LA. Please contact the library for viewing times.

A public hearing to receive comments on this proposed redesignation will be held at 7 p.m. on Tuesday, July 26, 1994, in the Lafayette Parish Council's Meeting Room, 1010 Lafayette Street, Lafayette, LA.

Interested persons are invited to attend the public hearing and submit oral comments on the proposal. Written comments concerning the SIP change are also invited and should be submitted no later than August 3, 1994 to: Annette H. Sharp, DEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. Telephone: (504) 765-0219.

Gus Von Bodungen  
Assistant Secretary

## POTPOURRI

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

#### St. James Parish Redesignation

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that a change in the "State Implementation Plan" for ozone abatement procedures has been initiated as follows:

Redesignation of St. James Parish to ozone attainment status is being proposed by Louisiana. St. James Parish was previously designated as transitional. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the revised state implementation plan (SIP) was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A copy of the SIP changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at either:

- (1) DEQ Headquarters, Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA;
- (2) State Library of Louisiana, the Louisiana Section, 760 North Third Street, Baton Rouge, LA; or,
- (3) DEQ Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

The redesignation package is also distributed to 25 other depository libraries throughout the state, which includes the East Baton Rouge Parish Library, 7711 Goodwood Boulevard, Baton Rouge, LA, and LSU, Hill Memorial Library, Baton Rouge, LA. Please contact those libraries for viewing times.

A public hearing to receive comments on this proposed redesignation will be held at 7 p.m. on Friday, July 29, 1994, in the St. James Parish Council Chambers, 5800 LA Highway 44, Convent, LA.

Interested persons are invited to attend the public hearing and submit oral comments on the proposal. Written comments concerning the SIP change are also invited and should be submitted no later than August 8, 1994 to: Annette H. Sharp, DEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. Telephone: (504) 765-0219.

Gus Von Bodungen  
Assistant Secretary

#### POTPOURRI

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

#### St. Mary Parish Redesignation

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that a change in the "State Implementation Plan" for ozone abatement procedures has been initiated as follows:

Redesignation of St. Mary Parish to ozone attainment status is being proposed by Louisiana. St. Mary Parish was previously designated as transitional. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the revised state implementation plan (SIP) was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A copy of the SIP changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at either:

- (1) DEQ Headquarters, Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA;
- (2) State Library of Louisiana, the Louisiana Section, 760 North Third Street, Baton Rouge, LA;
- (3) DEQ Acadiana Regional Office, 100 Asma Boulevard, Suite 151, Lafayette, LA.

The redesignation package is also distributed to 25 other depository libraries throughout the state, which includes the University of Southwestern Louisiana, Edith Garland Dupre Library in Lafayette, LA. Please contact the library for viewing times.

A public hearing to receive comments on this proposed redesignation will be held at 7 p.m. on Thursday, July 28, 1994, in the St. Mary Parish Council's Meeting Room, Fifth Floor, Courthouse, 500 Main Street, Franklin, LA.

Interested persons are invited to attend the public hearing and submit oral comments on the proposal. Written comments concerning the SIP change are also invited and should be submitted no later than August 5, 1994 to: Annette H. Sharp, DEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. Telephone: (504) 765-0219.

Gus Von Bodungen  
Assistant Secretary

#### POTPOURRI

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

#### Nursing Facility Rates

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is providing notice that the Title XIX Medicaid reimbursement rates for Skilled Nursing, Intermediate Care I and Intermediate Care II levels of care are as follows, effective July 1, 1994.

Level of Care	Daily	Monthly
Skilled Nursing	\$72.24	\$2,197.30
Intermediate Care I	\$61.89	\$1,882.49
Intermediate Care II	\$50.80	\$1,545.17

Rose V. Forrest  
Secretary

#### POTPOURRI

#### Department of Natural Resources Fishermen's Gear Compensation Fund

#### Claims for April 1994

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 34 claims in the amount of \$113,039.45 were received in the month of April 1994. Sixty-nine claims in the amount of \$203,862.50 were paid and five claims were denied.

Loran coordinates of reported underwater obstructions are:

26788	46978	Cameron
28280	46824	Lafourche
26643	46977	Cameron
26594	46977	Cameron
26548	46975	Cameron
26527	46976	Cameron
27825	46862	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 Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

**Claims for May 1994**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 28 claims in the amount of \$98,363.94 were received in the month of May 1994. Fourteen claims in the amount of \$47,818.35 were paid and no claims were denied.

Loran coordinates of reported underwater obstructions are:

26887	46967	Cameron
28270	46819	Terrebonne
26618	46976	Cameron
26643	46977	Cameron
28660	46865	Jefferson
26644	46977	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 Transportation and Development  
Office of the Secretary  
Public Transportation Section**

**Railroad Speed Restrictions**

In response to LAC 70:IX. Chapter 7, Speed Restrictions for Railroad Traffic, §701. General Procedure for Municipality Request, and in accordance with R.S. 48:389(C) which states that "the department shall conduct an evidentiary fact-finding hearing prior to proposing any rule under the authority of this section," a public hearing will be held in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA, Wednesday, August 3, 1994, at 10 a.m. to hear testimony for railroad speed restrictions within the corporate limits of the town of Pollock, Louisiana. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Jude W. Patin  
Secretary

**POTPOURRI**

**Department of Transportation and Development  
Sabine River Compact Administration**

**Spring Meeting Notice**

The spring meeting of the Sabine River Compact Administration will be held at the Maison Dupuy Hotel, 1001 Toulouse Street, New Orleans, LA on Friday June 24, 1994, at 9:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws of the Sabine River Compact Administration.

The fall meeting will be held at a site in Texas to be designated at the above described meeting.

Contact person concerning this meeting is Mary H. Gibson, Secretary, Sabine River Compact Administration, Route 1, Box 780, Many, LA 71449, telephone (318) 256-4112.

Mary H. Gibson  
Secretary

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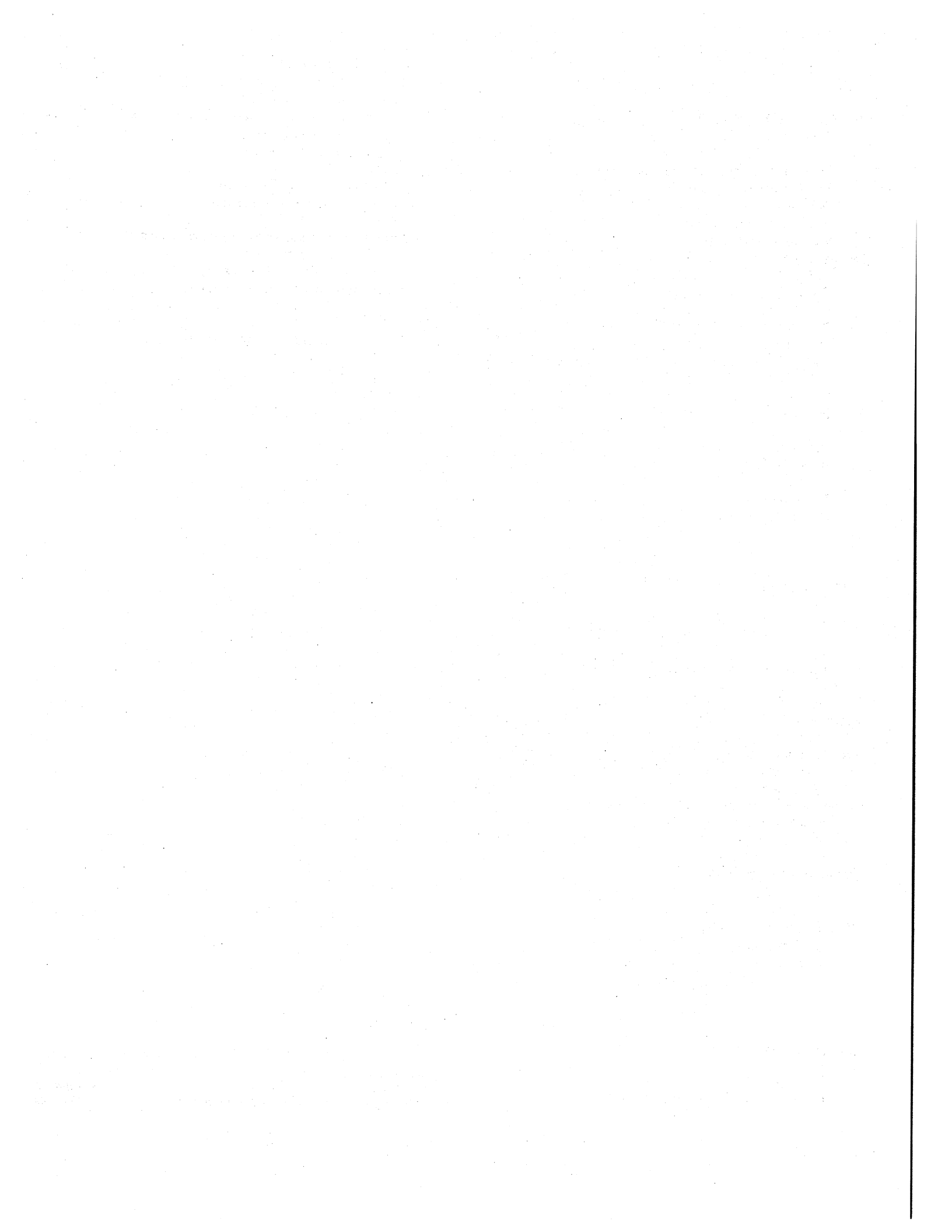
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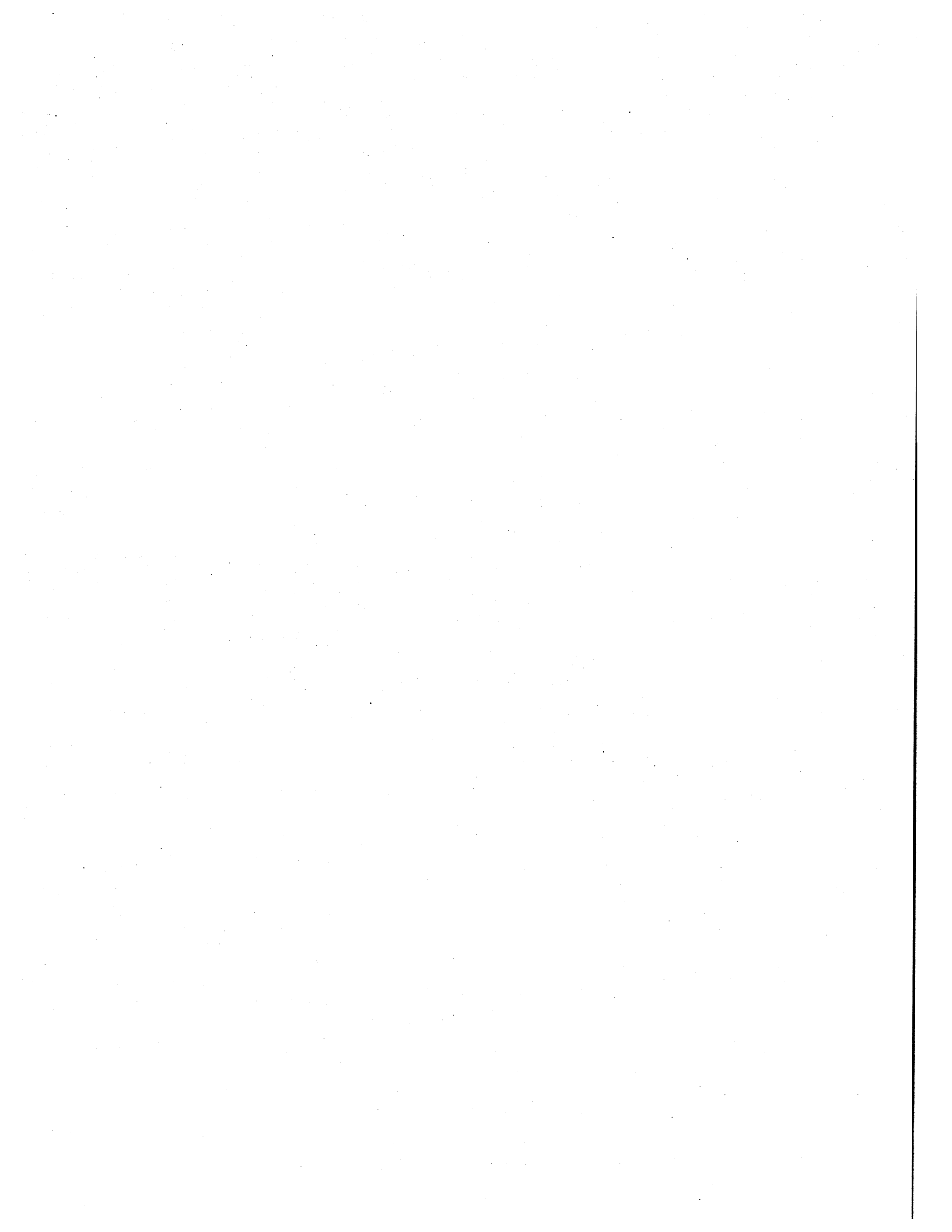
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