

## LOUISIANA ADMINISTRATIVE CODE/LOUISIANA REGISTER

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This public document was published at a total cost of \$1,728.93. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$3,728.93. The total cost of all printings of this document including reprints is \$1,728.93. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-987. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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# Executive Orders

## EXECUTIVE ORDER MJF 96-69

### JTPA Program Merger

WHEREAS: the Department of Education administers, through two separate Bureaus, the Job Training Partnership Act (hereinafter "JTPA") 8% Program and the JTPA Title III Program with funds allocated from the Louisiana Department of Labor;

WHEREAS: the JTPA 8% Program is a separate appropriation from the JTPA Title III Program which is budgeted through an appropriation of the Office of Vocational Education;

WHEREAS: the administrative and fiscal reporting requirements of and the administrative services provided by both programs are similar, and combining the programs would be more cost effective than if the two programs are kept separate; and

WHEREAS: both the Secretary of Labor (the funding source) and the State Superintendent of Education (the recipient of the funds) support the merger of the JTPA 8% Program and the JTPA Title III Program within the Department of Education;

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

SECTION 1: The services, the reporting requirements and the functions of the JTPA 8% Program and the JTPA Title III Program are authorized to be merged and/or remain merged, within the Vocational Education Budget Unit of the Department of Education.

SECTION 2: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 3: Upon signature of the Governor, the provisions of this Order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of December, 1996.

M.J. "Mike" Foster  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#011

## EXECUTIVE ORDER MJF 96-70

### Louisiana Occupational Information Coordinating Committee

WHEREAS: the United States has enacted the Job Training Partnership Act of 1982 (hereafter "JTPA"), 29 U.S.C.A. §1501 et seq.; the Vocational Education Act of 1963 (hereafter "VEA"), 20 U.S.C.A. §2301 et seq.; and the Wagner-Peyser Act of 1933, 29 U.S.C.A. §49 et seq.; and

WHEREAS: to receive federal assistance under these acts, the State of Louisiana must establish a state occupational information coordinating committee to provide and manage a statewide comprehensive labor market and occupational information system to facilitate the implementation of a career information delivery system in accordance with the JTPA and VEA;

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

SECTION 1: The Louisiana Occupational Information Coordinating Committee (hereafter "LOICC") is hereby re-created and re-established within the Department of Labor. The LOICC shall be composed of federally mandated members and at-large members who shall be appointed by and serve at the pleasure of the governor.

The federally mandated members are as follows:

A. a representative of the Board of Elementary and Secondary Education;

B. the assistant secretary of the Office of Employment Security, Department of Labor;

C. a representative of the Department of Economic Development;

D. the director of the Job Training Partnership Act Program, as representative of the governor's State Job Training Coordinating Council;

E. a representative of Louisiana's institutions of higher education, selected by the chair of the Board of Regents; and

F. the director of Rehabilitation Services, Department of Social Services.

At large associate members shall be selected in accordance with LOICC bylaws.

SECTION 2: The LOICC shall be responsible for the planning, the development, and the management of a statewide occupational information system consistent with the objectives and functions of the National Occupational Information Coordinating Committee, pursuant to 29 USCA §2422a, including the design and oversight standards of the JTPA. The LOICC shall serve as the state liaison to the National Occupational Information Coordinating Council and shall have exclusive responsibility for the state's coordination of occupational information.

SECTION 3: The Office of Management and Finance, Department of Labor, shall be the fiscal agent for the LOICC. The Office of Employment Security, Department of Labor, shall be responsible for oversight of the statewide

comprehensive labor market and occupational information system for the LOICC.

SECTION 4: The duties of the LOICC federally mandated members and the secretary of the Department of Labor, or the secretary's designee, shall include, but are not limited to, reviewing and giving approval to the following: 1) the LOICC Basic Assistance Grant proposal prior to its submission to the National Occupational Information Coordinating Committee; 2) the occupational information system prior to its release; 3) all major contracts for services; and 4) any changes in basic operating policy prior to implementation.

SECTION 5: Committee members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members may receive reimbursement for actual travel expenses in accordance with state guidelines and procedures, and upon the approval of the commissioner of administration.

SECTION 6: Support staff for the committee and facilities for its meetings shall be provided by the Department of Labor.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate with the Department of Labor and the LOICC in implementing the provisions of this order.

SECTION 8: Upon signature of the governor, the provisions of this order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#012

#### EXECUTIVE ORDER MJF 96-71

##### Postsecondary Review Commission

WHEREAS: federally guaranteed student loans made to students for their attendance at colleges, universities, trade schools, and proprietary schools within the State of Louisiana are of vital importance to the citizens and the economic development of this state;

WHEREAS: 20 USCA §1099a provides that, in order to be eligible for federal funding, each state shall designate a postsecondary review entity for performing a review of institutions of higher education; and

WHEREAS: the federal government has authorized the United States Secretary of Education (hereafter "secretary") to enter into agreements with states and to provide funding for the state's postsecondary review entity;

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

SECTION 1: The Louisiana Postsecondary Review Commission (hereafter "commission") is reestablished and recreated within the Executive Department, Office of the Governor.

SECTION 2: The commission shall, on behalf of the State of Louisiana, conduct and coordinate the review of institutions of higher education pursuant to 20 USCA §1099a-3, and ensure that each institution remains in compliance with the standards required by 20 USCA §1099a-3.

SECTION 3: The commission is designated as the state entity authorized to enter into agreements with the secretary, on behalf of the State of Louisiana, as provided in the guidelines set forth in 20 USCA §1099a-1.

SECTION 4: The commission shall have the authority to apply for federal funding, as provided for by 20 USCA §1099a-2, and for other federal funding or reimbursements made available to the states.

SECTION 5: The members of the commission shall be appointed by and serve at the pleasure of the governor. The membership of the commission shall be composed as follows:

- A. the governor, or the governor's designee;
- B. the chair of the Louisiana Board of Regents, or the chair's designee;
- C. the chair of the Louisiana Association of Independent Colleges and Universities, or the chair's designee;
- D. the chair of the Proprietary School Commission, or the chair's designee;
- E. the chair of the Louisiana Bankers' Association, or the chair's designee;
- F. the chair of the Board of Secondary and Elementary Education, or the chair's designee; and
- G. the chair of the Louisiana Office of Student Financial Assistance, or the chair's designee.

SECTION 6: The chair of the commission shall be appointed by the governor from its membership.

SECTION 7: Commission members shall not receive compensation or a per diem, nor shall they be reimbursed for travel expenses for their attendance at meetings.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the commission in implementing the provisions of this order.

SECTION 9: Upon signature of the governor, the provisions of this order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#013

**EXECUTIVE ORDER MJF 96 - 72**

**French Heritage—Joint Committees**

WHEREAS: the State of Louisiana, through its Council for the Development of French in Louisiana (hereafter "CODOFIL") and through its Consortium of Louisiana Universities (hereafter "Consortium"), has committed itself to the preservation of its French heritage;

WHEREAS: the State of Louisiana, through CODOFIL and the Consortium, has developed considerable expertise in the promotion of the French language and culture, and has managed numerous programs related to the teaching of all levels of the French language and to the training of Louisiana teachers about the French language and culture;

WHEREAS: the State of Louisiana is deeply interested in maintaining and continuing to pursue opportunities to share its French heritage with the French-speaking countries and provinces of the world with whom it has enjoyed general relations over the years, which include France, Belgium, Quebec, and the Canadian Maritime Provinces of New Brunswick, Nova Scotia and Prince Edward Island;

WHEREAS: in a spirit of international friendship and understanding, the people of France, Belgium, Quebec, and the Canadian Maritime Provinces, have supported the efforts of the State of Louisiana in developing its French cultural heritage; and

WHEREAS: over the years, representatives of France, Belgium, Quebec, and the Canadian Maritime Provinces, and the State of Louisiana have met at regular intervals in joint commission meetings to arrange for and organize educational, cultural, and touristic exchanges;

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

SECTION 1: The France-Louisiana Joint Committee, the Quebec-Louisiana Joint Committee, the Maritime Provinces-Louisiana Joint Committee, and the Belgium-Louisiana Joint Committee (hereafter "Joint Committees") are recreated and re-established.

SECTION 2: The four Joint Committees shall each be composed of the following members: the Governor, or his designee; the Lieutenant Governor, or her designee; the Chair of CODOFIL; the Chair of the Consortium of Universities, or

the Chair's designee; the Director of CODOFIL; the Superintendent of Education, or the Superintendent's designee; and the President of the State Board of Elementary and Secondary Education, or the President's designee.

SECTION 3: The Chair of CODOFIL shall also be the Chair of each of the four Joint Committees.

SECTION 4: Each of the four Joint Committees shall meet at least once prior to December 31, 1999.

SECTION 5: The members of the Joint Committees shall not receive a per diem or compensation for their services. Contingent upon the availability of funds, members may be reimbursed for actual expenses incurred for travel and accommodations while attending meetings, by the appropriate agencies of state government, in accordance with state guidelines and procedures, and upon the approval of the Commissioner of Administration.

SECTION 6: Support staff for the Joint Committees and facilities for their meetings shall be provided by CODOFIL.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 8: This Order is effective upon signature of the Governor and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 11th day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#014

**EXECUTIVE ORDER MJF 96-73**

**School Based Health Center Investigation**

WHEREAS: Subsection A of R.S. 40:31.3 directs the Office of Public Health, Department of Health and Hospitals to establish an adolescent school health initiative program to facilitate and encourage development of comprehensive health centers in public middle and secondary schools in the State of Louisiana to provide preventive health services, counseling, acute health services, and appropriate referral for acute health services;

WHEREAS: Subsection C of R.S. 40:31.3 specifically prohibits personnel at school based health centers (hereafter "SBHC") from "counseling or advocating in any way or referring any student to any organization for counseling or advocating abortion" and from "distributing at any public

school any contraceptive or abortifacient drug, device or other similar product";

WHEREAS: allegations have surfaced that some personnel at SBHC may be violating the foregoing provisions of Subsection C of R.S. 40:31.3, thereby jeopardizing public and legislative approval and support for the program; and

WHEREAS: due to such concerns, certain members of the Legislature were opposed to the appropriation in the General Appropriations Act, Act Number 17 of the 1996 Regular Session of 1996, of \$2.65 million to fund 15 SBHC for the 1996-97 fiscal year, and the governor received numerous requests to make a line-item veto of the \$2.65 million appropriation;

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

SECTION 1: The secretary of the Department of Health and Hospitals (hereafter "secretary") shall head an investigation regarding the allegations of violations of Subsection C of R.S. 40:31.3 by a few of the personnel employed by SBHC, and if the secretary finds evidence of violations of the statutory prohibition, the secretary shall take appropriate action against those who violated the statute.

SECTION 2: The secretary's investigation shall be conducted in such a manner as not to violate the right to privacy, as established by Article I, Section 5 of the Louisiana Constitution of 1974, of those students who have availed or who will avail themselves of the services of SBHC.

SECTION 3: The secretary shall determine the most effective means of preventing future violations of R.S. 40:31.3(C) and shall immediately implement those means or procedures consistent with state law.

SECTION 4: The secretary shall issue a report on the findings of the investigation to the governor, the House and Senate Committees on Health and Welfare, and the School Based Health Clinic Task Force, no later than February 15, 1997.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Department of Health and Hospitals in implementing the provisions of this order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#015

## EXECUTIVE ORDER MJF 96-74

### School Based Health Clinic Task Force

WHEREAS: the school based health care program, known as the adolescent school health initiative, operates under the direction of the Office of Public Health within the Department of Health and Hospitals, pursuant to R.S. 40:31.3;

WHEREAS: school based health clinics (hereafter "SBHC") were created under this program;

WHEREAS: the number of SBHC have expanded from the three clinics in two parishes in 1987, to 15 clinics in 10 parishes in 1996, each of which is overseen by a local advisory council that consists of parents, medical professionals, and community members;

WHEREAS: the Louisiana Legislature has provided \$2.65 million in funding for SBHC in its 1996-97 fiscal budget; and

WHEREAS: some members of the Louisiana Legislature and the public-at-large have questioned whether the medical services provided by SBHC are an unnecessary duplication of the services already available to low-income families who are Medicaid eligible or an unnecessary service for middle income families, and whether there are negative aspects of the program which could be eliminated without detrimentally affecting the effectiveness of SBHC;

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

SECTION 1: An advisory task force known as the School Based Health Clinic Task Force (hereafter "task force") shall be created and established within the Executive Department, Office of the Governor.

SECTION 2: The primary objectives and duties of the Task Force are to develop and recommend a uniform parental consent form which takes into consideration public mores, the concerns of the community, and the needs of adolescent students to have appropriate medical attention or counseling; and to evaluate the types of services offered by SBHC, advise whether the services offered by SBHC adequately meet the needs of the adolescent students they serve, recommend whether any services offered by the SBHC should be limited or eliminated, and evaluate whether any services offered by SBHC are unnecessary because they duplicate other public services.

As an additional primary objective and duty, the task force shall make recommendations regarding the type of counseling which may be provided to adolescent students at SBHC, giving due consideration to the needs of the students and the parameters placed on school curricula by R.S. 17:281(A)(3) and (4) which promote and encourage sexual abstinence between unmarried persons.

SECTION 3: The secondary objectives and duties of the task force shall be to propose Adolescent School Health Initiative Program guidelines relative to the staffing and conduct of personnel employed at SBHC; and to recommend whether SBHC should be licensed and, if so, propose licensing criteria and guidelines.

SECTION 4: The task force shall prepare and submit a report to the governor on the progress and/or fulfillment of its primary objectives and duties, no later than March 15, 1997, and on the progress and/or fulfillment of its secondary objectives and duties, no later than May 15, 1997.

SECTION 5: The members of the advisory task force shall be appointed by and serve at the pleasure of the governor. The membership of the task force shall be selected from the following:

A. the secretary of the Department of Health and Hospitals, or the secretary's designee;

B. the assistant secretary, Office of Public Health, Department of Health and Hospitals, or the assistant secretary's designee;

C. the director of Adolescent and School Health, Office of Public Health, Department of Health and Hospitals, or the director's designee;

D. the president of the Senate, or the president's designee selected from the membership of the Senate;

E. the speaker of the House of Representatives, or the speaker's designee selected from the membership of the House;

F. a member of a school board in a school system which has at least one SBHC;

G. a member of a school board in a school system which applied for acceptance to the School Based Health Center program, but voluntarily withdrew its application after investigating the program or conducting public meetings on the issue;

H. a physician who practices at a SBHC;

I. four at-large members who are residents of the State of Louisiana;

J. a representative from the membership of a SBHC volunteer advisory board; and

K. the governor, or the governor's designee selected from his executive staff.

SECTION 6: The governor shall select the chair of the task force from its membership.

SECTION 7: Support staff for the task force and facilities for its meetings shall be provided by the Department of Health and Hospitals.

SECTION 8: Task force members shall not receive compensation or a per diem, but may receive reimbursement for actual travel expenses, in accordance with state guidelines and procedures, contingent upon the availability of funds, and the approval of the commissioner of administration.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Department of Health and Hospitals and the task force in implementing the provisions of this order.

SECTION 10: The provisions of this order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

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

Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#016

#### EXECUTIVE ORDER MJF 96-75

##### Forest Products Industry Development Task Force

WHEREAS: timber is the State of Louisiana's largest and highest grossing agricultural crop;

WHEREAS: in terms of gross income and value-added processing, the solid wood forest products industry, which is supported by the harvesting and processing of timber, consists of 700 primary and secondary manufacturing establishments;

WHEREAS: forest product related industries employ over 25,000 workers, making it one of the state's top employers;

WHEREAS: the State of Louisiana produces only \$0.97 of value-added product for every \$1 of lumber created by sawmills operating within the state; and

WHEREAS: for the State of Louisiana to attain its potential in the area of job creation and resource utilization within the timber industry sector, the state must develop a comprehensive program to modernize, revitalize, and maximize its forest products industries;

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

SECTION 1: The Governor's Forest Products Industry Development Task Force (hereafter "task force") shall be created and established within the Departments of Economic Development and Agriculture and Forestry.

SECTION 2: The objectives and duties of the task force shall consist of the following:

A. identify opportunities for, and barriers to, growth and development of the value-added forest products industry in this state;

B. develop ideas and plans that foster the growth of the forest products companies existing in this state, that encourage corporate recruitment, that maximize the value of Louisiana's forest resources, and that provide additional economic and employment opportunities for Louisiana citizens in the forest product industry; and

C. provide aide for the establishment of a comprehensive program which develops Louisiana's forest products industry.

SECTION 3: The task force shall prepare a report on the progress and/or fulfillment of its primary objectives and duties for the review of the secretary of the Department of Economic Development and the commissioner of Agriculture and Forestry, no later than March 15, 1997.

SECTION 4: The task force shall be composed of not less than 10 members appointed by and serving at the pleasure of the governor. The membership shall be selected as follows:

A. the secretary of the Department of Economic and Development, or the secretary's designee;

B. the commissioner of Agriculture and Forestry, or the commissioner's designee;

C. a minimum of four members selected from a list of nominees submitted by the commissioner of Agriculture and Forestry; and

D. a minimum of four members selected from governmental entities, institutions of higher education, special interest groups, and industries involved in or related to the forest products industry.

SECTION 5: The co-chairs of the task force shall be the secretary of Economic Development, or the secretary's designee selected from the membership of the task force, and the commissioner of Agriculture and Forestry, or the commissioner's designee selected from the membership of the task force.

SECTION 6: Task force members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members may receive reimbursement for actual travel expenses in accordance with state guidelines and procedures, and upon the approval of the commissioner of administration.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the task force and the Departments of Economic Development and Agriculture and Forestry in implementing the provisions of this order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of December, 1996.

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

ATTEST BY THE  
GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#017

**EXECUTIVE ORDER MJF 96-76**

**Tangipahoa River Task Force**

WHEREAS: the scenic Tangipahoa River is a popular recreational area in the State of Louisiana;

WHEREAS: the Tangipahoa River is also a vital part of the state's transportation and ecological systems;

WHEREAS: Senate Concurrent Resolution Number 139, authored by Senator John J. Hainkel, Jr., created the

Tangipahoa River Task Force as a means to protect and preserve the recreational, ecological, functional and aesthetic aspects of the Tangipahoa River;

WHEREAS: in its Concurrent Resolution, the Louisiana Senate accurately observed that in order to protect and preserve the integrity of the Tangipahoa River's recreational, ecological, scenic, and functional attributes, it is in the best interest of the State of Louisiana to establish a Tangipahoa River Task Force to provide advisory assistance to state agencies and local governments for the management of the river and its surrounding areas; and

WHEREAS: the elimination of the Office of Permits by the Office of the Governor necessitate that the Tangipahoa River Task Force be relocated within the Office of the Governor;

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

SECTION 1: The Tangipahoa River Task Force (hereafter "task force") is created and established within the Executive Department, Office of the Governor.

SECTION 2: The members of the task force shall be appointed by and serve at the pleasure of the governor. The task force shall be composed of nine members selected as follows:

1. one member from a list of nominees compiled by the Tangipahoa Tourist Commission;
2. one member from a list of nominees compiled by the Tangipahoa Parish president;
3. one member from a list of nominees compiled by the president of Southeastern Louisiana University;
4. one member from a list of nominees compiled by the secretary of the Department of Economic Development;
5. one member from a list of nominees compiled by the Citizens for a Clean Tangipahoa;
6. one member from a list of nominees compiled by the Tangipahoa district of the Farm Bureau;
7. one member of the executive staff, Office of the Governor;
8. one member who is an elected mayor in the parish of Tangipahoa; and
9. the commissioner of Agriculture and Forestry, or the commissioner's designee.

SECTION 3: The membership of the task force shall elect its chair.

SECTION 4: In accordance with Senate Concurrent Resolution Number 139, the duties of the task force include, but are not limited to, coordinating the efforts of all state agencies involved in the cleanup of the Tangipahoa River and monitoring the cleanup to insure its safety for recreational use.

SECTION 5: Support staff for the task force and facilities for its meetings shall be provided by the Office of the Governor.

SECTION 6: The task force shall meet at regularly scheduled intervals, and also at the call of the chair.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision

thereof, are authorized and directed to cooperate with the task force in implementing the provisions of this order.

SECTION 8: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the City of Baton Rouge, on this 17th day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#018

### EXECUTIVE ORDER MJF 96-77

#### Statewide Intermodal Transportation Plan Steering Committee

WHEREAS: the Intermodal Surface Transportation Efficiency Act, enacted by the United States Congress in 1991, mandates that each state prepare a statewide intermodal transportation plan;

WHEREAS: the federal government selected Louisiana as one of six states to receive a special grant for the development of a model plan to be used as a guide by other states in developing their plans;

WHEREAS: in January of 1993, the Department of Transportation and Development, in cooperation with the Department of Economic Development and many public and private interests throughout the state, began development of its 25-year statewide intermodal transportation plan;

WHEREAS: on March 22, 1996, the secretary of the Department of Transportation and Development adopted the Statewide Intermodal Transportation Plan (hereafter "plan") as the official statewide transportation plan for the State of Louisiana; and

WHEREAS: the plan requires a steering committee to oversee its implementation;

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

SECTION 1: The Statewide Intermodal Transportation Plan Steering Committee (hereafter "committee") is established within the Department of Transportation and Development.

SECTION 2: The committee shall be composed of seven members who shall be appointed by and serve at the pleasure of the governor. The membership of the committee shall be composed of the following:

A. the secretary of the Department of Transportation and Development, or the secretary's designee;

B. the secretary of the Department of Economic Development, or the secretary's designee;

C. commissioner of the Division of Administration, or the commissioner's designee;

D. the president of the Senate, or the president's designee selected from the membership of the Senate;

E. the speaker of the House of Representatives, or the speaker's designee selected from the membership of the House; and

F. two representatives of Louisiana businesses.

SECTION 3: The secretary of the Department of Transportation and Development, or the secretary's designee, shall serve as the chair of the committee.

SECTION 4: The committee shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 5: The duties of the committee shall include, but are not limited to, the following:

A. providing guidance, support and executive leadership for the implementation of the plan;

B. coordinating implementation of the plan with public and private agencies, companies, groups, and individuals; and

C. drafting legislation to implement the plan.

SECTION 6: Other than from their agencies, committee members shall not receive compensation or a per diem, nor shall they be reimbursed for travel expenses for their attendance at meetings.

SECTION 7: Support staff for the committee and facilities for its meetings shall be provided by the Department of Transportation and Development.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the committee in implementing the provisions of this order.

SECTION 9: The provisions of this 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 23rd day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#019

### EXECUTIVE ORDER MJF 96-78

#### Bond Allocation—Calcasieu Parish Authority

WHEREAS: Executive Order MJF 96-32 (hereafter "MJF 96-32") was executed on September 17, 1996, pursuant to the Tax Reform Act of 1968 (hereafter "the act"), Act 51 of the 1986 Louisiana Legislature, and Executive Order MJF 96-25

(hereafter "MJF 96-25") which provides for the allocation of bonds subject to the private activity bond volume limits of the act for each calendar year (hereafter "ceiling");

WHEREAS: the \$7,300,000 allocation under the ceiling made by MJF 96-32 to the Louisiana Housing Finance Agency for the Malta Square at Sacred Heart project was returned unused by letter dated December 19, 1996;

WHEREAS: Section 4.8 of MJF 96-25 provides that if the ceiling for a year exceeds the aggregate amount of private activity bonds issued during the year, "the governor may allocate such excess to issuers for use as a carryforward for one or more carryforward projects permitted under the act by issuing an Executive Order for all carryforward projects for which an application has been submitted that contains the elements required by Subsection 4.2, and for which a request to be treated as a carryforward project has been received by the [staff of the Louisiana State Bond Commission]";

WHEREAS: the ceiling for 1996 exceeds the amount of private activity bonds issued during 1996 by \$7,300,000; and

WHEREAS: the governor desires to allocate this excess and unused amount of the 1996 ceiling to a project which is eligible for a carryforward under the act;

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, and in accordance with the request for a carryforward filed by issuer, the excess unused private activity bond volume limit under the ceiling is allocated to issuer for the following carryforward project and in the following amount:

ISSUER	CARRYFORWARD PROJECT	CARRYFORWARD AMOUNT
Calcasieu Parish Authority	Single Family Mortgage Revenue Bonds or Mortgage Credit Certificate Program	\$7,300,000

SECTION 2: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 4: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

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

Louisiana, at the Capitol, in the City of Baton Rouge, on this 24th day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#020

**EXECUTIVE Order MJF 96-79**

**Unclassified State Employee Leave**

WHEREAS: no permanent rules or policies on annual, compensatory, sick, special, military, and other leave exist for certain officers and employees who are in the unclassified service of the state; and

WHEREAS: Executive Order EWE 94-32, as amended by Executive Order EWE 95-27, which provided rules and policies on annual, compensatory, sick, special, military, and other leave for certain unclassified state employees, expired on August 12, 1996;

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

SECTION 1: Applicability

A. The rules and policies established by this order are applicable to all officers and employees in the unclassified service of the Executive Branch of the State of Louisiana, except elected officials and the officers and employees of a system that is authorized by the Constitution or legislative act to manage and supervise its own system.

B. Nothing in this order shall be applied in a manner which violates, or is contrary to, the Fair Labor Standards Act (hereafter "FLSA"), the Family and Medical Leave Act, or any other applicable federal or state law, rule, or regulation.

SECTION 2: Definitions. Unless the context of this order clearly indicates otherwise, the words and terms used in this order shall be defined as follows:

A. *Annual Leave*—leave with pay granted to an officer or employee for the purpose of rehabilitation, restoration or maintenance of work efficiency, or the transaction of personal affairs.

B. *Appointing Authority*—the agency, department, board, or commission, or the officers and employees thereof authorized by statute or lawfully delegated authority to make appointments to positions in state service.

C. *Compensatory Leave*—time credited for hours worked outside the regularly assigned work schedule.

D. *Continuing Position*—an office or position of employment with the state which reasonably can be expected to continue for more than one calendar year and/or 12 consecutive months.

E. *Educational Leave*—leave that may be granted by an appointing authority to an officer or employee only for limited educational purposes in accordance with the uniform rules developed by the commissioner of administration. *Educational Leave with Pay* is a subclass of educational leave and is for the purpose of attending an accredited educational institution to receive formalized training which will materially assist the officer or employee in performing the type of work performed by the officer or employee's department.

F. *Intermittent Employee*—a person employed in state service who is not hired to work on a regularly scheduled basis.

G. *Leave of Absence Without Pay*—a period of leave or time off from work granted by the appointing authority, or the appointing authority's designee, for which the officer or employee receives no pay.

H. *Military Duty*—refers to the performance of continuous and uninterrupted military duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, full-time National Guard duty, annual training, and inactive duty for training (weekend drills).

I. *Overtime Hour*—an hour worked by an unclassified officer or employee at the direction of the appointing authority, or the appointing authority's designee:

1. on a day which is observed as a holiday in the department and area of employment and falls on a day within the workweek, or is observed as a designated holiday in lieu of a regular holiday observed in the department;

2. in excess of the regular duty hours in a regularly scheduled workday;

3. in excess of the regular duty hours in a regularly scheduled workweek;

4. in excess of 40 hours worked during any regularly recurring and continuous seven-day calendar work period where excessive hours are systematically scheduled;

5. in excess of 80 hours worked during any regularly recurring and continuous 14-day calendar work period where excessive hours are systematically scheduled;

6. in excess of the hours worked in a regularly established, continuous, and regularly recurring work period where hours average 40 hours per week, regardless of the manner in which scheduled; or

7. on a day in which a department or a division thereof is closed pursuant to R.S. 1:55(B)(5) by direction of the appointing authority due to an emergency.

J. *Regular Tour of Duty*—an established schedule of work hours and days recurring regularly on a weekly, biweekly, or monthly basis for full-time or part-time unclassified officers or employees.

K. *Seasonal Employee*—a person employed on a noncontinuous basis for a recognized peak work load period.

L. *Sick Leave*—leave with pay granted to an officer or employee who is unable to perform their usual duties and

responsibilities due to illness, injury, or other disability, or when the officer or employee requires medical, dental, or optical consultation or treatment.

M. *State Service*—for leave earning purposes shall include service in a state supported school, agency, or university; public parish school system; public student employment; service as a member of a public board or commission; or service with the legislature or the state court system. All such service must have been performed for a Louisiana public entity.

N. *Temporary Employee*—a person continuously employed for a period which does not exceed three consecutive calendar months.

O. *Unclassified Service*—refers to those positions of state service as defined in Article X, §2 of the Louisiana Constitution of 1974, which are not positions in the classified service.

SECTION 3: Full-time Employees. For each full-time unclassified officer or employee, each appointing authority shall establish administrative work weeks of not less than 40 hours per week.

#### SECTION 4: Granting Leave

A. At the discretion of their appointing authority, or the appointing authority's designee, officers and employees may be granted time off for vacations, illnesses, and emergencies.

B. An appointing authority, or the appointing authority's designee, has discretion to grant for disability purposes, annual leave, leave without pay, or sick leave.

#### SECTION 5: Earning of Annual and Sick Leave

A. Annual and sick leave shall not be earned by the following persons:

1. members of boards, commissions, or authorities;
2. student employees, as defined under Civil Service Rules;

3. temporary, intermittent, or seasonal employees; and

4. effective as of the signing and issuance of this order, all part-time employees of the Executive Department, Office of the Governor.

B. The earning of annual and sick leave, shall be based on the equivalent of years of full time state service and shall be credited at the end of each calendar month, or at the end of each regular pay period, in accordance with the following general schedule:

1. less than three years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty;

2. three or more years but less than five years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty;

3. five or more years but less than 10 years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty;

4. ten or more years but less than 15 years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty; and

5. fifteen or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.

For purposes of this Section, contract service does not constitute either full-time or part-time state service and cannot be used to determine, and has no effect upon, the rate at which annual leave and sick leave is earned by, accrued by, or credited to a full-time or a part-time officer or employee in unclassified state service.

C. No unclassified officer or employee shall be credited with annual or sick leave:

1. for any overtime hour(s);
2. for any hour(s) of leave without pay;
3. for any hour(s) of on-call status outside the officer or employee's regular duty hours;
4. for any hour(s) of travel or other activity outside the officer or employee's regular duty hours; or
5. for any hour(s) of a holiday or other nonwork day which occurs while on leave without pay.

SECTION 6: Carrying Annual and Sick Leave Forward. Accrued unused annual and sick leave earned by an unclassified officer or employee shall be carried forward to succeeding calendar years without limitation.

#### SECTION 7: Use of Annual Leave

A. An unclassified officer or employee must apply for use of annual leave, and it may only be used upon the approval of the appointing authority, or the appointing authority's designee.

B. Annual leave shall not be charged for nonwork days.

C. The minimum charge to annual leave records shall be in increments of not less than one-tenth of an hour, or six minutes.

D. An appointing authority, or the appointing authority's designee, may require an unclassified officer or employee to use their accrued annual leave whenever such an action is determined by the appointing authority, or the appointing authority's designee, to be in the best interest of the department.

When such an instance occurs, no unclassified officer or employee shall be required to reduce their accrued annual leave to less than 240 hours except:

1. when granted leave without pay, but subject to the military leave provisions of Section 17; or
2. when the absence from work is due to a condition covered by the Family and Medical Leave Act.

#### SECTION 8: Use of Sick Leave

A. Sick leave with pay may be used by an unclassified officer or employee who has accrued sick leave, when the following occurs:

1. illness or injury prevents the officer or employee from reporting to duty; or
2. medical, dental, or optical consultation or treatment is attended.

B. A medical certificate is not required for an unclassified officer or employee to use accrued sick leave, but the appointing authority, or the appointing authority's designee, has discretion to require such a certificate as justification for an absence.

C. Sick leave shall not be charged for nonwork days.

D. The minimum charge to sick leave records shall be in increments of not less than one-tenth of an hour, or six minutes.

E. Sick leave shall only be granted after it has been accrued by an unclassified officer or employee. Sick leave shall not be advanced.

F. An appointing authority, or the appointing authority's designee, has discretion to place an unclassified officer or employee on sick leave after an officer or employee asserts the need to be absent from work due to an injury or illness.

#### SECTION 9: Transfer of Annual and Sick Leave

A. A classified officer or employee, or an unclassified officer or employee subject to this order, shall have all accrued annual and sick leave credited to them when the officer or employee transfers without a break in service into a position covered by this order.

B. An officer or employee shall have all accumulated annual and sick leave, to the extent that it was earned, credited to them when the officer or employee transfers without a break in service from a department not covered by this order into a department covered by this order.

C. When an unclassified officer or employee transfers without a break in service to a position covered by other leave rules of the state, the officer or employee's accrued annual and sick leave shall be transferred to the new employing state department or agency. The employing department or agency shall either hold the annual and sick leave in abeyance or integrate the leave into its own system. The officer or employee's accumulated leave shall not be reduced during such integration.

#### SECTION 10: Disbursement of Accrued Annual Leave Upon Separation

A. Upon the resignation, death, removal, or other final termination from state service of an unclassified officer or employee, the officer or employee's accrued annual leave shall be paid in a lump sum, up to a maximum of 300 hours, disregarding any final fraction of an hour. The payment shall be computed as follows:

1. When the officer or employee is paid on an hourly basis, the regular hourly rate that the officer or employee received at the time of termination from state service shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed 300 hours; or
2. When the officer or employee is paid on other than an hourly basis, the officer or employee's hourly rate shall be determined by converting the salary the officer or employee received at the time of termination from service into a working hourly rate. The converted hourly rate shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed 300 hours.

B. An unclassified officer or employee, who is paid for accrued annual leave upon termination from service and who is subsequently reemployed in a leave-earning classified or unclassified position, shall reimburse the state service, through the employing agency, for the number of hours the officer or employee was paid which exceeded the number of work hours that transpired during the officer or employee's



break from state service. In turn, the officer or employee shall receive a credit for the number of hours of annual leave for which the officer or employee made reimbursement to state service.

**SECTION 11: Disbursement of Accrued Sick Leave Upon Separation.** An officer or employee shall not receive payment, directly or in kind, for any accrued sick leave remaining at the time of their termination from unclassified service.

**SECTION 12: Continuance of Annual and Sick Leave.** An unclassified officer or employee shall receive credit for all accrued unpaid annual leave and all unused sick leave upon reemployment by the state in the unclassified service within a period of five years from date of their termination from state service if the officer or employee's reemployment occurs during the effective period of this order.

**SECTION 13: Compensatory Leave**

A. Compensatory leave shall not be earned by the following persons:

1. department secretaries, undersecretaries, deputy secretaries, assistant secretaries, confidential assistants, including their equivalents appointed by elected officials, and the superintendent of education;

2. student employees, as defined under Civil Service Rules;

3. temporary, intermittent, or seasonal employees;

4. the commissioner of administration, the deputy commissioners of administration, and the assistant commissioners of administration;

5. the executive director or equivalent chief administrative officer of all boards, commissions, and authorities operating within the Executive Branch who are appointed by a board, commission, or authority;

6. members of boards, commissions, or authorities;

7. officials of the Executive Department, Office of the Governor, holding the following titles: administrative secretary for the Franklin Office, administrative secretary to the first lady, assistant chief of staff, assistant executive counsel, chief of staff, deputy chief of staff, deputy education policy advisor, director of boards and commissions, director of constituent services, director of Indian Affairs, director of Troops to Teachers, education policy advisor, executive assistant for Coastal Activities, executive counsel, executive director of children's cabinet, executive director of Office of Oil Spills, executive director of Rural Development, governor's liaison for Workforce Development, mansion coordinator, office coordinator for Disability Affairs, press secretary, senior policy analyst, special assistant to the governor, and/or special counsel;

8. other officers of the state who are appointed by the governor, including members of boards, commissions, and/or authorities; and

9. effective as of the date of the issuance and signing of this order, all part-time employees of the Executive Department, Office of the Governor.

B. Compensatory leave may be earned when an appointing authority, or the appointing authority's designee, requires an unclassified officer or employee in a

compensatory leave earning position to work on a holiday or at a time that the officer or employee is not regularly required to be on duty. Compensatory leave may be granted for such overtime hours worked outside the regularly assigned work schedule or on holidays at the discretion of the appointing authority, except that officers or employees who are not exempt from the FLSA shall be compensated for such overtime in the same manner as classified employees in accordance with the FLSA.

C. An unclassified officer or employee who sets his own work schedule shall not be eligible to earn compensatory leave; however, the appointing authority of such an unclassified officer or employee may grant compensatory leave for specific instances of overtime work which the appointing authority judges to be extraordinary.

D. If an appointing authority permits the earning of compensatory leave to an FLSA-exempt unclassified officer or employee, then the amount of such leave shall be equal to the number of extra hours such an officer or employee is required to work.

E. When earned, compensatory leave shall be promptly credited to the unclassified officer or employee and, upon the approval of the appointing authority, or the appointing authority's designee, it may be used by the officer or employee at a future time.

**SECTION 14: Use and Disbursement of Compensatory Leave While in Service**

A. An unclassified officer or employee who is not exempt from the FLSA shall be paid in cash for any overtime hours worked in excess of the maximum balance allowed by the FLSA.

B. At the discretion of the appointing authority, an unclassified officer or employee may be paid in cash for any compensatory leave earned at the hour for hour rate in excess of 360 hours.

C. An appointing authority may require an unclassified officer or employee to use their earned compensatory leave at any time.

**SECTION 15: Disbursement of Accrued Compensatory Leave Upon Separation**

A. When an unclassified officer or employee transfers without a break in service to another department within state service, compensatory leave may be credited to the officer or employee at the discretion of the new appointing authority.

B. When an unclassified officer or employee separates from state service or transfers from the department in which the officer or employee earned compensatory leave to a department not crediting the officer or employee with the accrued balance of compensatory leave, the accrued compensatory leave shall be paid as follows:

1. All unused compensatory leave earned at the hour for hour rate or at the time and one-half rate shall be paid at the higher of following rates:

(a) the average regular rate received by the officer or employee during the last three years of his or her employment; or

(b) the final regular rate received by the officer or employee.

SECTION 16: Special Leave. An unclassified officer or employee shall be given time off, without loss of pay, annual leave, or sick leave when:

- A. performing jury duty;
- B. appearing as a summoned witness before a court, grand jury, or other public body or commission;
- C. performing emergency civilian duty in relation to national defense;
- D. voting in a primary, general, or special election which falls on the officer or employee's scheduled work day, provided not more than two hours of leave shall be allowed an officer or employee to vote in the parish of employment, and not more than one day of leave shall be allowed an officer or employee to vote in another parish;
- E. participating in a State Civil Service examination on a regular work day, or taking a required examination pertinent to the officer or employee's state employment before a state licensing board;
- F. the appointing authority determines an Act of God prevents the performance of the duties of the officer or employee;
- G. the appointing authority determines that, due to local conditions or celebrations, it is impracticable for the officer or employee to work in the locality;
- H. the officer or employee is ordered to report for a pre-induction physical examination incident to possible entry into the armed forces of the United States;
- I. the officer or employee is a member of the National Guard and is ordered to active duty incident to a local emergency, an Act of God, a civil or criminal insurrection, a civil or criminal disobedience, or a similar occurrences of an extraordinary and emergency nature which threatens or affects the peace or property of the people of the State of Louisiana or the United States;
- J. the officer or employee is engaged in the representation of a client in a civil or criminal proceeding pursuant to an order of a court of competent jurisdiction. However, if compensation for such services is available from another source, and is accepted by the officer or employee, the officer or employee may not accept any special leave compensation from the state for that time period; or
- K. the officer or employee is a current member of Civil Air Patrol and, incident to such membership, is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed 15 working days in any one calendar year and shall not be used for unit meetings or training conducted during such meetings.

SECTION 17: Military Leave

A. An unclassified officer or employee who is serving in a position that earns annual and sick leave and who is a member of a reserve component of the armed forces of the United States or the National Guard, shall be granted a leave of absence from a state position, without loss of pay or deduction of leave, when ordered to military duty for a period not to exceed 15 working days in any one calendar year. In addition, an appointing authority may grant annual leave, compensatory leave, leave without pay or any combination thereof, for a period which exceeds those 15 working days in

any one calendar year, in accordance with other provisions of this order and as required by state and/or federal law. When the unclassified officer or employee is ordered to duty, the officer or employee shall give prompt and immediate notice to the appointing authority, or to the appointing authority's designee.

B. An unclassified officer or employee who is serving in a position that earns sick and annual leave and who is inducted into or ordered to military duty to fulfill a reserve obligation or ordered to active duty in connection with reserve activities for an indefinite period or for a period in excess of annual field training, is eligible for leave with pay as provided in this order and as required by state and/or federal law.

SECTION 18: Other Leave

A. Worker's Compensation Payments—Optional Leave with Pay. An unclassified officer or employee who is absent from work due to a disability for which the officer or employee is entitled to receive worker's compensation benefits, has the option to use their sick and annual leave, which shall not exceed the amount necessary to receive total payments for leave and worker's compensation equal to their regular salary.

B. Law Enforcement—On Duty Disability. When an unclassified officer or employee engaged in law enforcement work becomes disabled while in the performance of a duty of a hazardous nature that results in their being unable to perform their usual or normal duties, the disabled officer or employee's appointing authority may, upon the approval of the commissioner of administration, grant the disabled officer or employee a leave of absence with full pay during the period of such disability without charge against accrued sick or annual leave, provided the officer or employee pays to their department all amounts of weekly compensation received by the officer or employee as worker's compensation benefits during that period of leave with full pay.

C. Funeral Leave. An unclassified officer or employee may be granted leave without loss of pay, annual leave, or sick leave, for attendance at the funeral or burial rites of a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grandparent, or grandchild, provided such time off shall not exceed a period of two days for any single occurrence. Whenever possible, prior notice of the need to take said leave shall be given by the officer or employee to the appointing authority. At all other times, the officer or employee shall give notice of the need to take said leave at the time it is taken.

D. Educational Leave

1. An appointing authority may grant an unclassified officer or employee educational leave without pay, when it is for an approved educational purpose, for a maximum period of 12 months in accordance with the Rules developed by the commissioner of administration. Consecutive periods of leave without pay may be granted to the officer or employee by the appointing authority.

2. Upon the approval of the commissioner of administration and in accordance with the Rules developed by the commissioner of administration, an appointing authority

may grant an unclassified officer or employee educational leave with pay for a maximum period of 30 calendar days during one calendar year. Upon the approval of the commissioner of administration and in accordance with the Rules developed by the commissioner of administration, the appointing authority may grant educational leave with pay for a maximum period of 90 calendar days during one calendar year if, in addition to the general prerequisites necessary for qualification for educational leave with pay, the educational instruction or training to be taken by the officer or employee is also necessary to, or will substantially aid, the administration of the state agency.

3. In accordance with the Rules developed by the commissioner of administration, an appointing authority may grant a stipend to an unclassified officer or employee who has been granted educational leave if 1) funds are available for such purposes, 2) the commissioner of administration approves the stipend, and 3) the commissioner of administration finds the stipend will be used for a proper, designated purpose and its proper use is clearly supported with appropriate documentation.

**E. Leave of Absence without Pay**

1. An appointing authority may extend a leave of absence without pay to an unclassified officer or employee for a period not to exceed one year, provided that such leave shall not prolong the period of the officer or employee's appointment or employment in state service.

2. If an unclassified officer or employee fails to report for, or refuses to be restored to, duty in pay status on the first working day following the expiration of an approved leave of absence without pay, or at an earlier date upon reasonable and proper notice from the appointing authority, or the appointing authority's designee, then the officer or employee shall be considered as having deserted their position of appointment or employment.

3. At the discretion of the appointing authority, or at the request of the unclassified officer or employee, a period of leave of absence without pay that has been extended to an officer or employee, may be curtailed, provided such curtailment is in the best interest of the state service and reasonable and proper notice thereof is furnished to the officer or employee.

**SECTION 19: Holidays**

A. Holidays shall be observed as provided in R.S. 1:55(B) and by proclamation issued by the governor.

B. An unclassified officer or employee in state service in a compensatory leave earning position shall be eligible for compensation when required to work on an observed holiday except:

- 1. when the officer or employee's regular work schedule averages less than 20 hours a week; or
- 2. when the officer or employee is on leave without pay during the period immediately preceding and following the holiday(s).

**SECTION 20: Record Keeping**

A. Daily attendance and leave records shall be maintained for each unclassified officer or employee who is eligible to accrue annual, sick, and/or compensatory leave.

B. An accrued balance of unused annual, compensatory, and/or sick leave shall be held in abeyance for an officer or employee who becomes ineligible to earn and use the particular type of leave pursuant to the terms of this order. The accrued balance(s) shall be available to the officer or employee, in accordance with the provisions of this order, when he or she again becomes eligible to earn and use said leave, or when he or she separates from state service.

**SECTION 21: Compliance.** All departments, commissions, boards, agencies, and officers of the state, or any political subdivisions within the Executive Branch of state government shall comply with and cooperate with the implementation of the provisions of this order.

**SECTION 22: Effective Dates.** Upon signature of the governor, the provisions of this order shall be applicable to all current officers or employees in the unclassified state service and, as to those employees, retroactive to noon on January 8, 1996. Nonetheless, any rights that accrued prior to August 12, 1996 to the officers and employees in the unclassified state service, pursuant to the provisions of Executive Orders EWE 94-32 and 95-27, shall not be adversely affected by the retroactive application of this order. This order shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 30th day of December, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9701#021

# Emergency Rules

## DECLARATION OF EMERGENCY

**Department of Economic Development  
Racing Commission**

Deposit for Expenses (LAC 35:I.8305)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective Thursday, December 19, 1996, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever occurs first.

C. Current population figures are used to determine the eligibility for funding of municipalities based on appropriations by the legislature. The funding is outlined in the ORD application guidelines for rural development grant funds.

D. Funds from this program cannot be used to pay for consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party, or for previously created debt.

E. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the criteria for funding.

F. Payment shall be made to the Local Governmental Agency (LGA) which is the project sponsor upon production of invoices and approval of the LGA's request for payment by ORD, according to the agreed terms of a signed and executed letter of commitment.

G. Project funds shall be spent only for the project as described in the grant application designated by the same number as the project award. Changes in the project description and extension of the agreed time for completion must be made in writing, subject to the approval of ORD.

H. Use of grant funds for any project other than that described in the grant application or amended application, or in violation of any terms of the application or letter of commitment/agreement, will be grounds for ORD to terminate the agreement and revoke the funds for the project.

I. All invoices related to the project are the responsibility of the LGA/project sponsor, and must be submitted to and approved by ORD before funds will be released to the LGA, which remains responsible for payment to its vendors in the project.

J. The LGA as project sponsor will agree to hold harmless the state of Louisiana, Office of the Governor, and Office of Rural Development as a term and condition of the letter of commitment/agreement.

K. ORD will de-obligate funds from any unexpended amount, whether by failure to start a project in the agreed upon time frame in the letter of commitment or by unexpended funds in an officially closed project, and from revoked grant awards.

L. Failure of the LGA/project sponsor to abide by any article of the Local Agency Assurances section of the grant application or of the letter of commitment/agreement, including state audit procedures, federal and state laws, state ethical rules and policy guidelines of the ORD, shall result in revocation of the grant award and the responsibility of the LGA/project sponsor to re-pay project funds released to it by ORD up to the full amount of the grant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 23:

Larry Kinlaw  
Executive Director

9701#065

## DECLARATION OF EMERGENCY

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

Sanitary Code—Childhood Immunizations  
for Day Care and School Entry (Chapter II)

As mandated by Act Number 998 of the 1995 Regular Session, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:953(B), under the authority of R.S. 40:5, the Department of Health and Hospitals, Office of Public Health hereby amends the Louisiana Sanitary Code, Chapter II.

This Emergency Rule is effective December 31, 1996 and remains in effect for 120 days.

#### Chapter II Control of Diseases

**2:025** Appropriate immunizations for age for regulatory purposes shall be determined using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service. Compliance will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

a. vaccines which contain tetanus and diphtheria toxoids, including DTP, DtaP, DT, Td or combinations which include these components;

b. Polio vaccine, including OPV, eIPV, IPV, or combinations which include these components;

c. vaccines which contain measles antigen, including MMR and combinations which include these components.

A two-month period will be allowed from the time the immunization is due until it is considered overdue. Medical, religious, and philosophic exemptions will be allowed for compliance with regulations concerning day care attendees and school enterers. Only medical and religious exemptions will be allowed for compliance with regulations concerning public assistance recipients. A copy of the current Office of Public Health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 4747 Earhart Boulevard, Suite 107, New Orleans, Louisiana 70125 or by calling (504) 483-1905 or toll free 1-800-251-2229.

**2:025-1** Any child 18 years or under admitted to any day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Office of Public Health schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any day care center shall report to the State Health Officer through the health unit of the parish or municipality where such day care center is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the State Health Officer. When an outbreak of a communicable disease occurs in a day care

center or residential facility, the operator of said day care center or residential facility shall comply with outbreak control procedures as directed by the State Health Officer.

**2:025-2** On or before October 1 of each year, the operator of each day care center, nursery school, or residential facility enrolling or housing any child 18 years or under, shall submit a preliminary immunization status report of all children enrolled or housed as of that date. Forms for submittal shall be provided by the State Health Officer, and shall include identifying information for each child, and for each dose of vaccine received by the child since birth. Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the form. After review of the form(s) by the State Health Officer or his or her designee, the day care center, nursery school, or residential facility operator will notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children who are not compliant with the immunization requirement of Sections 2:025 and 2:025-1 of this Code.

Bobby P. Jindal  
Secretary

9701#001

## **DECLARATION OF EMERGENCY**

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

**Direct Reimbursement to Recipients  
During Period of Retroactive Eligibility**

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

The Bureau of Health Services Financing currently provides direct reimbursement to enrolled providers of medical care, supplies and services delivered to persons eligible for Medicaid coverage. In order to receive Medicaid reimbursement for services rendered prior to the individual's certification for Medicaid, the provider must refund the recipient's payment, if any, for services and submit a claim for reimbursement to the fiscal intermediary in accordance with program regulations.

On May 8, 1995, the United States District Court for the Eastern District of Louisiana issued a judgment requiring the Department of Health and Hospitals to provide repayment in some form to recipients for medical care, supplies and services rendered during the retroactive coverage period established by 42 U.S.C. Section 1396a(a)(34) when such care, supplies or services have been paid in whole or part by

the recipient prior to certification. Therefore, the Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following Emergency Rule to comply with the judgment of the U.S. District Court effective June 6, 1996. This Emergency Rule provides for the direct reimbursement to persons found eligible for Medicaid benefits beginning February 15, 1995 for their payments to enrolled providers for services covered by the Medicaid Program. The following Emergency Rule continues the regulations in effect until adoption of the Rule and thereby to avoid the potential penalties, if any, or sanctions from the federal government.

Previous Emergency Rules were published in the *Louisiana Register*, Volume 22, Numbers 6 and 10.

### **Emergency Rule**

Effective February 1, 1997 and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following provisions to establish and govern direct reimbursement to a Medicaid eligible for his payment(s) made to any Medicaid-enrolled provider for medical care, services and supplies delivered during the recipient's period of retroactive eligibility and prior to receipt of the first medical eligibility card (MEC). Reimbursement shall be made only in accordance with all applicable federal and state regulations.

#### **General Provisions**

A. Reimbursement shall be made only for payments made to providers of medical care, services and supplies who were enrolled in the Medicaid Program at the time of service.

B. Reimbursement shall be made only for medical care, services and supplies covered by the Medicaid Program at the time of service.

C. Reimbursement shall be made only for medical care, services and supplies delivered during a retroactive eligibility period and prior to receipt of the recipient's first MEC.

D. Reimbursement shall be made only up to the maximum allowable Medicaid rate for the particular service(s) rendered.

E. Reimbursement shall be provided only under the following conditions.

1) Reimbursement shall be made only for eligibles certified for Medicaid coverage beginning February 15, 1995. Reimbursement shall be made for all bills, from any Medicaid-enrolled provider, for medical care, services and supplies covered by the Medicaid Program and rendered during the three months prior to application, as well as bills paid during the period from application to certification.

F. The Medicaid recipient must submit the following documentation to the bureau in order to receive reimbursement:

1) Proof of payment shall be a receipt or similar evidence of payment.

G. Reimbursement for services rendered during any retroactive eligibility period and prior to receipt of the initial MEC for Medicaid eligibles certified beginning February 15, 1995 through the effective date of this Rule shall be made in accordance with the following requirements:

1) Proof in accordance with Subsection F above, along with the recipient's Medicaid identification number must be presented to the local Bureau of Health Services Financing (Medicaid) office by December 30, 1996.

*Qualified Aliens* are eligible for regular Medicaid if they also meet additional criteria described above for mandatory Medicaid eligibility, or are eligible only for emergency services if they do not. An alien must meet all eligibility requirements for Medicaid other than citizenship to receive either regular Medicaid eligibility or emergency services. Qualified aliens are aliens who are:

1. lawful permanent residents;
  2. refugees;
  3. asylees;
  4. aliens who have had deportation withheld under Section 243(h) of the Immigration and Nationality Act (INA);
  5. aliens granted parole for at least one year by the INS;
- or
6. aliens granted conditional entry under immigration law in effect before April 1, 1980.

*Emergency Medical Services* are not related to either an organ transplant procedure or routine prenatal or post-partum care. The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

It is estimated that total savings resulting from implementation of this Emergency Rule is \$2,082,702 for SFY 1996-97.

#### **Emergency Rule**

Louisiana Medicaid adopts the provisions of Section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) regarding Medicaid eligibility for noncitizens. The following optional groups of qualified aliens are not eligible for regular Medicaid services under this Emergency Rule, but may be eligible for emergency services if they meet all eligibility criteria other than citizenship:

1. Aliens receiving Medicaid benefits on August 22, 1996, but not receiving SSI, are not eligible January 1, 1997 and afterward.
2. Aliens who were in the United States prior to August 22, 1996, who are included in the definition of qualified alien, but not included in the mandatory group of qualified aliens living in the United States before August 22, 1996 are not eligible for Medicaid.

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

Bobby P. Jindal  
Secretary

9701#006

## **DECLARATION OF EMERGENCY**

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

Home Community Based Service Waiver Program  
Mentally Retarded/Developmentally Disabled Waiver

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 Act. This Emergency Rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers four Home and Community Based Services Waiver Programs. Participation in each home and community based services waiver is limited to a specific number of participants based on the approval of the waiver application by the Health Care Financing Administration. The bureau adopted an Emergency Rule effective July 13, 1995 not to fill vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program except in certain specified circumstances (*Louisiana Register*, Volume 21, Number 7). Another Emergency Rule was adopted effective October 10, 1995 that allowed vacated slots in the MR/DD waiver to be filled in accordance with the methodology utilized prior to July 13, 1995 except that the number of slots to be filled could not exceed the total number of filled slots as of September 1, 1995 (*Louisiana Register*, Volume 21, Number 10). The bureau has now determined that it is necessary to adopt regulations governing the MR/DD Waiver Program to:

- 1) establish methodology for the assignment of slots vacated by discharged waiver participants and the 342 previously unoccupied slots; and
- 2) clarify policies on admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care. The eligibility criteria for the MR/DD Waiver Program shall remain unchanged. The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. A previous Emergency Rule was published in the *Louisiana Register* (Volume 22, Number 10) which continued the above provisions in force.

This action is necessary to preserve the health and welfare of individuals on the MR/DD waiver waiting list by assuring them an opportunity to make application for Medicaid eligibility and waiver services.

### **Emergency Rule**

Effective January 31, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations governing the MR/DD Waiver Program to:

- 1) establish methodology for the assignment of slots; and
- 2) clarify policies on admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care.

The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. The assignment of vacated and previously unoccupied waiver slots; admission and discharge criteria; mandatory reporting requirements and reimbursement for services provided prior to the approval of the plan of care shall be determined in accordance with the following guidelines.

#### **Programmatic Allocation of Waiver Slots**

The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the regional OCDD office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. When a currently certified participant is discharged from the waiver, the vacated slot shall be available for allocation to the next person on the MR/DD Waiver waiting list who successfully completes the financial and medical certification eligibility process and is certified for the waiver.
2. A minimum of 40 slots shall continue to be available for allocation to foster children in the custody of the Department of Social Services, Office of Community Services (OCS) who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS shall be responsible for maintaining the waiting list for these slots; sending notification of an available slot to the next individual on the list; and assisting the individual to gather the documents needed in the eligibility determination process.
3. A maximum of 80 slots shall be available for allocation to the next 80 persons on the MR/DD Waiver waiting list who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest Development Center who successfully complete the financial and medical certification eligibility process and are certified for the waiver. These residents will be identified by OCDD through their person-centered planning process and shall be individuals who are high functioning and have the self-determination capacity to live in a less restrictive environment.

5. A maximum of 78 slots shall be available for allocation to current residents of public community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver. These residents shall be individuals who are high functioning and have the self-determination capacity to live in a less restrictive environment. In addition, the public community home must reallocate its funds to the provision of waiver services.

6. Waiver slots shall no longer be reserved for use as emergency slots nor shall emergency slots be assigned.

#### **Waiver Admission Criteria**

Admission to the MR/DD Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid eligibility as determined by the parish BHSF Office;
2. initial and continued eligibility for an ICF-MR level of care as determined by the regional Health Standards Office in consultation with the regional OCDD Office;
3. the plan of care must provide justification that the waiver services are appropriate, cost effective and represent the least restrictive treatment alternative for the individual; and
4. assurance that the health and safety of the individual can be maintained in the community with the provision of reasonable amounts of waiver services as determined by the regional Health Standards Office.

#### **Waiver Discharge Criteria**

Participants shall be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish BHSF Office;
2. loss of eligibility for an ICF-MR level of care as determined by the regional Health Standards Office in consultation with the regional OCDD Office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility;
6. the health and welfare of the waiver participant cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the regional Health Standards Office, i.e., the waiver participant presents a danger to himself or others;
7. failure to cooperate in either the eligibility determination process or the performance of the care plan; or
8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 14

or more consecutive days. This does not include interruptions in services because of hospitalization.

#### **Mandatory Reporting Requirements**

Case managers and waiver service providers are obligated to report changes that could affect the waiver participant's eligibility, including but not limited to those changes cited in the discharge criteria, to either the parish BHSF Office or the regional Health Standards Office within five working days. In addition, case managers and waiver service providers are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and well-being of the waiver participant and completing an incident report. The incident report shall be submitted to the Regional Health Standards Office within five working days of the incident.

#### **Reimbursement of Waiver Services**

Reimbursement shall not be made for waiver services provided prior to the date of approval for the plan of care.

Bobby P. Jindal  
Secretary

9701#076

### **DECLARATION OF EMERGENCY**

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

Hospital Prospective Reimbursement  
Methodology for Long-Term Acute Hospitals

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 Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement for certain specialty hospital services including long-term acute hospitals under specialty hospital peer groups as published in the *Louisiana Register*, Volume 20, Number 6, of June 20, 1994. Effective October 13, 1996 (*Louisiana Register*, Volume 22, Number 9), an Emergency Rule was adopted establishing provisions to reimburse long-term acute hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment

facilities. Therefore, the bureau is re-establishing the previous Emergency Rule to continue these regulations in force.

#### **Emergency Rule**

Effective for dates of services on or after February 10, 1997, the Department of Health and Hospitals, Bureau of Health Services Financing will prospectively reimburse long-term acute hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment facilities.

Bobby P. Jindal  
Secretary

9701#071

### **DECLARATION OF EMERGENCY**

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

Hospital Prospective Reimbursement  
Methodology for Rehabilitation Hospitals

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 Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for certain specialty hospital services including rehabilitation hospitals under specialty hospital peer groups as established by the Hospital Prospective Reimbursement Methodology Rule adopted by reference in the *Louisiana Register*, Volume 20, Number 6, page 668. The bureau has now determined it is necessary to prospectively reimburse rehabilitation hospitals within the peer groups established for nonteaching hospitals in Hospital Prospective Reimbursement Rule. Nonteaching hospitals are grouped according to the number of staffed beds. Rehabilitation hospitals shall be placed in the appropriate nonteaching hospital peer groups according to the number of licensed rehabilitation beds as of March 31 of the year preceding the fiscal year for which the rates will be in effect. The bureau will continue to apply the criteria contained in the pre-admission and certification and length of stay criteria for Inpatient Hospital Services Rule (*Louisiana*



Register, Volume 20, Number 6, page 668-669) according to the treatment needs of the individual patient. A previous Emergency Rule was published on this matter continuing the above provisions in force (*Louisiana Register*, Volume 22, No. 10). This action is necessary to avoid a budget deficit in the medical assistance programs.

**Emergency Rule**

Effective for dates of services on or after January 29, 1997 the Department of Health and Hospitals, Bureau of Health Services Financing amends the Hospital Prospective Reimbursement Methodology Rule (*Louisiana Register*, Volume 20, Number 6, page 668) by prospectively reimbursing rehabilitation hospitals within the peer groups established for nonteaching hospital established in the Hospital Prospective Reimbursement Methodology Rule. The appropriate peer group shall be determined according to the number of licensed rehabilitation beds as of March 31 of the year preceding the state fiscal year for which the rates will be in effect. The bureau will continue to apply the criteria contained in the pre-admission and certification and length of stay criteria for Inpatient Hospital Services Rule (*Louisiana Register*, Volume 20, Number 6, page 668-669) according to the treatment needs of the individual patient.

Bobby P. Jindal  
Secretary

9701#070

**DECLARATION OF EMERGENCY**

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

**Low Income Families Eligibility Group**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first. Adoption of this Rule on an emergency basis is necessary to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193).

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the Aid to Families with Dependent Children (AFDC) program which provided

financial assistance to families meeting certain requirements, and replaced it with a block grant program for Temporary Assistance for Needy Families (TANF) effective July 1, 1997, or such earlier date as the Secretary of DHHS receives the TANF State plan. Receipt of TANF does not entitle the recipient to Medicaid. TANF provisions were adopted in Louisiana by Department of Social Services effective October 1, 1996.

Also, P.L. 104-193 establishes criteria for a new category of Medicaid recipients. According to that regulation, low income families are defined as follows:

1. the family includes a dependent child who is living with a caretaker relative;
2. the family income does not exceed the 185 percent gross income test limit; and
3. the family's countable income and resources do not exceed the applicable AFDC income and resource standards (including any special needs) established in the Medicaid State Plan. This description is now found in Section 1931 of the Social Security Act. The state has elected to maintain income and resource criteria in effect on July 16, 1996 as the basis for determining eligibility for this new classification of Medicaid recipients.

Among those who will meet the income and resource criteria for low-income families are persons who are eligible for TANF financial assistance because TANF criteria are currently more restrictive than low-income family criteria. Other families who meet the criteria for low-income family but are not TANF-eligible will be eligible for Medicaid under this definition. This Emergency Rule provides notification that the population described in Section 1931 of the Social Security Act constitutes an eligibility group covered by Medicaid and establishes the income and resource limitations applicable. It is estimated that there will be slight savings because of differences in the eligibility criteria. However, the precise number of individuals affected by this change is currently unknown.

**Emergency Rule**

Medicaid establishes a new Medicaid eligibility group for low income families with children who meet eligibility requirements described in Section 1931 of the Social Security Act. Eligibility criteria under the AFDC State Plan in effect on July 16, 1996 will be used to determine eligibility. Additionally, recipients of TANF are deemed to meet these criteria so long as TANF requirements are more restrictive than eligibility requirements under the AFDC State Plan in effect on July 16, 1996.

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

Bobby P. Jindal  
Secretary

9701#026

## DECLARATION OF EMERGENCY

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

#### State-Funded Medically Needy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:953(B).

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously administered the Medically Needy Program under the Title XIX State Plan pursuant to the Social Security Act. The department determined that there were insufficient federal funds available under the federal appropriation for implementation of Title XIX of the Social Security Act for Louisiana to continue the administration of the Medically Needy Program and, as a result, terminated the Program effective June 30, 1996 (*Louisiana Register*, Volume 22, Number 6). Executive Order 96-17 authorized the establishment of a State-Funded Medically Needy Program; therefore the Department established the State-Funded Medically Needy Program in compliance with this Order by adopting two Emergency Rules effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 7) and October 8, 1996 (*Louisiana Register* Volume 22, Number 10). The State-Funded Medically Needy Program is limited to individuals who were certified for the Title XIX Medically Needy Program or have pending application under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy for June 1996. The State-Funded Medically Needy Program incorporates the same recipient eligibility criteria and scope of services which previously existed under the Medically Needy Program of the Title XIX State Plan except as otherwise provided herein. The department has now determined based on legislative recommendation that it is necessary to expand the State-Funded Medically Needy Program to:

1) provide coverage for those persons who are not continuously eligible for benefits under the State-Funded Medically Needy Program in order to assure continuity of their medical care; and

2) establish an eligibility determination process for applicants who meet specified medical or income conditions and to provide for their certification based on the Title XIX Medically Needy Program.

Adoption of the following Emergency Rule is essential to protect eligible persons from imminent peril to their health and welfare should they have insufficient resources for obtaining necessary medical services.

#### Emergency Rule

Effective February 5, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing continues and re-establishes the State-Funded Medically Needy Program which shall be governed by the following provisions.

#### I. General Provisions

The State-Funded Medically Needy Program shall be administered in accordance with requirements of Title XIX of the Social Security Act for the Medically Needy Program under the Act except as described below.

##### A. Eligibility

1. Coverage under this program shall be limited to individuals who are certified for the Title XIX Medically Needy Program or have a pending application for participation under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy Program for June 30, 1996. Recipients who were found eligible and certified as of June 30, 1996 may reapply through June 30, 1997. They must meet all the federal eligibility criteria of the Title XIX Medically Needy Program in order to maintain or to re-establish their eligibility status under the State-Funded Medically Needy Program.

2. Recipients who are determined to be potentially eligible under any Title XIX eligibility category or any other benefit must take all appropriate steps to pursue that eligibility including applying for coverage and providing the necessary information to determine eligibility for the Title XIX category or other benefit.

3. Eligibility for the State-Funded Medically Needy Program will be terminated under any one of the following circumstances:

a) the recipient is determined eligible under a Title XIX category or other benefit;

b) the recipient refuses to apply for coverage or cooperate in the eligibility determination process;

c) the recipient no longer meets the required criteria of health condition or age; or

d) the recipient no longer meets the eligibility requirements of the Title XIX Medically Needy Program terminated on June 30 1996.

4. The State-Funded Medically Needy Program shall provide for an eligibility determination process for the following persons:

a. persons in a nursing facility whose countable income exceeds 300 percent of the Supplemental Security Income (SSI) federal benefit rate;

b. children under the age of one who are receiving critical care services (neonates);

c. children through age 17 with a diagnosis of cancer;

d. persons with renal (kidney) failure who require hemodialysis treatment;

Applicants listed above who meet the eligibility criteria of the Title XIX Medically Needy Program shall be determined eligible no earlier than October 8, 1996. There shall be no retroactive eligibility period for persons determined eligible under the items a. - d. listed above.

B. Services. The scope of services and reimbursement for the covered services shall be provided in accordance with

the federal and state regulations that previously governed the Title XIX Medically Needy Program administered by the Bureau of Health Services Financing.

C. Appeal Rights. Applicants who are denied eligibility or recipients who lose eligibility under the State-Funded Medically Needy Program shall be afforded the opportunity to appeal the agency's decision in accordance with the Administrative Procedure Act. There shall be no continuation of benefits pending appeal.

Bobby P. Jindal  
Secretary

9701#074

**DECLARATION OF EMERGENCY**

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

**Temporary Assistance for Needy Families (TANF)  
Work Requirements**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first. Adoption of this Emergency Rule on an emergency basis is necessary to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193).

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the Aid to Families with Dependent Children (AFDC) program which provided financial assistance to families meeting certain requirements, and replaced it with a block grant program for Temporary Assistance for Needy Families (TANF) effective July 1, 1997, or such earlier date as the Secretary of DHHS receives the TANF State Plan. TANF provisions were adopted in Louisiana by Department of Social Services effective October 1, 1996. This Emergency Rule provides notification that Medicaid coverage will not be available to persons who fail to meet the work requirement associated with TANF, with the following exceptions: a pregnant woman; infant; or child under one of the poverty level related groups; or a minor child who is not the head of the household under TANF. It is estimated that total savings resulting from implementation of this Emergency Rule for SFY 1996-1997 will be approximately \$328,756.

**Emergency Rule**

Effective concurrently with implementation of the Personal Responsibility and Work Opportunity Act of 1996 provisions

for financial assistance by Department of Social Services, eligibility for Medicaid as a TANF recipient is terminated for failure to meet work requirements as described in Section 1931(b)(3) of the Social Security Act.

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

Bobby P. Jindal  
Secretary

9701#027

**DECLARATION OF EMERGENCY**

**Department of Public Safety and Corrections  
Gaming Control Board**

**Board Hearings (LAC 42); Repeal of Video  
Draw Poker Hearings and Sanction Procedures  
(LAC 42:XI.2423); Repeal of Gaming Enforcement  
Division Procedure for Riverboat License and Permit  
Hearings (LAC 42:XIII.2167)**

In accordance with the provisions of R.S. 49:953(B), the Gaming Control Board hereby determines that adoption of Emergency Rules relative to standards of conduct and ethical rules, administrative actions initiated by the State Police, administrative hearings, definitions of persons furnishing significant goods and services, key employees, licensees and permittees is necessary and that for the following reasons failure to adopt Rules on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act 7 of the First Extraordinary Session of 1996, effective May 1, 1996, created the Gaming Control Board with all regulatory authority, control and jurisdiction, including investigation, licensing and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Riverboat Economic Development and Gaming Control Act, the Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

Further, Act 7 provides that all powers, duties, functions and responsibilities of the Riverboat Gaming Commission, Video Gaming Division and Riverboat Gaming Enforcement Division of State Police, and the Economic Development and Gaming Corporation are transferred to and shall be performed and exercised by the Gaming Control Board, and that the powers, duties, functions and responsibilities and any pending or unfinished business of those regulatory entities becomes the business of and shall be completed by the Gaming Control Board with the same power and authority as the entity from which the functions are transferred.

The Legislature has determined that development of a controlled gaming industry to promote economic development of the state requires thorough and careful exercise of

legislative power to protect the general welfare of the state's people by keeping the state free from criminal and corrupt elements, and that it is the public policy of the state to this end that all persons, locations, practices, associations and activities related to the operation of licensed and qualified gaming establishments and the manufacture, supply, or distribution of gaming devices and equipment shall be strictly regulated.

Numerous licensing actions and enforcement actions are required to be initiated immediately by board and it is necessary that Rules be adopted providing for administrative hearings to ensure due process is afforded applicants, licensees and permittees.

Rules relative to hearings promulgated by predecessor gaming regulatory entities must be repealed to eliminate redundant language and potential conflicts.

Act 7 provides that hearings be conducted in conformity with Rules adopted by the board, and that such Rules provide for certain matters specified in the act.

For the foregoing reasons, the Gaming Control Board has determined adoption of Emergency Rules is necessary and hereby adopts this Emergency Rule, Rule 108 and repeals LAC 42:XIII.2167 and LAC 42:XI.2423 effective January 4, 1996, in accordance with R.S. 49:953(B), to be effective until January 20, 1997 until the final Rule is promulgated.

#### **Title 42**

### **LOUISIANA GAMING**

#### **§108. Board Hearings**

A. Any person against whom an administrative action is proposed, and any person against whom an enforcement action is taken, may request a hearing by filing a written request with the board. The request shall be filed within 10 days of the date of receipt of the certified mailing or personal service of the notice of proposed action or within 10 days of the date the enforcement action is taken. All hearings requested and any matter the board determines should be heard in a public hearing shall be conducted in accordance with this Section.

B.1. A hearing will be conducted in accordance with procedural and evidentiary rules contained in the Administrative Procedure Act, R.S. 49:950 et seq., and the Gaming Control Law, 1996 Louisiana Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and Rules promulgated in accordance therewith.

2. No discovery request shall be made within 20 days of the date scheduled for the hearing.

3. Hearings may be conducted by hearing officers employed by or under contract with the board.

C. 1. Hearing requests shall be promptly docketed and scheduled for hearing.

2. The requesting party shall be notified of the time, date and location of the hearing by certified mail or personal service.

D.1. Testimony taken at a hearing shall be under oath.

2. Depositions may be used at hearings as provided in the Administrative Procedure Act, R.S. 49:950 et seq.

E. A report shall be prepared in accordance with the provisions of R.S. 27:25 and submitted to the board within 60

days of the notice of any enforcement action involving suspending or conditioning a license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 23:

#### **Part XI. Video Poker**

#### **Chapter 24. Video Draw Poker**

#### **§2423. Hearings and Sanction Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), repealed by the Gaming Control Board, LR 23:

#### **Part XIII. Riverboat Gaming**

#### **Subpart 2. State Police Riverboat Gaming**

#### **Enforcement Division**

#### **Chapter 21. Licenses and Permits**

#### **§2167. Procedure for Hearings by the Division**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), repealed by the Gaming Control Board, LR 23:

Hillary J. Crain  
Chairman

9701#002

#### **DECLARATION OF EMERGENCY**

#### **Department of Public Safety and Corrections Liquefied Petroleum Gas Commission**

Permit Fees (LAC 55:IX.107 and 113)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission hereby rescinds, effective December 30, 1996, its Emergency Rule regarding permit fees, published on page 1205 of the December, 1996 *Louisiana Register*.

G. L. "Mike" Manuel, Jr.  
Director

9701#062

#### **DECLARATION OF EMERGENCY**

#### **Department of Social Services Office of Family Support**

Food Stamps—Disqualification  
of Certain Recipients/Applicants

The Department of Social Services, Office of Family Support has exercised the emergency provision of the

Administrative Procedure Act, R.S. 49:953(B) to adopt the following Rule in the Food Stamp Program, effective January 1, 1997. This Rule shall remain in effect for a period of 120 days.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, a change in Food Stamp policy will permanently disqualify an individual convicted of a felony involving the use of a controlled substance. This Emergency Rule is necessary to effect this mandated regulation and to avoid sanctions or penalties which could be imposed by delaying implementation.

Section 1988.A was proposed by Notice of Intent published October 20, 1996. Subsection B represents new policy.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 3. Food Stamps**

**Chapter 19. Certification of Eligible Households**

**Subchapter J. Determining Household Eligibility and Benefit Levels**

**§1988. Eligibility Disqualification of Certain Recipients**

A. Fleeing felons and probation/parole violators are ineligible for benefits.

B. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance [as defined in Section 102(6) of the Controlled Substances Act 21 U.S.C. 802 (6)] shall be permanently disqualified from receiving food stamps. This shall not apply to convictions occurring on or before August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

Madlyn Bagneris  
Secretary

9701#005

**DECLARATION OF EMERGENCY**

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

**Plan Document—Infertility Exclusion**

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate Rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document to clarify provisions related to the exclusion of benefits for treatment of infertility. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Subsection S of Article 3, Section VIII, of the Plan Document to read as follows:

**VIII. Exceptions and Exclusions for All Medical Benefits**

No benefits are provided under this contract for:

\* \* \*

S. Artificial organ implants, penile implants, transplantation of other than Homo sapiens (human) organs, and any expense for treatment, subsequent to initial diagnosis, of infertility and complications thereof, including, but not limited to, services, drugs, and procedures or devices to achieve fertility; in-vitro fertilization, low tubal transfer, artificial insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

\* \* \*

This Emergency Rule shall become effective on January 1, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

James R. Plaisance  
Executive Director

9701#009

**DECLARATION OF EMERGENCY**

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

**Prescription Drugs and Medicines  
Exclusions and Limitations**

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate Rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document to restrict benefits for amphetamines to diagnoses of Attention Deficit Disorder or Narcolepsy, and to exclude benefits for smoking deterrents. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which

are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, Subsection W to read as follows:

**VIII. Exceptions and Exclusions for All Medical Benefits**

No benefits are provided under this contract for:

\* \* \*

W. The following drugs, medicines, and related services:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for covered persons over age 26;
5. amphetamines dispensed for diagnoses other than

Attention Deficit Disorder or Narcolepsy;

6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;

7. nutritional or parenteral therapy;
8. vitamins and minerals; and
9. drugs available over the counter.

\* \* \*

This Emergency Rule shall become effective on January 1, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

James R. Plaisance  
Executive Director

9701#008

**DECLARATION OF EMERGENCY**

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

Oyster Season Adjustment—1996-1997

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:6(25)(a), R.S. 56:433 and R.S. 56:435.1, notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

1. that the Sister Lake Oyster Seed Reservation shall close effective February 1, 1997 at 5 p.m. and remain closed for the remainder of the 96/97 public oyster season;

2. that an area on the Breton Sound Public Oyster Seed Ground inside a line running from the marker at Bayou Terre Boeufs, south to Snake Island, then to Lonesome Island, to Bell Island, south to the land mass on the south side of Bay Crabe, including the public grounds in Bay Gardene, Bay Crabe shall close on February 1, 1997 at 5 p.m. and remain closed for the remainder of the season;

3. that the open season on all of the remaining portions of the public grounds with the exception of Calcasieu Lake public tonging reef shall be extended to April 30, 1997, at 5 p.m.

Daniel J. Babin  
Chairman

9701#053

# Rules

## RULE

**Capital Area Ground Water Conservation Commission  
Capital Area District**

**Water Well Permits**

Under authority of R.S. 38:3071 et seq. (Act 1974, Number 678, as amended by Act 1976, Number 231, and Act 1980, Number 738), the Capital Area Ground Water Conservation Commission adopts procedures to require a water well drilling permit. Section 3076 of the Act gives the Board of Commissioners authority to require permits for the drilling or construction of wells having a capacity in excess of 50,000 gallons per day in the Capital Area District including the Parishes of East Baton Rouge, West Baton Rouge, East Feliciana, West Feliciana, and Pointe Coupee. Exemptions will be granted to small capacity wells designed to pump less than 50,000 gallons per day; wells screened at depths less than 400 feet; wells screened in the Mississippi River alluvial aquifer; and wells drilled for agricultural purposes.

The regulation assesses no fee for a well permit. The agency will absorb any expenses incurred during the review, approval, and oversight of the well drilling activities. The purpose is to ensure that the drilling and construction of the water well will not adversely affect the ground water in the Capital Area Ground Water Conservation District.

**Section 3076. Powers of the Board**

A. The board shall have authority to do all things necessary to prevent waste of groundwater resources, and to prevent or alleviate damaging or potentially damaging subsidence of the land surface caused by withdrawal of groundwater within the district. The board shall have authority to do, as required, the following:

To require permits for the drilling or construction of all wells drilled after the effective date of this part having a capacity in excess of 50,000 gallons per day.

**Rule**

**Water Well Permits and Plans**

**Authority and Purpose**

The Capital Area Ground Water Conservation Commission (hereafter referred to as the commission) has the authority to

require permits and plans for the drilling or construction of water wells having a capacity in excess of 50,000 gallons per day, in accordance with R.S. 38:3076(A)(2) and 3076(E). The purpose of this Rule is to define the procedures to be used in applying for a permit.

**Exempt Wells**

Wells in the following categories are exempt from the requirement for permits:

1. wells completed in the Mississippi River alluvial aquifer;
2. wells completed at depths less than 400 feet;
3. wells drilled for agricultural purposes; and
4. wells not capable of producing 50,000 gallons per day.

Large-capacity wells in categories 1 and 3, above, may be requested to supply plans and (or) information that the board may reasonably require to accomplish its water management purposes.

**Applicability of Requirement for Permits and Plans**

Permits are required for all nonexempt wells drilled in the parishes of East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge, West Feliciana, and any other parishes that may be admitted to the Capital Area Ground Water Conservation District. The permit application for the proposed well shall be accompanied by a set of plans to include at a minimum: location of proposed well to the nearest second of latitude and longitude; location of existing water wells within 1000 feet; proposed depth; casing and screen sizes and approximate depths; proposed well yield and average daily pumpage.

**When a Permit is Required**

At least 30 calendar days before beginning drilling operations, the well owner (or his agent) who plans to drill a nonexempt well shall submit a permit application to the Capital Area Ground Water Conservation Commission for review and approval. No fee will be required. Permit applications can be obtained from and completed forms should be submitted to the Capital Area Ground Water Conservation Commission at 3535 South Sherwood Forest Blvd., Suite 129, Baton Rouge, LA 70816-2255, telephone (504) 293-7370.

**Failure to Comply**

Violation of this Rule may subject the owner or user to litigation. In any such suit, the board may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions as the facts warrant, as provided in R.S. 30:3077(C).

**Revocation of Previous Rules**

Upon the effective date of these Rules, Section 5.0.0.0, Rules and Regulations Requiring the Submission of Plans for New Water Wells in the Capital Area Ground Water Conservation District becomes null and void.

Don C. Dial  
Director

9701#033

**RULE**

**Department of Culture, Recreation and Tourism  
Office of the Secretary**

**Byways (LAC 25:XI.101)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Culture, Recreation and Tourism adopts a Rule entitled "Segmentation of Louisiana Byways" in accordance with R.S. 56:1948.7.B.

Pursuant to R.S. 56:1948.7, the secretary of the Department of Culture, Recreation and Tourism is authorized to promulgate Rules and Regulations that set forth the procedure and criteria designated for the Louisiana byways system. This Rule sets forth such a procedure in accordance with the criteria specified in R.S. 56:1948 et seq.

**Title 25**

**CULTURE, RECREATION AND TOURISM**

**Part XI. Office of the Secretary**

**Chapter 1. Byways**

**101. Segmentation of Louisiana Byways**

A. Byway designations do not have to be contiguous. A specific segment of an existing or proposed Louisiana byway may be excluded from the Louisiana byway system upon the recommendation to, and determination by, the secretary of the Department of Culture, Recreation and Tourism (secretary) as provided by R.S. 56:1948.7. The local byway authority, commission or entity (commission) of each respective byway may recommend to the secretary a de-designation or exclusion of a byway segment if said portion does not contain the intrinsic values of natural, recreational, archaeological, scenic, cultural or historical features as described in R.S. 56:1948.2 and 56:1948.3. The beginning and ending of any excluded segment will be at those points of visible change in the appearance of the adjacent features along the byway.

B. Local agencies, organizations or interested residents of the parish in which a segment of a proposed or existing byway area exists may petition, in writing, the local commission for a hearing on the exclusion of a segment of the local byway. This hearing shall be held within 30 days of the commission's receipt of the petition from the applicant, and reasonable notice of the time and date of the hearing shall be given to the applicant.

C. Within 10 days of the hearing, the commission shall submit to the secretary a resolution stating the commission's recommendation to either concur with or deny the applicant's request for exclusion. The recommendation of the commission is not a final decision on the issue of exclusion. All commission recommendations are forwarded to the secretary for his consideration and final decision. The commission's resolution must provide written reasons for its recommendation and shall include the following:

1. identification of the byway at issue and as designate in accordance with R.S. 56:1948 et seq;

**RULE**

**Department of Economic Development  
Economic Development Corporation**

**Award Program—Infrastructure  
Financing (LAC 19:VII.Chapter 91)**

The Department of Economic Development, Economic Development Corporation adopts the following Rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2312.1.

**Title 19**

**CORPORATIONS AND BUSINESS**

**Part VII. Economic Development Corporation**

**Subpart 8. Award Program**

**Chapter 91. Infrastructure Financing Program**

**§9101. Purpose**

The purpose of the program is to provide financial incentives in the form of linked deposit loans, loan guarantees and grants to industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

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

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997).

**§9103. Definitions**

*Applicant*—the company or sponsoring entity requesting financial assistance from LEDC under this program.

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

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

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

*Eligible Lending Institution*—any depository financial institution which is authorized to make commercial loans in this state, and which agrees to participate in the program as defined herein.

*LEDC*—the Louisiana Economic Development Corporation.

*Linked Deposit*—a certificate of deposit placed by the LEDC with an eligible lending institution at an interest rate discount (below existing investment rates), as determined and calculated by LEDC, provided the institution agrees to lend the value of such deposit to the company at an equivalent interest rate discount (below the existing borrowing rate applicable to the business at the time of the deposit of state funds in the lending institution).

*Program*—the Economic Development Award Program.

*Project*—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for

2. identification of the entity that proposed the byway in accordance with R.S. 56:1948.4;

3. identification of the beginning and ending of the segment recommended to be excluded, measured in relation to permanent public features of the byway such as intersecting highways, municipal and parish boundaries and public buildings;

4. a description of the zoning on the adjacent land, including the name of the zoning authority, if zoned; or if unzoned, a description of the commercial or industrial activities located on the adjacent land, including the name of any businesses and the boundaries of the regularly used areas of such businesses;

5. a report of the differences between the segment to be excluded and the criteria for Louisiana byway designation in R.S. 56:1948.2 and R.S. 56:1948.3.

D. Within 10 days of the receipt of the resolution from the local commission, the secretary shall send a copy of the commission's resolution and accompanying documents to the Department of Transportation and Development with a request for written concurrence or nonconcurrence within 30 days on the suitability of the recommended segment for exclusion.

E. Within 45 days after the receipt of the resolution and accompanying documents from the local byway commission, the secretary will determine whether to exclude the segment of the Louisiana byway. The secretary shall provide the applicant and the local commission written reasons for his decision, which shall consider the petition of the applicant, the recommendation and accompanying documents received from the local byway commission, the recommendation of the Department of Transportation and Development, the statutory guidelines for the selection and establishment of byways as found at R.S. 56:1948 et seq., and any other evidence brought before him.

F. Incorporated communities and municipalities that are located on scenic byways may follow the procedure described above to petition the local commission to exclude segments found within the municipality if such segment does not possess the natural, recreational, archaeological, scenic, cultural or historic features described in R.S. 56:1948 et seq.

G. An excluded segment may nevertheless be included in the byway system by the Department of Culture, Recreation and Tourism, the Department of Transportation and Development, the local commission and other local authorities in official signage and mapping of the byway and other purposes solely to preserve system continuity.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:1948.7.

**HISTORICAL NOTE:** Promulgated by the Department of Culture, Recreation and Tourism, Office of the Secretary, LR 23:35 (January 1997).

Phillip J. Jones  
Secretary

9701#028



which LEDC assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, expand its Louisiana operations, or increase its capital investment in Louisiana.

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

*Subprogram*—the different components of the Economic Development Award Program, including, but not limited to, Loan Awards, Grant Awards, Loan Guarantee Awards and Linked Deposit Loan Awards.

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

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

### §9105. General Principles

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

1. Awards are not to be construed as an entitlement for firms locating or located in Louisiana.
2. An award must reasonably be expected to be a deciding factor in a firm's location, investment and/or expansion decisions.
3. Awards must reasonably be demonstrated to be of key or strategic importance to the economic well-being of the state and local communities.
4. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.
5. Award amounts will not exceed the anticipated economic benefits to the state.
6. Appropriate cost sharing between project beneficiaries will be required.
7. Applicants must reasonably demonstrate that other sources of funding have been exhausted and that the requested award will not replace other sources of funding.
8. Awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:37 (January 1997).

### §9107. Subprogram Descriptions

A. Loan Awards. This subprogram provides loans to public or quasi-public entities for projects that require the provision, improvement and/or expansion of publicly owned basic infrastructure.

B. Grant Awards. This subprogram provides grant funding to projects that require the provision, improvement and/or expansion of publicly owned basic infrastructure.

C. Loan Guarantee Awards. This subprogram provides loan guarantees to projects that require the provision, improvement and/or expansion of publicly or privately owned basic infrastructure.

D. Linked Deposit Loan Awards. This subprogram provides linked deposit loans to projects that require the provision, improvement and/or expansion of publicly or privately owned basic infrastructure.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:37 (January 1997).

### §9109. Eligibility

A. An eligible applicant for the Grant Award Subprogram must be one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. An eligible applicant for the Loan Guarantee and Linked Deposit Loan Award Subprograms must be one of the following:

1. a company currently residing in the state or planning to locate in the state;
2. a public or quasi-public state entity; or
3. a political subdivision of the state.

C. An applicant or sponsoring entity shall be considered ineligible if it has pending or outstanding claims or liabilities relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:37 (January 1997).

### §9111. Criteria

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

B. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community. Special purpose and single-use basic infrastructure solely for the company's use must pass a strong needs test.

C. Applicants must provide evidence satisfactory to LEDC that without an award, the project to be funded would not take place.

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

E. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the U.S. Census Bureau) within Louisiana.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:37 (January 1997).

### **§9113. Application Procedure**

An application for assistance must contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. a description of the need for the project and the factors creating the need;
3. quantifiable objectives for the project and plans to measure the effectiveness of the project according to those objectives;
4. evidence of the number, types and compensation levels of jobs to be created or retained by the project;
5. a specific description of the project, including construction, operation and maintenance plans, and a timetable for the project's completion;
6. a detailed financial plan indicating the sources and uses of funds for the initial construction and annual operation and maintenance associated with the project;
7. a feasibility study supporting the project's viability, including an analysis of the market viability of both the company and the project, and historical and pro forma financial statements, prepared by a qualified professional acceptable to LEDC;
8. an economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, prepared by a qualified professional acceptable to LEDC. The economic analysis must include an assessment of the cost effectiveness of alternative approaches to achieve the project's objectives. The economic cost-benefit analysis will be required only for projects seeking more than \$250,000 of grant funding under this program;
9. evidence that, without the proposed award, the project to be funded would not take place;
10. certification that the application is in compliance with all public meeting laws and public bidding laws applicable to the applicant and/or the sponsoring entity;
11. a letter from the sponsoring entity acknowledging its role in the project;
12. any additional information LEDC may require.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:38 (January 1997).

### **§9115. Submission and Review Procedure**

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

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. determine whether the project's financing needs are best met by the proposed award;
3. validate the information presented in the project feasibility study and economic analysis submitted with the application;

B.1. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, LEDC staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

- a. the secretary of the Department of Economic Development;
- b. LEDC's board of directors;
- c. the governor; and
- d. the Joint Legislative Committee on the Budget.

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:38 (January 1997).

### **§9117. General Award Provisions**

#### **A. Award Agreement**

1. Loan Awards. A loan agreement will be executed in accordance with the following terms and conditions:

- a. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, timeliness for investment and job creation.
- b. The term of the loan shall not exceed 15 years.
- c. The sponsoring entity must contribute at least 10 percent of the value of the loan as equity to the project.
- d. The sponsoring entity will be responsible for repayment of the loan.

2. Grant Awards. A grant agreement will be executed between LEDC, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, timeliness for investment and job creation. Under the agreement, the sponsoring entity will monitor the progress of the project and reimburse the company from invoices submitted by the company on a form approved by LEDC.

3. Loan Guarantee Awards. A guarantee agreement will be executed in accordance with the following terms and conditions:

- a. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, timeliness for investment and job creation.
- b. The amount of the guarantee shall not exceed 75 percent of the amount of the loan.
- c. The term of the guarantee shall not exceed 10 years.

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

e. The lending institution will be responsible for proper administration and monitoring of the loan and proper liquidation of collateral in case of default.

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

g. If liquidation through foreclosure occurs, the lending institution will sell the collateral and handle the legal proceedings.

h. There will be a reduction of the guarantee in proportion to the principal reduction of the amortized portion of the loan. If no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

i. Delinquency will be defined according to the lending institution's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to LEDC in writing and verbally in a time satisfactory to the lending institution and LEDC as stated in the guarantee agreement.

4. **Linked Deposit Loan Awards.** A deposit agreement will be executed between the eligible lending institution, LEDC, the company and the sponsoring entity, in accordance with the following terms and conditions:

a. The agreement will specify the performance objectives expected of the company and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, timeliness for investment and job creation.

b. The agreement shall specify the period of time in which the lending institution is to lend funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year.

c. LEDC may renew a certificate of deposit in one-year increments but in no event shall the total period of time that a certificate of deposit is placed with any lending institution exceed 10 consecutive years.

d. The period of time for which a certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide a loan at reduced interest rates.

e. Interest on the certificate of deposit shall be discounted below applicable market rates and shall be paid at the times determined by LEDC. The maximum interest rate discount allowed shall be 5 percent. LEDC shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding.

f. Linked deposits shall be available only for term loans.

g. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to the entity specified in the linked deposit loan package. The loan shall be at a fixed rate of interest which shall be discounted

below the current borrowing rate applicable to each eligible small business. The interest rate discount on the loan shall be equivalent to the interest rate discount on the certificate of deposit.

h. If it is discovered that the company or the sponsoring entity is not in compliance with the terms and conditions of the deposit agreement, the certificate of deposit may be matured and/or rewritten, if appropriate, without penalty to LEDC.

i. If the eligible lending institution fails to pledge securities to LEDC or if such securities shall be unsatisfactory to secure the certificate of deposit, LEDC, at its sole discretion, may declare the certificate of deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

j. Neither the state nor LEDC shall be liable to any lending institution in any manner for payment of the principal or interest on any loan made under the linked deposit loan subprogram. Any delay in payments or default on the part of a borrower shall not in any manner affect the deposit agreement between the eligible lending institution and LEDC in the event of a loan default, except as provided above.

#### B. Use of Funds

1. The program offers financial assistance in the form of linked deposit loans, loan guarantees and grants for eligible project costs specified in the award agreement.

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

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

3. Project costs ineligible for award funds include:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. for loan and grant awards, improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinance of existing debt, public or private;
- f. tangible, movable property (e.g., furniture, fixtures and equipment).

#### C. Amount of Award

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

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

**RULE**

**Department of Economic Development  
Economic Development Corporation**

**Small Business Loan Program—Loan Policies  
(LAC 19:VII.Chapter 1)**

The Department of Economic Development, Economic Development Corporation adopts the following Rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2312.

**Title 19**

**CORPORATIONS AND BUSINESS**

**Part VII. Economic Development Corporation**

**Subpart 1. Small Business Loan Program**

**Chapter 1. Loan Policies**

**§101. Purpose**

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana, as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The corporation will consider sound loans so long as resources permit. The board of the corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), amended LR 23:40 (January 1997).

**§103. Definitions**

*Disabled Person's Business Enterprise*—a small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans With Disabilities Act of 1990.

*Economically Disadvantaged Business*—a Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

*Small Business Concern*—is defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:456 (June 1989), amended LR 23:40 (January 1997).

**§105. Application Process**

A. Any applicant(s) applying for either a loan guaranty or a loan participation will be required first to contact a financial lending institution that is willing to entertain such a loan with the prospect of a guaranty or a participation.

2. The award amount shall not exceed 25 percent of the total funds available to the program during a fiscal year, or \$1,250,000, whichever is greater.

**D. Conditions for Disbursement of Funds**

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of approved invoices from the sponsoring entity to LEDC.

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

a. LEDC receives signed commitments by the project's other financing sources (public and private);

b. LEDC receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;

c. all other closing conditions specified in the award agreement have been satisfied.

**E. Compliance Requirements**

1. Companies and sponsoring entities shall be required to submit periodic financial statements and progress reports, as specified in the award agreement, describing the progress towards the performance objectives specified in the award agreement. For the duration of the project, companies and sponsoring entities shall also be required to submit annually an analysis of the economic impact achieved by a project. Sponsoring entities may subcontract its monitoring and analysis responsibilities to another public, quasi-public or not-for-profit entity acceptable to LEDC, in the event the sponsoring entity lacks the ability to perform such functions.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with LEDC, LEDC shall retain the rights to withhold award funds, modify the terms and conditions of the award (e.g., loan interest rate discount, guarantee percentage), and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:38 (January 1997).

Brett Crawford  
Executive Director

9701#045

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form to LEDC.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the disabled person's provision shall submit adequate information to support the disabled status.

4. The lending institution will submit to LEDC its complete analysis, proposed structure, and commitment letter. LEDC staff may do analysis, independent of the lending institution's analysis.

5. The lending institution will submit to LEDC the same pertinent data that it did to the lending institution's loan committee, whatever pertinent data the lending institution can legally supply.

6. LEDC staff will review the application and analysis, then make recommendations. The staff will work with the lending institution on terms of the loan and LEDC loan stipulations.

7. The LEDC's Board Screening Committee will review only the completed applications submitted by staff and will make recommendations to the board.

8. The applicant(s) or their designated representative, and the loan officer or a representative of the lending institution are encouraged to attend the Screening Committee meeting.

9. LEDC's Board of Directors has the final approval authority for applications.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department Economic Development, Economic Development Corporation, LR 15:446 (June 1989), amended LR 23:40 (January 1997).

**§107. Eligibility**

A. Small business concerns domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana.

B. Certified economically disadvantaged businesses.

C. Disabled person's business enterprises domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana.

D. Funding requests for all but the following may be considered:

1. restaurants, except for regional or national franchises;

2. bars;

3. any project established for the principal purpose of dispensing alcoholic beverages;

4. any establishment which has gaming or gambling as its principal business;

5. any establishment which has consumer or commercial financing as its business;

6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;

7. funding for the principal purpose of refinancing existing debt;

8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;

9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:447 (June 1989), amended LR 23:41 (January 1997).

**§109. General Loan Provisions**

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans:

1. The corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, including state or federal taxes, or bankruptcy proceeding; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

3. The corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees, the interest rate is to be negotiated between the borrower and the bank but may not exceed 2.5 percent above New York prime as published in the Wall Street Journal at either a fixed or variable rate.

2. On all participation loans, the rate shall be determined by utilizing the rate for a U.S. Government Treasury security for the time period that coincides with the term of the participation and adding one percent.

3. The bank may apply for a linked deposit under the Small Business Linked Deposit Program on the term portion of either a guaranteed loan or a participated loan.

### C. Collateral

1. Collateral-to-loan ratio will be no less than one-to-one.
2. Collateral position may be negotiated, but will be no less than a sole second position.
3. Collateral Value Determination
  - a. the appraiser must be certified by recognized organization in area of collateral;
  - b. the appraisal cannot be over 90 days old.
4. Acceptable collateral may include, but not be limited to, the following:
  - a. fixed assets—business real estate, buildings, fixtures;
  - b. equipment, machinery, inventory;
  - c. personal guarantees are open for negotiation; if used, there must be signed and dated personal financial statements;
  - d. accounts receivable with supporting aging schedule. Not to exceed 90 percent of receivable value (used with guarantee only).
5. Unacceptable collateral may include, but not be limited to the following:
  - a. stock in applicant company and/or related companies;
  - b. personal items;
  - c. intangibles.

### D. Equity

1. Will be no less than 20 percent of the loan amount for a start-up operation or acquisition and no less than 15 percent for an expansion.
2. Equity is defined to be:
  - a. cash;
  - b. paid-in capital;
  - c. paid-in surplus and retained earnings;
  - d. partnership capital and retained earnings.
3. No research, development expense nor intangibles of any kind will be considered equity.

### E. Amount

1. For small businesses, the corporation's guarantee shall be:
  - a. no greater than 75 percent of a loan up to \$650,000; or
  - b. no greater than 70 percent of a loan up to \$1,100,000; or
  - c. no greater than 65 percent of a loan up to \$2,300,000;
  - d. if the loan request exceeds \$2,300,000 the guaranty shall not exceed \$1,500,000.
2. For certified economically disadvantaged businesses, or disabled person's business enterprises, the corporation's guarantee shall be:
  - a. no greater than 90 percent of a loan up to \$560,000; or
  - b. no greater than 85 percent of a loan up to \$875,000; or
  - c. no greater than 75 percent of a loan up to \$2,000,000;

d. if the loan request exceeds \$2,000,000, the guaranty shall not exceed \$1,500,000.

3. For small businesses, the corporation's participation shall be no greater than 40 percent, but in no case shall it exceed \$1,500,000.

4. For certified economically disadvantaged businesses, or disabled person's business enterprises, the corporation's participation shall be no greater than 50 percent, but in no case shall it exceed \$1,000,000.

F. Terms. Terms may be negotiated with the bank, but in no case shall the terms exceed 20 years.

### G. Fees

1. LEDC will charge a minimum guaranty fee of 0.5 percent of the guaranty amount up to a maximum amount of 2 percent of the guaranty amount.

2. LEDC will charge a \$100 application fee.

### H. Use of Funds

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

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 25 percent of total loan; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

5. Funds may not be used to buy out stockholders or equity holders of any kind, by any other stockholder or equity holder.

6. Funds may not be used to purchase any speculative investment or real estate development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:42 (January 1997).

## §111. General Agreement Provisions

### A. Guarantee Agreement

1. The bank is responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank will sell collateral and handle the legal proceedings.

4. There will be a reduction of the guarantee:

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

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

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

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

**B. Participation Agreement**

1. The bank is responsible for administration and monitoring of the loan.

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

3. The lead bank may sell other participation with LEDC's consent.

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

5. The bank is able to set its rate according to risk, and may blend its rate with the LEDC rate to yield a lower overall rate to a project.

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

**C. Borrower Agreement**

1. At the discretion of LEDC, the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

2. The borrower shall provide initial proof as well as an annual report of job creation, including the number of jobs, job titles and salaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:42 (January 1997).

**§113. Confidentiality**

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), amended LR 23:43 (January 1997).

**§115. Conflict of Interest**

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), amended LR 23:43 (January 1997).

**§117. Conditions for Disbursement of Loan Proceeds**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), repealed LR 23:43 (January 1997).

**§119. Compliance Requirements for all Programs Loans**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), repealed LR 23:43 (January 1997).

**§121. Bank Responsibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2301-2330.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), repealed LR 23:43 (January 1997).

Brett Crawford  
Executive Director

9701#046

**RULE**

**Department of Economic Development  
Economic Development Corporation**

**Workforce Development and Training  
Program—Workforce Development  
(LAC 19:VII.Chapter 81)**

The Department of Economic Development, Louisiana Economic Development Corporation adopts the following Rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Economic Development Corporation Act, R.S. 51:2331.

**Title 19**

**CORPORATIONS AND BUSINESS**

**Part VII. Economic Development Corporation**

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

**Chapter 81. Workforce Development**

**§8101. Purpose**

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

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. upgrading employee skills for new technologies or production processes; and

3. assisting Louisiana businesses in promoting employment stability.

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

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

### §8103. Definitions

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

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

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

*Contract*—a legally enforceable agreement between LEDC, the awardee and a monitoring entity governing the terms and conditions of the training award.

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

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

*LEDC*—the Louisiana Economic Development Corporation.

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

*Program*—the Workforce Development and Training Program.

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:44 (January 1997).

### §8105. General Principles

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

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;
2. awards must reasonably be expected to be a deciding factor in companies' location and/or investment decisions;
3. awards must reasonably be demonstrated to be of key or strategic importance to the economic well-being of the state and local communities;
4. the retention and strengthening of existing Louisiana companies will be evaluated using the same procedures and with the same priority as the recruitment of new companies to the state;
5. award amounts will not exceed the anticipated Economic benefits to the state;
6. appropriate cost sharing between project beneficiaries will be required;
7. awards will not be used to replace private training funds that would otherwise be committed to projects;

8. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and

9. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:44 (January 1997).

### §8107. Subprogram Descriptions

#### A. New Employee Training

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

2. The training to be funded can include:

a. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a subset of the trainees; and

b. on-the-job training for new employees that is needed to bring the employees up to a minimum skill and/or productively level.

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:44 (January 1997).

### §8109. Eligibility

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

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

B. Employees to be trained must be employed in Louisiana.

C. An applicant shall be considered ineligible if it has pending or outstanding claims or liabilities relating to failure or inability to pay promissory notes or other evidence of



indebtedness including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:44 (January 1997).

#### **§8111. Criteria**

A. General (*these apply to all training subprograms administered under these Rules*).

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants located in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. During the first nine months of a fiscal year, not less than 25 percent of all funds available during a fiscal year shall be available for employers with 150 or fewer Louisiana-based employees. For the final three months of a fiscal year, the remaining available funds will be available to all eligible employers, without size restrictions.

4. No single employer shall receive more than 10 percent of the total funds available to the program during a fiscal year.

5. Employers receiving awards must provide evidence satisfactory to LEDC of their long-range commitment to employee training as a means of enhancing their future competitiveness.

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

1. Applicants must create at least 10 net new jobs in the state.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

C. Workplace-Based Retraining. Applicants must request training for at least five employees.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:45 (January 1997).

#### **§8113. Application Procedure**

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

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;

3. the specific training programs for which LEDC assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and

4. quantifiable objectives for the training related to the overall performance of the company, and plans to measure the effectiveness of the training according to those objectives.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:45 (January 1997).

#### **§8115. Submission and Review Procedure**

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

1. understand the labor market conditions the proposed training is seeking to mitigate;

2. evaluate the strategic importance of the proposed training to the economic well-being of the state and local communities;

3. determine whether the employers' specific needs are best met by training;

4. identify the availability of existing training programs which could be adapted to meet the employer's needs;

5. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;

6. identify or develop appropriate curricula; and

7. determine the most cost effective approach to meet the employer's training needs.

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

1. the importance of the proposed training to the state and local economies;

2. the importance of the proposed training to the recruitment/retention of businesses and/or jobs in the state (factors to be considered will include the degree of technological advancement of the skills to be taught, the transferability of those skills across companies and industries, and the wage levels of the jobs to be created and/or retained);

3. the probability that the applicant would not undertake the proposed training without state financial assistance; and

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

C. Upon determination that a proposal meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state according to the cost-benefit analysis, LEDC staff will then make a recommendation to LEDC's board of directors of an appropriate amount and the conditions of the training award at the next scheduled meeting of the board.

D. The final authority to approve or reject a training award will reside with LEDC's board of directors.

E. Applicants will be notified in writing of the outcome of their application within five working days following a decision by LEDC's board of directors.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:45 (January 1997).

## §8117. General Award Provisions

### A. Award Agreement

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

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

3. The cost associated with this contract incurred by the monitoring entity will be considered part of the total training award, but will not exceed 5 percent of the award amount.

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

### B. Use of Funds

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

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

a. instruction costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. travel costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and other), travel for trainees;

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

d. other costs: facility rental, wages for on-the-job trainees (limited to 25 percent of a trainee's wage, excluding benefits), and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training and to disburse award funds, as limited by §8117.A.3 above.

3. Training costs ineligible for reimbursement include:

a. trainee fringe benefits;

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

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

d. employee handbooks; and

e. scrap produced during training.

4. Training activities eligible for funding consist of:

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

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

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

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

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

### C. Amount of Award

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

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

### D. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to LEDC. Funds will not be available for reimbursement until a training agreement between the applicant [and/or company(ies) receiving the training] and an approved training provider has been executed.

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

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

### E. Compliance Requirements

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

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

3. In the event a contractee fails to meet its performance objectives specified in its contract with LEDC, LEDC shall retain the rights to withhold additional award funds and to reclaim disbursed funds from the applicant in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:46 (January 1997).

Brett Crawford  
Executive Director

9701#044

## RULE

### Department of Economic Development Office of Financial Institutions

#### Bank Insurance Activities—Sale of Insurance (LAC 10:III.591)

In accordance with the authority granted by the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Banking Law, R.S. 6:1 et seq., particularly R.S. 6:121 and R.S. 6:242, the Department of Economic Development, Office of Financial Institutions adopts the following Rule to preserve the dual banking system by granting state banks the same powers possessed by national banks under 12 U.S.C.A. §92.

#### Title 10

### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

#### Part III. Banks

#### Chapter 5. Powers

#### Subchapter F. Sale of Insurance

#### §591. Definitions

As used in this regulation:

*Affiliate*—a corporation which owns or controls a bank, and any other corporation which is owned or controlled by the corporation which owns or controls the bank, including but not limited to entities defined as affiliates under the provisions of 12 U.S.C.A. §221a.(b), and 12 U.S.C.A. §371c.(b), as those provisions from time to time may be amended or revised.

*Bank*—any state bank and, to the extent applicable, any national bank. When the context so requires, the term bank shall mean an ECB as defined herein.

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

*Department*—the Louisiana Department of Insurance.

*Eligible Community*—any community the population of which, as determined by the last decennial census, does not exceed 5,000.

*Eligible Community Bank (ECB)*—any state bank with an office located in an eligible community. As used herein, unless the context indicates otherwise, the term shall include any bank subsidiary, affiliate, or any officer, director or employee of the bank, bank subsidiary, or affiliate.

*Insurance*—a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies. The term shall include any kind of insurance recognized under the laws of Louisiana, but shall not include the following:

a. annuities, including but not limited to annuities governed by the provisions of LAC 10:I.571-573 [LR 19:611 (5/20/93)];

b. any credit insurance which banks are authorized to sell pursuant to the provisions of the Louisiana Banking Law LSA-R.S. 6:1 et seq., the Louisiana Consumer Credit Law, LSA-R.S. 9:3510 et seq., or the Motor Vehicle Sales Finance Act, LSA-R.S. 6:951 et seq.; or

c. any insurance product sold by a bank which was engaged as a general insurance agent or broker on January 1, 1984, and continues to be so engaged, when sold by such bank.

*Insurance Agent*—a person appointed in writing by an insurer to submit applications for a policy of insurance or to negotiate a policy of insurance on its behalf. As used herein, the term shall also include insurance brokers, surplus lines insurance brokers, and insurance solicitors.

*Insurer*—any domestic, foreign, or alien insurer possessing a certificate of authority to transact any fire, life, or other insurance business in Louisiana.

*Location or Located*—in reference to a state bank means any place in Louisiana in which the state bank maintains an office at which money is lent, or deposits received, or checks paid.

*Office of an ECB*—the main office, or any branch, loan production office, or other manned physical facility of the bank or of any subsidiary or affiliate thereof.

*Person*—a natural or juridical person.

*Subsidiary*—a corporation owned or controlled by a bank, including but not limited to a service corporation governed by the provisions of LAC 10:I.501-509 [LR 20:677 (6/20/94)].

#### B. Authority

1. An ECB shall have and possess the rights, powers, privileges and immunities of a national bank or national bank branch domiciled in this state to engage in insurance activities.

2. An ECB may act as agent for any domestic, foreign, or alien insurer approved by the department to transact business in Louisiana.

3. An ECB may solicit and sell any insurance, may collect premiums on policies issued, and may receive such fees and commissions from the sale of such insurance as may be agreed upon between the bank and the insurer for which the bank is acting as agent.

4. An ECB may engage in the insurance activities covered by this Rule directly, through its own officers, directors or employees, or through the officers, directors or employees of its subsidiary, or affiliate.

5. An ECB may also engage in the insurance activities covered by this Rule indirectly by contracting with a third party, through officers, directors, or employees of a third party acting on behalf of the bank, or through persons acting as employee of both the ECB and the third party. The agreement between the bank and the third party shall be in writing and approved by the bank's Board of Directors.

6. The persons who act as insurance agents on behalf of the ECB shall operate from an office located within an eligible community as listed on the agents' license applications

submitted to the department. The ECB's insurance agents shall have the same authority to solicit, negotiate, and sell insurance subject to the same restrictions applicable to Louisiana licensed insurance agents in general engaged in the sale of similar kinds of insurance.

#### C. Licensing

1. An ECB wishing to engage in insurance sales activities, or any third party wishing to engage in insurance sales activities on behalf of the ECB, shall obtain a license from the department to act as an insurance agent, insurance broker, surplus lines insurance broker or insurance solicitor.

2. The person applying on behalf of the ECB for a license as an insurance agent shall comply with the department's requirements, including continuing education requirements, applicable to insurance agents in general engaged in the sale of similar kinds of insurance.

3. Insurance agent services shall be provided only by licensed insurance agents. Unlicensed employees of the ECB or its subsidiary may provide clerical assistance in connection with the solicitation, negotiation, and sale of insurance, may collect premiums when so authorized by a licensed agent, and may refer customers to the ECB's licensed insurance agents.

4. As part of his regular examination of the ECB and of its subsidiary, the commissioner shall determine whether all persons engaged in insurance sales activities as insurance agents have been licensed by the department. If any person has failed to comply with the department's nondiscriminatory licensing requirements applicable to all insurance agents selling the same kinds of insurance, the commissioner may institute any enforcement action authorized by the Louisiana Banking Law in addition to referring the violations to the department, pursuant to the authority of LSA-R.S. 6:103 B(8)(b).

#### D. Disposition of Income from Sale of Insurance

1. Pursuant to the requirements of LSA-R.S. 22:1113D., no unlicensed employee, officer, or director of an ECB may receive, directly or indirectly, commissions, brokerage, or other valuable consideration, for services as an insurance agent performed in connection with the sale of insurance authorized herein.

2. Compensation based upon commissions is a common method of selling insurance, and can increase customer awareness of the availability of insurance products offered by the ECB.

3. Compensation programs for ECB personnel engaged in insurance sales activities must be structured in such a way as to assist the customer in making informed product selections.

4. The ECB should receive compensation in recognition of the role played by its personnel, premises, and good will in connection with the ECB's insurance sales activities.

#### E. Consumer Protection

1. The way in which insurance products are sold within a bank can assist customers to distinguish between deposits that are insured or are obligations of the bank and uninsured products offered by the bank or a third party.

2. The commissioner shall review measures taken by an ECB with regard to the setting and circumstances of its

insurance sales activities designed to minimize potential customer confusion over the nature of the product sold. Sales of insurance should take place in a location that is distinct from the teller window setting in which retail deposits are taken.

3. The ECB should give the customer the disclosures provided in Subsection E.4.a.iv when it first informs the customer that required insurance is available from the ECB if:

a. insurance is required in order to obtain a loan; or

b. loan approval is contingent on the customer obtaining acceptable insurance; or

c. the customer obtained insurance required in connection with the loan from another insurance provider and the ECB is soliciting the sale of insurance to replace the customer's existing coverage.

4.a. At the time a written application for insurance is made, the insurance agent shall obtain a separate written statement, signed by the customer, acknowledging that the customer has received and understands the following disclosures:

i. the insurance policy is not insured by the FDIC;

ii. the insurance policy is not a deposit or other obligation of, or guaranteed by, the bank;

iii. the bank does not guarantee performance by the insurer issuing the policy.

iv. the customer is not required to purchase insurance through the bank, and the customer's choice of another insurance provider will not affect the bank's credit decision or credit terms in any way.

b. These disclosures should be conspicuous and presented in a clear and concise manner.

5. All advertisements, sales literature, and other materials which relate to the marketing of insurance sold through the ECB shall clearly state that the insurance is not insured by a federal agency or guaranteed by the bank, shall indicate whether the insurance agent is employed by the bank or by a third party, and shall indicate that an insurance company, not the bank, is underwriting the insurance product.

6. Any ECB engaging in the insurance agency activities described herein shall establish an orderly process for responding to consumer complaints arising from the sales of insurance. Whether the ECB engages in insurance activities through its own employees, employees of its subsidiary, or those of a third party, the ECB shall maintain a file describing complaints lodged against the ECB, and steps taken by the ECB to resolve the complaints.

7.a. An ECB shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer shall obtain insurance from the bank or its subsidiary.

b. The following activities shall not violate this anti-typing provision:

i. A bank may cross-sell or cross-market products or services. A bank cross-sells when it informs a customer that insurance is available from the bank, its subsidiary, or through a third party.

ii. A bank which requires a customer to obtain insurance coverage in connection with a loan or other extension of credit may provide the insurance if the bank discloses in writing that coverage may be obtained from a person of the customer's choice, and the transaction is not conditioned upon the customer obtaining insurance from the bank.

8. An ECB shall establish compliance programs to promote compliance with this provision.

9. Bank activities which conform to the requirements of 12 U.S.C.A. §1972(1), or 12 C.F.R. §225.7, as these provisions from time to time may be amended or revised, shall be deemed to satisfy the requirements of this Subsection, and any state statutes applicable to this aspect of bank insurance sales.

F. Disclosure of Financial Records. In connection with the insurance sales activities authorized herein, an ECB may disclose a customer's records to any person as authorized in LSA-R.S. 6:333.

G. Enforcement by Commissioner

1. The commissioner is committed to ensuring that ECBs conduct their insurance sales activities in a safe and sound manner. Adequate consumer protections, qualified employees, and responsible sales practices are essential for this result.

2. The commissioner may enforce compliance with the provisions of this Rule by using any regulatory, investigative, examination or enforcement authority given the Louisiana Office of Financial Institutions by the provisions of the Louisiana Banking Law, including, but not limited to, LSA-R.S. 6:121 et seq.

3. Nothing contained herein shall limit the authority or responsibility of the department to regulate insurance in conformity with all applicable laws and regulations.

H. Continuing Parity

1. The provisions of this Rule are to be construed liberally in order to promote and maintain competitive equality between state and national banks, preserve the dual banking system, and serve the public interest in the business of banking.

2. In addition to the authority conferred by this Rule, an ECB shall have and possess, and may exercise, such rights, powers, privileges, and immunities of a national bank or national bank branch engaged in insurance sales activities in the state pursuant to the authority of 12 U.S.C.A. §92 as interpreted and applied by the Comptroller of the Currency, upon complying with the requirements of LSA-R.S. 6:242 C(1). Upon receipt of the ECB's Notice of Intent, the commissioner shall transmit a copy thereof to the department.

I. Insurance Sales Exempted from Rule

1. The provisions of this Part shall be subject to the provisions of LSA-R.S. 6:242 A(6) relative to banks which were engaged as general insurance agents or brokers on January 1, 1984.

2. The provisions of this Part shall not apply to any insurance sales activities in which banks were authorized to engage prior to the adoption of this Rule, including, but not

limited to, the sale of credit insurance and the sale of annuities.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:121 and 6:242 A(6)(a).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 23:47 (January 1997).

Larry L. Murray  
Commissioner

9701#088

**RULE**

**Department of Economic Development  
Office of the Secretary  
Division of Economically Disadvantaged  
Business Development**

**Economically Disadvantaged Business  
Development Program (LAC 19:II.Chapters 1-13)**

In accordance with the Louisiana Economically Disadvantaged Business Act of 1996 (R.S. 51:1751 through 1765, and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended) the Department of Economic Development, Division of Economically Disadvantaged Business Development, hereby adopts the following Rules relative to the Economically Disadvantaged Business Development Program effective January 20, 1997. These regulations are both substantive and technical in nature, and specify the procedure for certification and as qualification for an economically disadvantaged business; provide for bonding and other financial assistance; provide for technical and managerial assistance; provide for a business mentor-protégé program; recognize achievements for economically disadvantaged businesses; and facilitate access to state agency procurement.

These regulations apply to all state departments, boards or commissions, or educational institutions, created by the Legislature or Executive Order within the Executive Branch of state government pursuant to Title 36, operating from funds appropriated, dedicated or self-sustaining, federal funds; or funds generated from any other source. These regulations do not apply to agencies of the judicial or legislative branches of state government, except to the extent that procurement or public works activities for these branches are performed by an executive branch agency.

**Title 19**

**CORPORATIONS AND BUSINESS**

**Part II. Economically Disadvantaged**

**Business Development Program**

**Chapter 1. General Provisions**

**§101. Statement of Policy**

In accordance with the Louisiana Economically Disadvantaged Business Act of 1996 (R.S. 51:1751 through 1765 and the provisions of the Administrative Procedure Act,

R.S. 49:950-970 as amended) the Department of Economic Development, Division of Economically Disadvantaged Business Development, these regulations are both substantive and technical in nature. They are intended to specify the procedure for certification and as qualification for an economically disadvantaged business; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protégé program; to recognize achievements for economically disadvantaged businesses; and to facilitate access to state agency procurement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1759.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:49 (January 1997).

### **§103. Purpose**

The purpose and intent of this Chapter is to provide the maximum opportunity for economically disadvantaged businesses to become competitive in a nonpreferential modern economy. This purpose shall be accomplished by providing a program of assistance and promotion.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1759.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997).

### **§105. Definitions**

When used in these regulations, the following terms shall have meanings as set forth below:

*Certification*—verification that a business qualifies for designation as an economically disadvantaged business.

*Division*—the division of economically disadvantaged business development in the Department of Economic Development.

*Economically Disadvantaged Business (EDB)*—a small business organized for profit and performing a commercially useful function which is at least 60 percent owned and controlled by one or more economically disadvantaged persons and which has its principal place of business in Louisiana. A nonprofit organization is not an economically disadvantaged business for purposes of this Chapter.

*Economically Disadvantaged Person*—a citizen or lawful resident of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

*Executive Director*—the Director of the Division of Economically Disadvantaged Business.

*Firm*—a business that has been certified as economically disadvantaged.

*Full-time*—working in the firm at least 35 hours per week.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1759.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997).

### **§107. Eligibility Requirements for Certification**

A. An economically disadvantaged business (EDB) is a firm that is owned and controlled by one or more economically disadvantaged individuals and meets the requirements of economic disadvantaged businesses. Eligibility requirements falls into two categories that apply to the individual owners and to the applicant's firm. In order to continue participation in the program, a firm and its individual owners must continue to meet all eligibility requirements.

B. Economically Disadvantaged Persons. For purposes of the program, a person who meets all of the criteria in this Section shall be defined as an economically disadvantaged individual:

1. **Citizenship.** The person is a citizen or lawful resident of the United States.

2. **Louisiana Residency.** The person has resided in Louisiana for at least one year.

3. **Net Worth.** Each individual owner's personal net worth may not exceed \$150,000.

4. **Income.** Each individual owner must submit personal federal income tax returns for the past three years.

C. Economically Disadvantaged Business

1. **Ownership and Control.** At least 60 percent of the company must be owned and controlled by one or more economically disadvantaged individuals.

2. **Business Size.** For purpose of Louisiana's EDB program, an eligible firm's size shall be defined as 50 percent or less of the published U.S. Small Business Administration's size standards by SIC codes.

3. **Principal Place of Business**—the firm's principal place of business must be Louisiana.

4. **Lawful Function.** The company has been organized for profit to perform a lawful, commercially useful function.

5. **Business Annual Gross Revenue.** A business's annual gross revenue may not exceed the Louisiana EDB's size standards by SIC Code. Where the EDB program size standards utilize "number of employees" instead of a monetary figure, the Louisiana EDB Program shall use \$10.5 million in gross revenue as the qualifying monetary standard.

6. **Business Net Worth.** The business' net worth at the time of application may not exceed \$750,000.

7. **Diminished Capital and Credit**

a. A firm will be considered to have diminished capital and credit if its ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to other firms in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such firm from successfully competing in the open market. Examples of diminished capital and credit are lack of access to long-term financing or credit, working capital financing, equipment

trade credit, raw materials, supplier trade credit, and bonding. The applicant must furnish documentation that credit was denied on at least three occasions or separate applications for each area of credit that applies to the firm's type of business, condition, or situation. An applicant firm that score poorly on all financial measurements published by the Robert Morris Associates for liquidity, leverage, operating efficiency and profitability is considered to be economically disadvantaged.

Factors to be considered are:

- i. business assets;
- ii. net worth;
- iii. income;
- iv. profit;

b. The latest revision of the Annual Statement Studies, published by Robert Morris Associates (the "RMA") will be used. Factors to be compared are:

- i. current ratio;
- ii. quick ratio;
- iii. inventory turnover;
- iv. account receivable turnover;
- v. sales to working capital;
- vi. debt-to-net worth ratio;
- vii. return on assets;
- viii. percentage return on investment;
- ix. percentage return on sales.

8. Full Time. Managing owners who claim economically disadvantaged status must be full-time employees of the applicant firm.

9. Job Creation. An applicant firm must have a minimum of at least two full-time employees. A waiver may be granted for this requirement dependant upon the firm's plans for expansion.

D. Documents Required for Certification. The application shall be supported by but not limited to the following documents:

1. business's balance sheet and income statement;
2. verification of signatories on bank accounts;
3. copies of income tax returns;
4. resumes of owners and top managers;
5. copies of business licenses and permits;
6. copies of stock certificates, stock transfer ledgers,

and articles of incorporation if business is a corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1751, 1752, and 1754.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997).

### **§109. Control and Management**

A. Description. An applicant firm's management and daily business operations must be controlled by an owner(s) of the applicant firm who has/have been determined to be economically disadvantaged. In order for a disadvantaged individual to be found to control the firm, that individual must have managerial or technical experience and competency directly related to the primary industry in which the applicant firm is seeking program certification.

1. The economically disadvantaged individual(s) upon whom eligibility is based shall control the Board of Directors of the firm, either in actual numbers of voting Directors or through weighted voting. In the case of a two-person Board of Directors where one individual on the Board is disadvantaged and one is not, the disadvantaged vote must be weighted by share ownership—worth more than one vote to achieve a minimum of 60 percent control—in order for the firm to be eligible for the program. This does not preclude the appointment of Nonvoting or Honorary Directors. All arrangements regarding the structure and voting rights of the Board must comply with state law and with the firm's Articles of Incorporation and/or Bylaws.

2. Individuals who are not economically disadvantaged may be involved in the management of an applicant's firm and may be stockholders, partners, officers, and/or directors of such firm. Such individual(s), their spouses or immediate family members who reside in the individual's household may not, however:

a. exercise actual control or have the power to control the applicant or certified firm;

b. be an officer or director, stockholder, or partner of another firm in the same or similar line of business as the applicant or certified firm;

c. receive excessive compensation as directors, officers, or employees from either the applicant or certified firm. Individual compensation from the firm in any form, including dividends, consulting fees, or bonuses, which is paid to a non-disadvantaged owner, his/her spouse or immediate family member residing in the same household will be deemed excessive if it exceeds the compensation received by the disadvantaged chief executive officer, president, partner, or owner, unless the compensation is for a clearly identifiable skill for which market rates must be paid for the firm to utilize the person's expertise;

d. be former employers of the economically disadvantaged owner(s) of the applicant or certified firm, unless the Division determines that the contemplated relationship between the former employer and the disadvantaged individual or applicant firm does not give the former actual control or the potential to control the applicant or certified firm and if such relationship is in the best interests of the certified firm.

B. Non-disadvantaged Control. Non-disadvantaged individuals or entities may not control, or have the power to control, the applicant firm. Examples of activities or arrangements which may disqualify an applicant firm from certification are:

1. a non-disadvantaged individual, such as an officer or member of the Board of Directors of the firm, or through stock ownership, has the power to control daily direction of the business affairs of the firm;

2. the non-disadvantaged individual or entity provides critical financial or bonding support or licenses to the firm, which directly or indirectly allows the non-disadvantaged individual to gain control or direction of the firm;

3. a non-disadvantaged individual or entity controls the firm or the individual disadvantaged owners through loan arrangements;

4. other contractual relationships exist with nondisadvantaged individuals or entities, the terms of which would create control over the disadvantaged firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:51 (January 1997).

#### **§111. Responsibility for Applying**

A. It is the responsibility of any business wishing to participate in the Program to complete the required certification process and to provide all the information requested. Failure to provide complete, true, or accurate data may result in rejection of the application to participate in the Program.

B. Certification materials will be distributed by the Division upon written or verbal request. Written requests for certification materials should be directed to the Division of Economically Disadvantaged Business Development, Baton Rouge, LA 70804.

C. Certification as an economically disadvantaged business does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a disadvantaged business also does not constitute any determination by the Division or that the firm is responsible or capable of performing any work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997).

#### **§113. Certification Application Procedure**

A. Applicant submits a completed certification application and supporting documents to the Division.

B. The Division reviews the certification application. If it is incomplete or further information is needed, the Division will contact applicant. If the applicant does not respond within 15 days, the application will be denied.

C. The Division shall conduct a site visit at the firm's place of business, prior to certification.

D. Information obtained from the site visit is added to the file and a written recommendation is made to the Division's Executive Director.

E. The Executive Director notifies the applicant in writing of the decision whether or not to grant certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753, 1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997).

#### **§115. Duration of Certification**

A. The maximum amount of time that a firm may be granted certification by the Division is seven years.

B. Retention of the firm in the Program depends upon time, the firm's progress toward attainment of its business goals, willingness or ability to cooperate and follow through on recommendations of the Division.

C. When the applicant firm's score on all financial measurements, per their SIC Code published by the Robert Morris Associates for liquidity, leverage, operating efficiency and profitability equals to or better than the national average, the firm will be graduated from the program if the firm's participation in the program has been less than seven years. No individual will be allowed to reenter the program under another business name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997).

#### **§117. Reports by Certified Economically Disadvantaged Businesses**

A. Report Form. On forms identified or prescribed by the Division, certified businesses shall report at times specified by the Division their financial position and attainment of the business' performance goals.

B. Verification of Eligibility. The Division may take any reasonable means at any time to confirm a certified firm's eligibility, such as by letter, telephone contact, contact with other governmental agencies, persons, companies, suppliers, or by either announced or unannounced site inspection.

C. Notification of Changes. To continue participation, a certified firm shall provide the Division with a notarized statement of any changes in address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. Evaluation. The Division, at such times it deems necessary, shall evaluate the information to determine progress, areas for further improvement, resources needed by the firm, and eligibility for continued participation in the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1757.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997).

#### **§119. Deception Relating to Certification of Economically Disadvantaged Business**

Any person found guilty of the crime of deception relating to certification of an economically disadvantaged business as provided in R.S. 51:1764 will be discharged from the program and will not be eligible to reapply under the business name involved in the deception or any business with which such individual(s) may be associated.



AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1764.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997).

### **Chapter 3. Developmental Assistance Program**

#### **§301. Developmental Assistance**

A. Purpose. The Division will coordinate technical, managerial, and financial assistance through internal and external resources to assist certified economically disadvantaged businesses to become competitive in their markets.

##### **B. Developmental Steps**

1. The Division will conduct a preliminary analysis of the firm's situation to determine its strengths and weaknesses.

2. Determination of Assistance. In consultation with the Division's staff, the business owner will determine areas in which he/she needs assistance.

3. Referral to Additional Resources. The Division will assist the firm obtain intensive technical or managerial assistance from other resources, such as Small Business Development Centers, Procurement Centers, consultants, business networks, professional business associations, educational institutions, and other public agencies. The Small Business Development Centers shall be the point of entry for such assistance.

4. Ongoing Evaluation. In conjunction with the economically disadvantaged firm and appropriate external resources, the Division will periodically assess the EDB's progress toward attainment of its business goals. The Division, in conjunction with the EDB firm, will determine the effectiveness of assistance being administered. If assistance is ineffective, the Division will investigate and take appropriate action.

5. Graduation from the Program. After a pre-agreed performance or time has been reached, or combination of the two, the EDB will graduate from the Program. Companies that do not make satisfactory progress will be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997).

### **Chapter 5. Mentor-Protége Program**

#### **§501. Mentor-Protége**

Purpose. The Division shall design and conduct a business mentor-protége program to bring noneconomically disadvantaged businesses into a systematic working relationship with a certified economically disadvantaged business for their mutual, commercial benefit and for the development of the protége firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997).

### **Chapter 7. Recognition Program**

#### **§701. Recognition**

Purpose. The Division will publicly recognize outstanding accomplishments or contributions from economically disadvantaged businesses, public agencies, and noneconomically disadvantaged firms. Companies and agencies that would be recognized include:

1. EDB Graduates. Economically disadvantaged businesses which graduate from the program by reaching their goals.

2. Outstanding EDB Firms. Economically disadvantaged companies which demonstrate outstanding performance beyond reaching their goals or which showed unusual effort, persistence, quality service or products, or creativity at overcoming obstacles.

3. Cooperative Agencies. Public agencies that show exceptional cooperation or success in working with economically disadvantaged companies.

4. Cooperative Non-EDB Firms. Companies in the private sector that demonstrate unusual efforts at promoting or buying from economically disadvantaged businesses or have been outstanding mentors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997).

### **Chapter 9. Small Business Bonding Program**

#### **§901. Small Business Bonding Assistance**

A. Program Activities—Louisiana Contractors Accreditation Institute: (LCAI)

1. Eligibility. All economically disadvantaged business construction contractors who are certified by the Division of Economically Disadvantaged Business Development, Department of Economic Development, are eligible to attend the institute. However, other contracting businesses will be invited to attend the institute but they will not be able to receive the grant assistance or bond guarantee until they have been certified by the Economically Disadvantaged Business Development Program.

2. Standards and Procedures for Determining Course Content. The Director of Bonding Assistance Program (BAP) will once a year consult with the heads of the construction schools in Louisiana approved by the Board of Regents and Department of Education to ensure that current course content adequately prepares the students to run their construction firms in a businesslike manner.

3. Attendance. Attendance is open to only certified or potentially certified economically disadvantaged business construction contractors. However, contractors must register for institute he or she wish to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation which qualifies them to receive the grant assistance and bond guarantee phases of the program.

4. Accreditation Without Institute Attendance. An EDB firm may request to be accredited without attendance. The Director of the BAP will conduct a review of the firm. If the

contractor can present evidence he conducts business within standards set by Best Practices, the Director may issue accreditation to the firm.

5. Accreditation by Test Only. Should the accreditation in Paragraph 4, supra, be denied, the firm may gain an accreditation without attending the institute by obtaining an acceptable score on the test administered during the institute.

6. Grant Assistance

a. Eligibility. The primary goal of the Bonding Assistance Program (BAP) is to increase the number of bonds received by Economically Disadvantaged Business (EDB) on reasonable terms. Toward this end, certified economically disadvantaged business contractors are eligible to receive the grant assistance provided for by these Rules. All EDB contractors will be deemed to have the required level of capability necessary to be eligible for professional assistance if they are accredited pursuant to §501.C, D, or E of these Rules. The contractor must demonstrate economic need.

b. Method of Receiving the Grant Assistance. An accredited contractor is automatically eligible to receive the grant assistance upon successfully completing the LCAI courses and agreeing to the following:

i. to participate in surveys designed to evaluate the effectiveness of the services received and to assure that the services were adequately performed;

ii. they authorize BAP to furnish relevant information to the assigned professional;

iii. they waive all claims against BAP, the Department of Economic Development, and the State of Louisiana arising from this assistance.

c. Eligible Professionals. The professionals selected to deliver the services will be mutually agreed upon by the contractor, the local Small Business Development Center (SBDC) and Director of the BAP.

d. Successful Completion of Contract. The Local SBDC's procurement policies and procedures along with BAP's evaluation process will be used to monitor contract performance. The SBDC will allow DED personnel to inspect all relevant files.

7. Direct Bonding Assistance. All certified economically disadvantaged businesses that have been accredited by the LCAI may be eligible for surety bond guarantee assistance from the Louisiana Economic Development Corporation (LEDC). Such assistance will be provided in accordance with Rules promulgated by LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997).

**Chapter 11. Promotion of Economically Disadvantaged Businesses**

**§1101. Promotion**

**A. Directory**

1. Compilation. The Division shall compile a directory of all certified economically disadvantaged businesses and

make it available to the businesses and governmental agencies.

2. Frequency of Publication. The directory shall be updated at least annually, based upon information provided by certified businesses. The Division may issue updated directories more frequently.

3. Volume and Distribution. At least one copy of the directory will be made available to each state agency and educational institution, and copies will be provided to the State Library. Additional copies may be made available to the public and governmental agencies as Division's resources permit.

4. Available Information. Public information concerning an economically disadvantaged business may be obtained by contacting the Division of Economically Disadvantaged Business Development during normal working hours.

B. Other Promotional Means. The Division will utilize other feasible means of promoting economically disadvantaged businesses, such as, but not limited to, the Internet, world wide web, electronic bulletin boards, trade shows, or private sector contacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997).

**Chapter 13. Complaints and Investigations**

**§1301. Complaints and Investigation of Ineligibility**

A. Right To File Complaint. Any individual, firm, or governmental agency which believes that a certified business does not qualify for certification may file a written, signed complaint with the Division. The complaint must contain sufficient information for Division to conduct an investigation, including specific identification of the affected business, basis for the charge of ineligibility, and identification, mailing address, and telephone number of the complainant.

B. Right to Due Process. No disadvantaged business shall be decertified based upon a complaint, without first having had an opportunity to respond to the allegations. However, failure of the disadvantaged business to respond to the Division's notification within 30 calendar days of mailing from the Division may result in revocation of certification.

**C. Investigative Procedure**

1. Notification of Allegation. The Division shall notify the certified business which is subject of the complaint by certified mail, return receipt requested, of the allegation within 15 calendar days of the complaint's receipt.

2. Investigation Conducted. Within available resources, the Division shall investigate each complaint as promptly as possible. In no event shall the investigation extend beyond 60 calendar days from the date that the complaint was received.

3. Cooperation. The disadvantaged business enterprise shall cooperate fully with the investigation and make its staff and records available to Division if requested. Insufficient cooperation may be grounds for concluding that the firm has

not borne the burden of proving to the satisfaction of the Division that it is eligible for certification, resulting in revocation of certification.

4. Upon completion of the investigation, the Division's Executive Director shall make a determination and issue a written decision which either rejects the complaint or revokes the certification within 10 working days. A copy of the written decision shall be sent to the firm that was subject of the complaint, the complainant, and the Director of the Division of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1760.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997).

### **§1303. Grounds and Procedure for Reconsideration of Denial**

A. Right to Petition. A decision by the Division to deny issuing certification, deny renewal of certification, or to revoke certification will be reconsidered after an applicant business has submitted a written petition for reconsideration to the Executive Director of Division.

B. Grounds. Grounds for petitioning Division to reconsider a denial or revocation of certification are that the Division of Economically Disadvantaged Business Development:

1. did not have all relevant information;
2. misapplied its rules;
3. otherwise made an error in reaching its original decision.

C. Right to Petition for Reconsideration. A petitioning business may appeal Division's decision to deny issuance of certification, to deny recertification, or to revoke certification. Only a firm which is subject of the denial or revocation has a right to petition for reconsideration.

1. Petition Submitted. The appellant business submits a written petition for reconsideration to the Division's Executive Director. If the petition has not been received by the Division within 30 days of the date of the letter announcing the denial or revocation, the Division's decision becomes administratively final.

2. The petition shall specify grounds upon which a reconsideration is justified and the type of remedy requested. The petition for reconsideration must also clearly identify a contact person, mailing address, telephone number. The petitioning firm may provide any additional information which would be pertinent to the issue.

3. Acknowledgment. Upon receiving a petition for reconsideration, Division shall acknowledge its receipt by sending certified mail, return receipt requested, to the petitioner within five working days.

4. Reconsideration. The Division shall consider the petition and review all pertinent information, including additional information provided by the appellant business. Division may conduct further investigation as necessary.

5. Notification of Decision. No later than 60 calendar days from receipt of the petition for reconsideration, the

Division shall notify the petitioner by certified mail, return receipt requested, of its decision either to affirm the denial or revocation, with specific reason(s) of the grounds for the decision.

D. Final Decision. A decision to deny, revoke, or suspend certification following consideration of a petition for reconsideration is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1762.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:55 (January 1997).

Henry J. Stamper  
Executive Director

9701#007

## **RULE**

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

#### **Minimum Foundation Program (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 amended the Minimum Foundation Program Student Membership Definition.

### **Title 28 EDUCATION**

#### **Part I. Board of Elementary and Secondary Education Chapter 17. Finance and Property**

##### **§1709. Budgets**

A. - H. ...

##### **I. MFP: Equalization Grant**

1. Each parish and city school system shall receive an allocation from the annual equalization grant in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

2. 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, 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 16 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. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:55 (January 1997).

Weegie Peabody  
Executive Director

9701#056

## RULE

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

NESHAP for Source Categories  
(LAC 33:III.Chapter 51 and 53)(AQ144)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950

et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 51, Subchapters B and C and Chapter 53, Subchapter B (AQ144).

This rulemaking to adds new requirements to Louisiana's Air Quality regulations by adopting by reference specific parts of 40 CFR Part 63 - NESHAP for Source Categories. In addition, specific parts of 40 CFR Part 61 are incorporated by reference to replace existing state regulations which are identical or only slightly different from the federal regulation. This will reduce the volume of state regulations and also eliminate duplication and confusion experienced by the regulated community in determining the differences between state and federal regulations. Specific changes are as follows:

#### LAC 33:III.Chapter 51

Sections 5101, 5103, 5105, 5107, 5109, 5111, and 5113 have been revised to correct text with the new state codification and federal references;

Section 5115 is repealed in its entirety;

Sections 5117, 5121, 5133, 5137, 5139, 5143, 5161, 5163, and 5171 are repealed in their entirety as these regulations are incorporated by reference from 40 CFR Part 61 into §5116;

Section 5122 is added to adopt by reference specified subparts from 40 CFR Part 63 as they pertain to major sources.

#### LAC 33:III.Chapter 53

Section 5301 has been revised as indicated within Chapter 53;

Section 5311 is added to adopt by reference specified subparts from 40 CFR Part 63 as they pertain to area sources;

Section 5303 is repealed in its entirety.

### Title 33

## ENVIRONMENTAL QUALITY

### Part III. Air

#### Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

The following Sections from this Chapter, are hereby repealed in their entirety: LAC 33:III.5115, 5117, 5121, 5133, 5137, 5139, 5143, 5161, 5163, and 5171.

#### Subchapter A. Applicability, Definitions, and General Provisions

##### §5101. Applicability

The provisions of this Subchapter apply to the owner or operator of any major source, as defined herein. The provisions of LAC 33:III.5105.A, 5107, 5111.A.4, and 5113 apply to the owner or operator of any stationary source which was a major source upon promulgation of this Subchapter but which has achieved minor source status through reduction of emissions and reduction of potential to emit. Effective upon promulgation of applicable source category Rules in accordance with R.S. 30:2060, the provisions of this Subchapter apply to the owner or operator of any minor source, if specified by such Rules. The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:56 (January 1997).

**§5103. Definitions, Units, and Abbreviations**

A. The terms in this Subchapter are used as defined in LAC 33:III.111 except for those terms defined herein as follows:

\* \* \*

[See Prior Text]

*Area Source*—any stationary source that is not a major source.

\* \* \*

[See Prior Text]

*Certification of Compliance*—a statement indicating that specific requirements under this Subchapter have been met, including a description of measures used to meet such requirements.

*Compliance Plan*—a description of measures to be used to meet requirements under this Subchapter, including a compliance schedule of dates by which such measures will be taken.

*Compliance Schedule*—a sequence of events leading to compliance with all requirements of this Subchapter including the specified date by which the source must achieve compliance, and interim dates by which all necessary milestones shall be achieved.

\* \* \*

[See Prior Text]

*Electric Utility Steam Generating Unit*—any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

*Existing Source*—any stationary source that is not a new source.

\* \* \*

[See Prior Text]

*Maximum Achievable Control Technology (MACT)*—

1. The maximum degree of reduction in emissions of each air pollutant subject to this Subchapter (including a prohibition on such emissions, where achievable) that the administrative authority, upon review of submitted MACT compliance plans and other relevant information and taking into consideration the cost of achieving such emission reduction, as well as any non-air-quality health and environmental impacts and energy requirements, determines is achievable through application of measures, processes, methods, systems, or techniques including, but not limited to, measures that:

a. reduce the volume of, or eliminate emissions of such pollutants through process changes, substitution of materials, or other modifications; or

b. enclose systems or processes to eliminate emissions; or

c. collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point; or

d. are design, equipment, work practice, or operational standards (including requirements for operator training or certification); or

e. are a combination of the above.

2. The degree of reduction in emissions deemed achievable for new sources in a category or subcategory shall not be less stringent than the most stringent emissions level achieved in practice by the best controlled similar source in the same category or subcategory, as determined by the administrative authority upon review of submitted MACT compliance plans and other relevant information, and may be more stringent where feasible.

3. Emissions standards for existing sources in a category or subcategory may be less stringent than standards for new sources in a similar category or subcategory provided that the emissions limitation for existing sources in the category or subcategory is not less stringent, and may be more stringent, than:

a. for the categories or subcategories with 30 or more sources, the average emission limitation achieved by the best performing 12 percent of the existing sources nationally in the category or subcategory; or

b. for the categories or subcategories with fewer than 30 sources, the average emission limitation achieved by the best performing five sources nationally in the category or subcategory.

*Modification (modify)*—any change in a facility including, but not limited to, a physical change, a change in the method of operation, or a change in the raw materials or feedstocks used for products manufactured that increases or decreases the emission rate of any toxic air pollutant by an amount that is greater than the minimum emission rate listed for that pollutant in Table 51.1, or that results in the emission, at a rate greater than the minimum emission rate listed in Table 51.1, of any toxic air pollutant not previously emitted. A change in production rates (up to capacity) or hours of operation shall not be considered a change in the method of operation.

\* \* \*

[See Prior Text]

*Standard*—any criterion or prohibition as set forth in this Subchapter to control the emission of toxic air pollutants.

\* \* \*

[See Prior Text]

*Stationary Source*—any building, structure, facility, or installation that emits or may emit any toxic air pollutant designated by this Subchapter.

*Toxic Air Pollutant (TAP)*—any substance listed in Table 51.2 or Table 51.3 of this Subchapter. Toxic air pollutants are listed pursuant to R.S. 30:2060 and, except for lead, do not include those pollutants for which National Ambient Air Quality Standards have been established under Section 108 of the Federal Clean Air Act.

\*\*\*

[See Prior Text]

B. Units and Abbreviations. The following units, abbreviations, and symbols are used in this Subchapter:

\*\*\*

[See Prior Text in B.1-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:57 (January 1997).

**§5105. Prohibited Activities and Special Provisions**

\*\*\*

[See Prior Text in A]

1. After the effective date of any standard set forth in this Subchapter, no owner or operator shall construct or modify any stationary source subject to such standard without first obtaining written authorization from the administrative authority in accordance with this Subchapter.

2. After December 20, 1991, no owner or operator of any stationary source subject to the provisions of this Subchapter shall cause a violation of any ambient air standard listed in Table 51.2, unless operating in accordance with LAC 33:III.5109.

3. No owner or operator subject to the provisions of this Subchapter shall build, erect, install, or use any article, machine, equipment, process, or method, the use of which conceals an emission that would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of diluents to achieve compliance with an emissions standard, and the piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

4. No owner or operator subject to this Chapter shall fail to keep records, notify, report or revise reports as required under this Subchapter.

**B. Special Provisions**

1. The administrative authority may allow a certain complex within a facility to be considered as a separate source with regard to the requirements of this Subchapter, provided that the complex is used solely for research and development of new processes and/or products, and is not engaged in the manufacture of products for commercial sale.

2. No later than December 20, 1994, the administrative authority shall initiate a review of electric utility steam-generating units to determine whether such units shall be regulated under this Subchapter. The administrative authority may consider the results of a study of such units conducted by the United States Environmental Protection Agency as required in Title III, Section 112 of the Clean Air Act Amendments of 1990, and any other information available at that time. Until the administrative authority makes a final determination electric utility steam-generating units are exempt from the requirements of this Subchapter.

3. The administrative authority shall prepare an emissions inventory of toxic air pollutant emissions from stationary combustion sources to be made available to the public not later than December 20, 1994. The administrative

authority may require facilities that emit or discharge toxic air pollutants from stationary combustion sources to provide the identities and quantities of toxic air pollutants emitted or to provide information required to estimate emissions from such sources. The administrative authority shall regulate emissions of toxic air pollutants derived from the combustion of virgin fossil fuels under this Section if the administrative authority finds that such regulation is appropriate and necessary after consideration of information contained in the emissions inventory and any other information available at that time. Until the administrative authority makes a final determination, the following emissions are exempt from the requirements of this Subchapter:

\*\*\*

[See Prior Text in B.3.a - B.7]

8. A Louisiana Maximum Achievable Control Technology (MACT) determination for the pulp and paper mill source category, setting forth emission and/or technical control standards and schedules for achieving compliance, shall be promulgated by the administrative authority in accordance with the Louisiana Administrative Procedure Act. The owner or operator of any major source which is a pulp or paper mill shall assist the department in the determination of MACT by providing reasonably available technical and economic data as requested. The administrative authority shall publish and make available for comment the proposed Louisiana MACT determination within six months of promulgation of the federal MACT standards for the pulp and paper source category by USEPA or on December 20, 1997, whichever is sooner. In the event that a state MACT standard is proposed pursuant to this Paragraph prior to promulgation of federal MACT standards, the proposed effective date shall be December 20, 1998. Notwithstanding LAC 33:III.5109.A, B.3.c, D, and 5111.B.4 or any contrary provision of this Subchapter, until the administrative authority makes a final determination of MACT for pulp and paper mills, major sources in the pulp and paper mill source category are exempt from the MACT provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:2104 (December 1991), amended LR 18:1362 (December 1992), LR 21:370 (April 1995), LR 23:58 (January 1997).

**§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions**

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[See Prior Text in A - B.6]

C. Availability of Information. The availability to the public of information provided to, or otherwise obtained by, the administrative authority under this Subchapter, shall be governed by R.S. 30:2030, and applicable Rules and Regulations promulgated thereunder.

\*\*\*

[See Prior Text in D - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997).

**§5109. Emission Control and Reduction Requirements and Standards**

\* \* \*

[See Prior Text in A - B.5]

C. Standard Operating Procedure Requirements. The owner or operator of any new or existing source required to report emissions in accordance with LAC 33:III.5107.A shall develop a standard operating procedure (SOP) within 120 days after achieving or demonstrating compliance with the standards specified in this Chapter. The SOP shall detail all operating procedures or parameters established by the owner or operator to ensure that compliance with the applicable standards is maintained and shall address, but not be limited to, operating procedures for any monitoring system in place, specifying procedures to ensure compliance with LAC 33:III.5113.C.5. A written copy of the SOP must be available on site or at an alternate approved location for inspection by the administrative authority. A copy of the SOP must be provided within 30 days upon request by the department. The requirements of this Subsection do not apply to emissions of those pollutants listed in Table 51.3.

\* \* \*

[See Prior Text in D - D.3]

4. Under no circumstance will the owner or operator of any major source under this Subchapter be granted more time to comply with Maximum Achievable Control Technology requirements than is allowed under an applicable federal MACT standard established pursuant to Section 112 of the Federal Clean Air Act.

\* \* \*

[See Prior Text in E - E.2.c]

d. a statement specifying the requirements under this Subchapter to which the certification of compliance applies;

\* \* \*

[See Prior Text in E.2.e - F.1.e]

2. Submitting a request for a deferred compliance schedule does not relieve the owner or operator of his or her responsibility to comply with this Subchapter and does not preclude the department from initiating enforcement actions due to failure to comply with standards.

\* \* \*

[See Prior Text in G - G.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), LR 23:59 (January 1997).

**§5111. Permit Requirements, Application, and Review**

\* \* \*

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

4. The owner or operator of any existing major source which is operating without a Louisiana Air Permit, or which is not fully permitted, at the time of promulgation of this Subchapter, shall apply for a permit in accordance with Subsection B of this Section. For sources not required to submit a compliance plan pursuant to LAC 33:III.5109.D, the permit application shall be submitted no later than December 20, 1993.

\* \* \*

[See Prior Text in A.5 - B.2.e]

3. Unless otherwise specified in this Subchapter, each application for a permit to modify a new or existing major source facility shall include, in addition to the information required in Subsection B.2 of this Section, the following information:

\* \* \*

[See Prior Text in B.3.a - C.1.a]

b. If an applicant fails or refuses to correct deficiencies in the application or to provide additional information requested by the administrative authority by the date specified, the permit shall be denied.

\* \* \*

[See Prior Text in C.2 - C.3]

4. Permits issued by the administrative authority under this Subchapter shall be valid for a period of five years from the date of issuance at which time they will be subject to review by the administrative authority.

a. Upon review, the administrative authority may extend any such permit for a period not to exceed five years from the date of expiration. Before final action is taken upon a permit under review, a notice of the permit filed for review will be published to allow adequate time for public comment.

b. Permits under review shall remain in force until review is complete and the permit is acted upon by the administrative authority.

5. Neither the submittal of an application for a permit nor the administrative authority's granting of a permit for construction or modification shall:

a. relieve an owner or operator of legal responsibility for compliance with any applicable provision of this Subchapter or of any other applicable federal, state, or local requirement; or

b. prevent the administrative authority from implementing or enforcing this Subchapter or taking any other action under the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), repromulgated LR 19:1314 (October 1993), amended LR 23:59 (January 1997).

**§5113. Notification of Start-up, Testing, and Monitoring**

A. Notification of Start-up. Any owner or operator that has an initial start-up of a stationary source subject to MACT or Ambient Air Standard Requirements under this Subchapter shall furnish the administrative authority written notification as follows:

\* \* \*

[See Prior Text in A.1 - B]

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. All tests shall be conducted by qualified personnel. The department shall be given a copy of the test results in writing signed by the person responsible for the tests within 45 days after completion of the test.

2. Emission tests shall be conducted as set forth in accordance with Test Methods of 40 CFR, parts 60, 61, and 63 or in accordance with alternative test methods approved by the administrative authority.

\* \* \*

[See Prior Text in B.3 - B.4.d]

e. any other facilities that the administrative authority needs to safely and properly test a source.

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the administrative authority by a certified letter sent before the close of business on the 45th day following the completion of the emission test.

6. The owner or operator shall retain records of emission test results and other data needed to determine emissions. Such records shall be retained at the source, or at an alternate location approved by the administrative authority for a minimum of two years, and shall be made available upon request for inspection by the administrative authority.

7. The owner or operator shall notify the administrative authority of any emission test required to demonstrate compliance with this Subchapter at least 30 days before the emission test to allow the administrative authority the opportunity to have an observer present during the test.

#### C. Monitoring Requirements

1. Each owner or operator shall maintain and operate each monitoring system in a manner consistent with good air pollution control practices for minimizing emissions. Any breakdown or malfunction of the monitoring system shall be repaired or adjusted as soon as practicable after its occurrence. The administrative authority's determination of whether acceptable operating and maintenance procedures are being used will be based on information that may include, but is not limited to, review of operating and maintenance procedures, manufacturer recommendations and specifications, inspection of the monitoring system, and adherence to a preventive maintenance program.

2. When required at any other time requested by the administrative authority, the owner or operator of a source being monitored shall conduct a performance evaluation of the monitoring system and furnish the administrative authority with a copy of a written report of the results within 60 days of the evaluation. The owner or operator of the source shall furnish the administrative authority with written notification

of the date of the performance evaluation at least 30 days before the evaluation is to begin.

3. When monitoring is required and the effluents from a single source, or from two or more sources subject to the same emission standards, are combined before being released to the atmosphere, the owner or operator shall install a monitoring system on each effluent or on the combined effluent. If two or more sources are not subject to the same emission standards, the owner or operator shall install a separate monitoring system on each effluent, unless otherwise specified. If the applicable standard is a mass emission standard and the effluent from one source is released to the atmosphere through more than one point, the owner or operator shall install a monitoring system at each emission point unless the administrative authority approves the installation of fewer systems.

\* \* \*

[See Prior Text in C.4]

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the department for approval a plan describing the affected sources and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

a. Upon request, the owner or operator of any affected facility shall evaluate the performance of continuous monitoring systems and furnish the administrative authority with two or more copies of a written report of the test results within 60 days. The performance of the continuous monitoring systems shall be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of 40 CFR part 60.

b. Except for continuous monitoring system breakdown and repairs, calibration checks, and zero and span adjustments, and when the equipment being monitored is out of service or shutdown, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements.

c. All continuous monitoring systems for measuring emissions, except opacity, shall where feasible complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

d. All continuous monitoring systems or monitoring devices shall be installed to make representative measurements under variable process or operating parameters.

e. An owner or operator of any continuous monitoring system shall collect and reduce all data as follows:

i. An owner or operator of a continuous monitoring system measuring opacity shall:

(a). reduce all data to six-minute averages; and

(b). calculate the six-minute averages from 36 or more data points equally spaced over each six-minute period.



ii. An owner or operator of a continuous monitoring system measuring parameters other than opacity shall:

(a). reduce all data to one-hour averages; and

(b). where feasible, calculate the one-hour averages from four or more data points equally spaced over each one-hour interval.

f. Data recorded during periods of continuous monitoring system breakdowns and repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this Paragraph.

6. Repeated problems of monitoring system breakdowns, repairs, calibration checks, zero and span adjustments, or failure to follow standard operating procedures (SOPs) shall be subject to investigation and enforcement actions.

7. The owner or operator of any monitoring system shall maintain records of monitoring data, monitoring system calibration checks, and the occurrence and duration of any period during which the monitoring system is malfunctioning or inoperative. These records shall be maintained at the source, or at an alternate location approved by the administrative authority, for a minimum of three years and made available, upon request, for inspection by the administrative authority.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997).

**Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the Code of Federal Regulations at 40 CFR part 61, revised as of July 1, 1995, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart C	National Emission Standard for Beryllium
Subpart D	National Emission Standard for Beryllium Rocket Motor Firing
Subpart E	National Emission Standard for Mercury
Subpart F	National Emission Standard for Vinyl Chloride
Subpart J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
Subpart V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)

Subpart Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels
Subpart BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations
Subpart FF	National Emission Standard for Benzene Waste Operations
Appendix A	National Emission Standards for Hazardous Air Pollutants, Compliance Status Information
Appendix B	Test Methods
Appendix C	Quality Assurance Procedures

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Federal Register* as they exist from July 1, 1995, through June 30, 1996, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Appendix B	61 FR 18278	April 25, 1996	Test Methods

C. Corrective modifications are made to 40 CFR part 61 subpart A, Section 61.04(b)(T), to read as follows: State of Louisiana: Air Toxics Program Manager, Air Quality Division, Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135.

D. Copies of documents incorporated by reference in this Chapter are available for review at the Air Quality Division Information Center, Louisiana Department of Environmental Quality, or may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

**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 23:61 (January 1997).

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the Code of Federal Regulations at 40 CFR part 63, revised as of July 1, 1995, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart B	Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)
Subpart C	List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List (Reserved)
Subpart D	Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants
Subpart F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
Subpart G	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
Subpart H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
Subpart I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart N	National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
Subpart O	Ethylene Oxide Emissions Standards for Sterilization Facilities
Subpart Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers
Subpart R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
Subpart T	National Emission Standards for Halogenated Solvent Cleaning
Subpart W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production
Subpart X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting
Appendix A	Test Methods
Appendix B	Sources Defined for Early Reduction Provisions
Appendix C	Determination of the Fraction Biodegraded (F <sub>bio</sub> ) in a Biological Treatment Unit

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as they exist from July 1, 1995, through June 30, 1996, and specifically listed in the following table are hereby

incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart B	61 FR 21372	May 10, 1996	Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)
Subpart C	61 FR 30823	June 18, 1996	List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List
Subpart F	60 FR 63626	December 12, 1995	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
	61 FR 7718	February 29, 1996	
	61 FR 31439	June 20, 1996	
Subpart G	61 FR 7718	February 29, 1996	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
Subpart H	60 FR 63631	December 12, 1995	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
	61 FR 31439	June 20, 1996	
Subpart I	61 FR 7718	February 29, 1996	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
	61 FR 31441	June 20, 1996	
Subpart M	61 FR 27788	June 3, 1996	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart N	61 FR 27787	June 3, 1996	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
Subpart O	61 FR 27788	June 3, 1996	Ethylene Oxide Emission Standards for Sterilization Facilities
Subpart X	61 FR 27788	June 3, 1996	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting
Subpart R	61 FR 43260	August 18, 1996	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
	61 FR 7723	February 29, 1996	
Subpart Y	60 FR 48399	September 19, 1995	Federal Standards for Marine Tank Vessel Loading Operations and National Emission Standards for Hazardous Air Pollutants for Marine Tank Vessel Loading Operations
Subpart CC	60 FR 43260	August 18, 1995	National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries
	60 FR 49976	September 27, 1995	
	61 FR 7051	February 23, 1996	
	61 FR 29878	June 12, 1996	
Subpart GG	60 FR 45956	September 1, 1995	National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework Facilities
	61 FR 4903	February 9, 1996	
Subpart II	60 FR 64336	December 15, 1995	National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) Operations
	61 FR 30816	June 18, 1996	

Subpart JJ	60 FR 62935	December 7, 1995	National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations
Subpart KK	61 FR 27140	May 30, 1996	National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From the Printing and Publishing Industry
Appendix A	60 FR 62952	December 7, 1995	Test Methods

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 23:61 (January 1997).

**Subchapter D. Reserved**

**Subchapter E. Reserved**

**Subchapter F. Reserved**

**Subchapter G. Reserved**

**Subchapter H. Reserved**

**Subchapter I. Reserved**

**Subchapter J. Reserved**

**Chapter 53. Area Sources of Toxic Air Pollutants**

**Subchapter A. Toxic Emissions Reporting Requirements**

**§5301. Applicability**

The provisions of this Subchapter apply to area sources as defined in LAC 33:III.5103 which belong to the following categories of facilities and which use the chemicals listed for that category:

\* \* \*

[See Prior Text in A.1-7]

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 20:430 (April 1994), amended LR 23:63 (January 1997).

**Subchapter B. Incorporation by Reference of 40 CFR part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the Code of Federal Regulations at 40 CFR Part 63, revised as of July 1, 1995, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

Subpart X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting
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B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as they exist from July 1, 1995, through June 30, 1996, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart M	61 FR 27788	June 3, 1996	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	61 FR 27788	June 3, 1996	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

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 23:63 (January 1997).

Gus Von Bodungen  
Assistant Secretary

9701#048

## RULE

### Louisiana Lottery Corporation

#### On-Line Lottery Games (LAC 42:XV.Chapter 1)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., has amended the Rules and Regulations pertaining to the operations of on-line lottery games in particular LAC 42:XV.141 to allow the Louisiana Lottery Corporation to offer the multi-state Lottery game "Daily Millions".

#### Title 42

### LOUISIANA GAMING

#### Part XV. Lottery

#### Chapter 1. On Line Lottery Games

#### §101. Policy Statement

The Louisiana Lottery Corporation (the "corporation") is authorized by Louisiana Revised Statutes 47:9008(A) to adopt such Rules and Regulations as may be necessary to conduct specific lottery games and operations of the corporation. Pursuant to that grant of authority, the board of directors of the corporation (the "board") has adopted these on-line lottery games general Rules, which are intended to provide general

guidelines concerning the conduct and administration of on-line lottery games.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:63 (January 1997).

### §103. Definitions

As used in the game rules, game directives and drawing directives, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

**Board**—the Board of Directors of the Louisiana Lottery Corporation.

**Claim Center**—a regional office or claims office of the corporation at which winners may redeem prizes.

**Claim Deadline**—the day after which prizes from a particular game or on-line drawing are no longer eligible to be redeemed or claimed.

**Claim Form**—the form provided by the corporation to be completed by prize winners when claiming a prize.

**Corporation**—the Louisiana Lottery Corporation.

**Drawing Directive**—the detailed drawing instructions followed by the corporation for each drawing event.

**Free Ticket**—a lottery prize for which the winner is entitled to another ticket for the same game, without charge.

**Game Directive**—the game-specific guidelines that itemize the particular requirements of each game.

**Game Rules**—these general rules regarding all on-line lottery games, prize payments, and other game parameters.

**Invalid Ticket**—any ticket that fails to meet all of the validation requirements of the corporation.

**Lottery**—any game of chance approved by the corporation and operated pursuant to the Louisiana Lottery Corporation Law.

**Lotto**—a lottery game that offers a player a choice of five, six or seven numbers out of a specified field of numbers, the winner being determined by a drawing.

**Numbers Game**—a lottery game permitting the player to choose a three-digit or four-digit number, the winner being determined by a drawing.

**On-Line Game Ticket**—an official ticket issued by the corporation in connection with any on-line lottery game, produced on official paper stock by an on-line retailer in an authorized manner, bearing player or computer selected numbers, figures and/or characters representing the type of wager, drawing date, amount of wager, and validation data.

**On-Line Lottery Game**—a game, authorized in §105, which is played using ticket-generating terminals linked to a central computer, with winners being determined by a drawing.

**On-Line Retailer**—any person with whom the corporation has contracted to sell on-line game tickets to the public.

**President**—the president of the Louisiana Lottery Corporation.

**Quick-Pick**—a player option by which on-line game number selections are determined at random by computer software.

**Valid Ticket**—a ticket that meets the validation requirements of the corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, amended October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:64 (January 1997)

### §105. General Provisions

A. These game rules authorize the corporation to offer the following on-line lottery games:

1. **Pick 3 Daily Game.** An on-line numbers game permitting a player to choose a three-digit number, the winner being determined by a drawing.

2. **Lotto.** An on-line lotto game permitting a player a choice of six numbers out of a specified field of numbers, the winner being determined by a drawing.

3. **Easy 5.** An on-line lotto game permitting a player a choice of five numbers out of a specified field of numbers, the winner being determined by a drawing.

B. Introduction of a new on-line lottery game may only be accomplished by amendment of these game rules to include the game as an authorized game. These game rules shall apply to the on-line lottery games listed in this Section. The detailed information regarding each on-line game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. Each game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of the particular game.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:64 (January 1997).

### §107. Probability of Winning

The overall probability of winning any prize in a particular game (expressed as "odds" of winning as that term is commonly used in the lottery industry) will be contained in the game directive for that game and shall be included in the promotional materials for the game. The statement of "odds" does not need to specify the "odds" of winning each particular prize. The corporation shall make every attempt to release accurate "odds" information in press releases for each on-line lottery game.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, repromulgated LR 23:64 (January 1997).

### §109. Compliance with Law/Rules

In submitting an official on-line game ticket for validation, the player agrees to abide by applicable laws, all corporation rules, regulations, policies, directives, instructions, conditions, and final decisions of the president of the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, repromulgated LR 23:64 (January 1997).

#### **§111. Names of Winners**

The corporation shall have the right to use the names and the city or area of residence of all prize winners in on-line lottery games. The information may be used by the corporation for advertising and publicity purposes. The corporation will not make public the addresses or phone numbers of on-line lottery winners. Such information will be provided to authorized governmental agencies, as required by law or as deemed appropriate. Winners who grant the corporation permission to be photographed agree to allow the use of such photographs for publicity and advertising purposes without any additional compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:65 (January 1997).

#### **§113. Age Eligibility**

No person under 18 years of age may purchase an on-line game ticket, but persons under 18 years of age may receive an on-line game ticket as a gift.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:65 (January 1997).

#### **§115. Retailer Eligibility**

Retailers authorized by the corporation to sell tickets may purchase tickets and may claim prizes resulting from any tickets so purchased.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:65 (January 1997).

#### **§117. End of Game**

Each on-line lottery game will continue until such ending date as may be announced by the president. The president may suspend or terminate a game without notice if such action is deemed to be in the best interest of the corporation. No tickets for a particular game may be sold for a game after the suspension or termination of the game.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:65 (January 1997).

#### **§119. Winner Validation**

A. Except as provided in specific game directives, the following requirements will apply to the validation of winning on-line game tickets:

1. The validation data, number selections, and drawing date(s) printed on the ticket must be present in their entirety and must correspond with the data reflected in the

corporation's computer records relating to the production of the ticket.

2. The on-line ticket must be intact and not defaced in any manner.

3. The ticket must not be mutilated, altered, reconstituted, or tampered with in any manner.

4. The ticket must not be counterfeit in whole or in part, nor an exact duplicate of another winning ticket.

5. The ticket must have been issued by an authorized on-line retailer in the authorized manner on official paper stock.

6. The ticket must not be stolen or canceled.

7. The ticket must have exactly the specified number of computer selected numbers, figures and/or characters, and validation data as provided for in the game directives for the game.

8. The ticket must not be partially blank, misregistered, defectively printed, or produced in error to the extent that it cannot be validated by the corporation.

9. The ticket must be submitted for redemption within the claim period provided for in the game.

10. The ticket must be submitted for payment in accordance with the provisions set forth in each game directive.

11. The player or computer number selections, validation data and drawing date(s) of an apparent winning ticket must appear on the official transaction record of the corporation, and a ticket with that exact data must not have been previously paid.

12. The ticket must pass all other confidential security checks of the corporation.

13. In submitting an official on-line game ticket for validation, the player agrees to abide by applicable laws, all corporation rules, regulations, policies, directives, instructions, conditions, and final decisions of the president of the corporation.

B. Except as provided above, any on-line game ticket that fails to pass any of the validation requirements is void and ineligible for any prize, and no prize shall be paid. Liability for defective tickets is limited to the original purchase price of the ticket.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, repromulgated LR 23:65 (January 1997).

#### **§121. Prize Payment**

On-line lottery game prizes will be paid in accordance with game directives and retailer regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:65 (January 1997).

#### **§122. Delay of Payment**

A. The corporation shall pay prizes in a timely fashion but may delay making payment of any prize or installment of a prize under the following circumstances:

1. A dispute occurs or it appears that a dispute may occur relative to any prize.

2. There is any question regarding the identity of the claimant.

3. There is any question regarding the validity of the ticket.

4. The claim is subject to any court ordered garnishment.

5. The corporation becomes aware of a change in circumstances relative to a prize award which requires review.

B. The corporation assumes no liability for interest for any delay of payment of a prize or installment.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:65 (January 1997).

### §123. Claim Form

A. For any prize of more than \$600, the owner of the apparent winning ticket shall complete an official claim form that requires the winner to provide:

1. the name of the individual or entity claiming the prize;

2. the address and city of residence of the claimant;

3. the social security number of the individual claimant or the federal employer's identification number issued by the IRS for multiple claimants.

B. No prize payment will be authorized if the required information is not provided by the claimant. The name of the owner printed on the back of the ticket must correspond with the name of the claimant.

C. A group, family unit, club or other organization which plays as a partnership which is not a legal entity and which does not possess a federal employer's identification number may claim a lump sum prize if it:

1. files an Internal Revenue Service form 5754, "Statement by Person(s) Receiving Gambling Winnings", or a successor form, with the corporation, designating to whom the prize is to be paid and the person or persons to whom the prize is taxable; or

2. designates one individual in whose name the claim shall be entered and furnishes that person's social security number and other required information.

D. Formal recognition of partnership play will be required with respect to lotto grand prizes paid on an installment basis. Formal recognition shall include, but shall not be limited to, production of a partnership agreement or memorandum thereof, listing the names of all partners. The corporation must also be furnished a Federal Employer's Identification Number for the partnership entity. Each such recognized partnership shall receive a single annual installment payment payable to the partnership.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:66 (January 1997).

### §125. Assignability

The right of any person to a prize after the prize is claimed shall not be assignable. The corporation may pay any prize to the estate of a deceased winner. Any prize to which a winner is entitled may be paid to any person pursuant to an appropriate judicial order.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:66 (January 1997).

### §127. Installment Prizes

The corporation may provide for the payment of any prize of more than \$100,000 in equal annual installments. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount. When the prize amount is paid in installments, the president may round the actual amount of the prize to the nearest \$1,000 amount to facilitate the appropriate funding mechanism. The period of payment of any installment payment schedule shall not exceed 20 years. The corporation shall not accelerate the payment schedule of any installment prize for any reason except pursuant to an appropriate judicial order.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:66 (January 1997).

### §129. Merchandise Prizes

If a noncash prize is offered, the value of the prize will be determined by the fair market value of any such prize, which will be the amount reported to the state and the IRS for tax purposes. If the value of the prize is \$5,000 or more, the corporation will pay withholding taxes on behalf of the winner in accordance with federal and state rules. The corporation will not be responsible for any other fees associated with the prize.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:66 (January 1997).

### §131. Drawings

The corporation shall follow drawing directives that detail the procedures for conducting each on-line game drawing, the drawing method, and the equipment to be utilized. The corporation shall exercise care to insure a totally random drawing process that results in the selection of prize winners in a method that favors none of the participants.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:66 (January 1997).

**§133. Independent Auditor**

All drawing events shall be witnessed by an independent auditing firm. The independent auditor shall attest to the fact that the procedures for the drawing were properly disseminated and that the procedures were followed, and shall make note of any exceptions to the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:67 (January 1997).

**§135. Bulk Purchase**

"Bulk Purchase" is the purchase of on-line game tickets for the purpose of accomplishing a buyout of a lotto jackpot or grand prize pool. The bulk purchase of on-line game tickets by an investment syndicate, investment group, corporation or any person for investment purposes is expressly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated *The Advocate*, October 28, 1994, repromulgated LR 23:67 (January 1997).

**§137. Bulk Sale**

"Bulk Sale" is the sale of on-line game tickets by a licensed on-line retailer for the purpose of assisting the purchaser in accomplishing a buyout of a lotto jackpot or grand prize pool. The bulk sale of on-line game tickets by a licensed on-line retailer is expressly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:67 (January 1997).

**§139. Enforcement**

The game directive shall include provisions to enforce the prohibitions contained in §§135 and 137.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994, and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:67 (January 1997).

**§141. Multi-State Lottery**

This Section authorizes the Louisiana Lottery Corporation, through an agreement with the Multi-State Lottery Association (MUSL), to offer the following games: "PowerBall" and "Daily Millions". Introduction of any new game conducted by MUSL may only be accomplished by amendment of this Section to include the game as an authorized game. The detailed information regarding the Rules of the PowerBall game and the Daily Millions game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. The game directive will be distributed and posted at every corporation office and will be

available for public inspection during the sales period of PowerBall and Daily Millions.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, amended LR 23:67 (January 1997).

Charles R. Davis  
President

9701#039

**RULE**

**Office of the Governor  
Division of Administration  
Office of the Commissioner**

Conduct of Hearing (LAC 34:I.3103)

The Division of Administration, Office of the Commissioner, in accordance with the provisions of R.S. 49:950 et seq., and R.S. 39:1581, amended LAC 34:I.3103 so that the said Rule will be in conformity with law as follows:

**Title 34  
GOVERNMENT CONTRACTS,  
PROCUREMENT AND PROPERTY CONTROL  
Part I. Purchasing  
Chapter 31. Conduct of Hearing—Louisiana  
Procurement Code**

**§3103. Application**

The following Rules shall only apply to hearings held by boards of higher education and institutions under their jurisdiction in accordance with §§1601, 1671, 1672, and 1673 of Title 39 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 9:210 (April 1983), amended LR 23:67 (January 1997).

Edgar C. Jordan  
Assistant Commissioner

9701#042

**RULE**

**Office of the Governor  
Patient's Compensation Fund Oversight Board**

General Provisions; Fund Enrollment; Surcharges; and Scope of Coverage (LAC 37:III.Chapters 1, 5, 7, and 9)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., amends LAC 37:III, as follows, which provides several technical corrections to the current Rules, defines and governs self-insurance coverage as

a method of qualifying for enrollment with the Fund, and clarifies the intent of several of the current Rules.

### Title 37

### INSURANCE

#### Part III. Patient's Compensation Fund Oversight Board

#### Chapter 1. General Provisions

##### §109. General Definitions

As used in these Rules, the following terms shall have the meanings specified:

##### 1. Terminology Definitions

*Act*—the Louisiana Medical Malpractice Act, Act 1975, Number 817, as amended, R.S. 40:1299.41-1299.48.

*Board*—the Louisiana Patient's Compensation Fund Oversight Board established pursuant to R.S. 40:1299.44 (D).

*Executive Director*—the Executive Director of the Louisiana Patient's Compensation Fund Oversight Board, as designated, appointed and delegated authority pursuant to §303.

##### 2. Coverage Definitions

*Claims-Made Coverage*—a form of professional liability coverage which provides coverage for a claim arising from an incident which both occurred and was reported during the effective period of qualification with the Fund. Provider must meet all requirements for continued qualification.

*Extended Reporting Endorsement*—tail coverage.

*Occurrence Coverage*—a form of professional liability coverage which provides coverage for a claim arising from an incident which occurred during the effective period of qualification regardless of whether the provider was actively enrolled on the date on which the claim was reported. Provider must meet all requirements for continued qualification.

*Self-Insured Coverage*—a form of professional liability coverage which provides coverage for a claim arising from an incident which occurred during the effective period of qualification regardless of whether the provider was actively enrolled on the date on which the claim was reported. Provider must meet all requirements for continued qualification.

*Tail Coverage*—an endorsement which, when purchased by a provider at the end of his claims-made coverage period, provides coverage for a claim arising from an incident which occurred during the effective period of enrollment but was reported following the termination of active enrollment. Provider must meet all requirements for continued qualification.

##### 3. Provider Definitions

*Enrolled Provider*—an enrolled provider is one who has met the requirements for qualification in the Louisiana Patient's Compensation Fund (including the financial responsibility requirements of R.S. 40:1299.42) who also:

i. is currently actively involved in medical practice and/or providing medical services in Louisiana (i.e., not retired or now practicing in another state); and

ii. has paid the appropriate surcharge for such practice to the LAPCF for their current policy year.

*Qualified Provider*—any provider who has met the statutory requirements for malpractice coverage with the

Louisiana Patient's Compensation Fund. Qualified providers may be currently either active or inactive in the practice of medicine in Louisiana, depending on the dates for which they are qualified. So long as the financial responsibility requirements for continued qualification are met, a provider need not be currently enrolled in the LAPCF.

##### 4. General Definitions

*Accept or Collect*—with reference to the acceptance or collection of payments of applicable surcharges for enrollment with the Fund, such surcharges will be deemed to have been "accepted" or "collected" by the commercial professional health care liability insurance companies and approved self-insurance trust funds when the first agent, employee, representative, or other person acting or purporting to act on behalf of the insurer or the trust fund who has the responsibility to process such surcharges accepts delivery of same.

*Disability*—for purposes of determining eligibility for the provisions of §715.D of these Rules, the inability to continue the practice of medicine due to a permanent illness, injury or physical impairment. However, for purposes of consideration for a waiver under the provisions of §715.C.3 of these Rules, *disability* may also include any permanent illness, injury or physical impairment which prevents a provider from continuing the practice of his existing medical specialty, surgical class or risk rating classification as provided in §705 of these Rules, whether or not such disability prevents the provider from engaging in the active practice of medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:168 (February 1992), amended LR 23:68 (January 1997).

#### Chapter 5. Enrollment With The Fund

##### §505. Financial Responsibility: Insurance

A. - D. ...

E. The insurance coverage required by this Rule to demonstrate the requisite financial responsibility for qualification with the Fund shall be deemed to be continuing without a lapse in coverage by the Fund, provided that the health care provider meets the premium payment conditions of the underlying coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:170 (February 1992), amended LR 21:394 (April 1995), LR 23:68 (January 1997).

##### §507. Financial Responsibility: Self-Insurance

A. - D. ...

E. To maintain financial responsibility for continuing enrollment or qualification with the Fund, a health care provider shall at all times maintain the unimpaired principal value of the deposit provided for by this Section at not less than \$125,000. The value of the health care provider's deposit shall be deemed impaired when any portion is seized pursuant to judicial process.

F. - I.1.c ...



1.2. Effective as of the date on which a self-insured health care provider's deposit is withdrawn pursuant to this Section, the health care provider's enrollment and qualification with the Fund shall be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:171 (February 1992), amended LR 18:737 (July 1992), LR 23:68 (January 1997).

#### **§509. Financial Responsibility: Self-Insurance Trusts**

A. - L.I.c. ...

L.2. Effective as of this date on which a self-insurance trust's deposit is withdrawn pursuant to this Section, the member's deposit of the trust enrollment and qualification with the Fund shall be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:172 (February 1992), amended LR 18:737 (July 1992), LR 23:69 (January 1997).

#### **§515. Certification of Enrollment**

A. Upon receipt and approval of a completed application (including evidence of financial responsibility pursuant to §505, §507 or §509) and payment of the applicable surcharge by or on behalf of the applicant health care provider, the executive director shall issue and deliver to the health care provider a certificate of enrollment with the Fund, identifying the qualified health care provider and specifying the effective date and term of such enrollment and the scope of the Fund's coverage for that health care provider.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 23:69 (January 1997).

### **Chapter 7. Surcharges**

#### **§711. Payment of Surcharges: Insurers**

A. Applicable surcharges for enrollment with the Fund shall be collected on behalf of the Fund by commercial professional health care liability insurance companies and approved self-insurance trust funds from insured health care providers electing to enroll with the Fund. Such surcharges shall be collected by such insurers and funds at the same time and on the same basis as such insurers' collection of premiums from such insureds. Surcharges collected by commercial insurance underwriters and funds on behalf of the Fund shall be due and payable and remitted to the Fund by commercial insurance underwriters and funds within 45 days from the date on which such surcharges are collected from any insured, whether such surcharges are collected from the providers early, timely or late. Remittance of surcharges to the Fund shall be made in such form and accompanied by records in such forms or on such forms as may be prescribed by the executive director so as to provide for proper accounting of remitted surcharges and the identity and class of health care providers on whose behalf such surcharges are remitted.

Commercial professional health care providers liability insurance companies, commercial insurance underwriters and approved self-insurance trust funds remitting surcharges to the Fund shall certify to the Fund, at the time or remitting such surcharge to the Fund, the date that the surcharges were collected by them from the health care providers. The payment of surcharges by an approved self-insurance trust that does not collect premiums from insureds will be governed by §713 hereof.

B. ...

C. If the instrument used to pay the surcharge is returned to the Fund by the payor institution and/or payment hereon is denied for any reason, the health care provider shall be notified thereof by the Fund. If the surcharge is not paid in full by certified check, cashier's check, money order or cash equivalent funds received by the Fund within 10 calendar days of the provider's receipt of said notice, then the provider's coverage with the Fund shall be terminated as of the end of the previous enrollment period.

D. It is the purpose of this Section that insurance companies remit surcharges collected from their insured providers on behalf of the Fund to the Fund timely. The provisions of this Section are not intended to affect the effective date of Fund coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20:432 (April 1994), LR 23:69 (January 1997).

#### **§713. Payment of Surcharges/Self-Insureds**

A. - B. ...

C. If the instrument used to pay the surcharge is returned to the Fund by the payor institution and/or payment hereon is denied for any reason, the health care provider shall be notified thereof by the Fund. If the surcharge is not paid in full by certified check, cashier's check, money order or cash equivalent funds received by the Fund within 10 calendar days of the provider's receipt of said notice, then the provider's coverage with the Fund shall be terminated as of the end of the previous enrollment period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20:432 (April 1994), LR 23:69 (January 1997).

#### **§715. Amount of Surcharges; Form of Coverage; Conversions**

A. A health care provider qualified for enrollment by evidence of liability insurance pursuant to §505, or by evidence of participation in an approved self-insurance trust pursuant to §509, shall pay the Fund surcharge amount in the most recently approved rate filing which is applicable to his provider type and which most closely corresponds to the class and form of coverage of said primary liability insurance or self-insurance trust. The form of coverage provided by the Fund shall be identical to that provided by the qualifying

policy of insurance or self-insurance except where the policy conflicts with applicable law or regulation.

B. A health care provider qualified for enrollment by evidence of self-insurance pursuant to §507 shall pay the Fund surcharge amount in the most recently approved rate filing which is applicable to self-insured coverage and to his provider type. The form of coverage provided by the Fund shall be self-insured coverage as defined in §109.A of these Rules.

C.1. When a health care provider who had previously purchased claims-made coverage from the Fund elects to purchase occurrence coverage from or discontinue enrollment in the Fund, he shall not have coverage afforded by the Fund for any claims arising from acts or omissions occurring during the Fund's claims-made coverage but asserted after the termination of the claims-made coverage unless he evidences financial responsibility for those claims and pays the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

2. When a health care provider who had previously purchased claims-made coverage from the Fund elects to purchase self-insured coverage from the Fund, he shall not have coverage afforded for any claims arising from acts or omissions occurring during the Fund's claims-made coverage but asserted after the termination of the claims-made coverage unless he evidences financial responsibility for those claims and pays the surcharge applicable to fund tail coverage for the corresponding claims-made period(s). A self-insured provider may defer payment for the tail coverage until within 30 days of the date on which he terminates his continuous self-insured coverage with the Fund. If the provider elects to defer payment for tail coverage in accordance with this Rule, the premium will be determined according to the applicable rates at the time of the termination of coverage.

3. In special circumstances, the board may at its discretion waive the payment of an additional surcharge and allow tail coverage to a provider without the payment of the applicable premium. Each such case requires an individual written request for relief to the board, and will be decided on individual circumstances. The board's criteria for such decisions shall include, but not be limited to:

- a. the reason for such request;
- b. the length and basis of the provider's enrollment with the Fund;
- c. the potential claims liability to the Fund;
- d. the provider's intention to cease or continue to practice in Louisiana; and
- e. the potential effects if the Fund refuses to allow such relief.

D. When a health care provider who had previously purchased claims-made coverage from the Fund permanently retires after 10 consecutive years of enrollment, or when an institutional provider and any successors who had previously purchased claims-made coverage from the Fund permanently ceases to do business and/or practice medicine after 10 consecutive years of coverage, or when a health care provider

who had previously purchased claims-made from the Fund dies or becomes permanently disabled, then the surcharge to the Fund for tail coverage for claims occurring during the existence of the Fund claims-made coverage shall be considered to have been paid. However, continuous coverage through the Fund under this Rule shall only apply if the affected provider or institution maintains continuous financial responsibility either through insurance coverage or submission of the security required for self-insurance under §507, including tail coverage, for the primary \$100,000 for each claim. Further, this Rule shall only apply to the successor of an institutional provider to the extent that the predecessor business entity was enrolled, and only to the single business entity which had been previously enrolled; this Rule shall not apply to other business entities of the successor provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 23:69 (January 1997).

## **Chapter 9. Scope of Coverage**

### **§901. Effective Date**

A. A health care provider who qualifies for enrollment with the Fund by demonstrating financial responsibility through professional liability insurance pursuant to §505 of these Rules, shall be deemed to become and be enrolled with the Fund effective as of the date on which the surcharge payable by or on behalf of such health care provider is timely collected in accordance with §711 hereof and the applicable policies and procedures of the insurer for premium payments. If such surcharge is not timely collected the effective date of enrollment with the Fund shall be the date on which such surcharge with any applicable interest, penalties and attorney's fees, is paid to the Fund is collected or accepted by the insurer.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:177 (February 1992), amended LR 23:70 (January 1997).

### **§907. Scope of Coverage: Self-Insureds**

A. With respect to health care providers qualified to enroll with the Fund by evidence of self-insurance pursuant to §507 hereof, or by evidence of participation in an approved self-insurance trust pursuant to §509, the Fund shall be obligated to pay compensation to the extent provided by the Act only with respect to claims arising from an incident which occurred during the effective period of enrollment regardless of whether the provider was actively enrolled on the date on which the claim was reported, so long as the provider continues to meet the financial responsibility requirements of R.S. 40:1299.42 for continued qualification.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:177 (February 1992), amended LR 23:70 (January 1997).

Suanne Grosskopf  
Executive Director

9701#038

## RULE

### Department of Health and Hospitals Board of Radiologic Technology Examiners

Definitions; Continuing Education; and Education  
Accreditation (LAC 46:LXVI.Chapters 9,12 and 13)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Radiologic Technology Board of Examiners (board), pursuant to the authority vested in the board by R.S. 37:3207, amends LAC 46:LXVI.Chapters 9, 12 and 13, regarding definitions, requirements for continuing education for licensed radiologic technologists and minimum standards for the accreditation of education programs.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXVI. Radiologic Technologists

#### Chapter 9. General Provisions

##### §901. Definitions

The following words and terms, when used in this Rule shall have the following meanings, unless the text clearly indicates otherwise.

*ARRT*—the American Registry of Radiologic Technologists.

*Board*—the Radiologic Technology Board of Examiners created pursuant to R.S. 37:3200-3201.

*Department*—the Department of Health and Hospitals (DHH).

*Ionizing Radiation*—commonly known as x-rays or gamma rays, they remove electrons from the atoms of matter lying in their path. (e.g., *ionization*).

*JRCERT*—Joint Review Committee on Education in Radiologic Technology.

*License*—a certificate issued by the board authorizing the licensee to use radioactive materials or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes in accordance with the provisions of this Chapter.

*Licensed Practitioner*—a person licensed to practice medicine, dentistry, podiatry, chiropractic, or osteopathy in this state.

*Licensed Radiologic Technologists (LRT)*—any person licensed pursuant to this Chapter.

*Nuclear Medicine Technologist*—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner uses radioactive materials on

humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner.

*Radiation Therapy Technologist*—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation to humans for therapeutic purposes upon prescription of a licensed practitioner.

*Radiographer*—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation to humans for diagnostic purposes upon prescription of a licensed practitioner.

*Radiologic Technologist*—any person who is a radiographer, a radiation therapy technologist, or a nuclear medicine technologist licensed under this Chapter who under the direction and supervision of a licensed practitioner applies radiation to humans upon prescription of a licensed practitioner.

*Radiologic Technology*—the use of a radioactive substance or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner.

*Radiological Physicist*—a person who is certified by the American Board of Radiology in radiological physics or one of the subspecialties of radiological physics or who is eligible for such certification.

*Radiologist*—a physician certified by the American Board of Radiology or the American Osteopathic Board of Radiology, the British Royal College of Radiology, or certified as a radiologist by the Canadian College of Physicians and Surgeons.

*Student*—any person who is enrolled in and attending a board-approved educational program or college of radiologic technology who applies radiation to humans while under the supervision of a licensed practitioner or a licensed radiologic technologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended LR 23:71 (January 1997).

#### Chapter 12. Continuing Education Requirements for License Renewal

##### §1201. Definitions

*ACR*—American College of Radiology.

*AHRA*—American Healthcare Radiology Administrators.

*AMA/CME*—American Medical Association/Continuing Medical Education.

*ANA*—American Nursing Association.

*ARDMS*—American Registry of Diagnostic Medical Sonographers.

*ARRT*—American Registry of Radiologic Technologists.

*ASRT*—American Society of Radiologic Technologists.

*Active Status*—radiologic technologists who maintain their license by paying an initial or renewal fee and are listed in good standing with the LSRTBE.

*Approved Academic Course*—a formal course of study offered by an accredited post-secondary educational

institution in the biological sciences, physical sciences, radiologic sciences, health and medical sciences, social sciences, communication (verbal and written), mathematics, computers, management or education methodology.

*Approved Continuing Education Activity*—an educational activity which has received approval through a recognized continuing education evaluation/mechanism. Examples include: LSRT/CE, ASRT/ECE, AMA/CME, ACR/CME, ANA/CE, SDMS/CE and SNM-TS/VOICE. Courses meeting this definition are awarded Category A continuing education credits. Activities meeting the definition of an approved academic course will be awarded credit at the rate of 16 CE credits for each academic semester credit and 12 CE credits for each academic quarter credit. An official transcript showing a grade of "C" or better is required to receive CE credit for an academic course.

1. Other activities that meet the definition of an approved continuing education activity are the approved entry-level exams. Examples are:

- a. ARRT examination in radiography;
- b. ARRT or NMTCB examination in nuclear medicine technology;
- c. ARRT examination in radiation therapy technology;
- d. MDCB examination in dosimetry;
- e. ARDMS examination in diagnostic medical sonography; vascular technology or diagnostic cardiac sonography.

2. The advanced-level examinations considered acceptable continuing education activity are:

- a. ARRT examination in cardiovascular-interventional technology;
- b. ARRT examination in mammography;
- c. ARRT examination in computed tomography;
- d. ARRT examination in magnetic resonance imaging;
- e. other ARRT examinations as developed and implemented.

3. Within their licensing period, technologists who pass an entry-level examination for a discipline in which they are not certified and for which they are eligible, or one of the advanced-level examinations that they have not previously passed and for which they are eligible, have met the continuing education requirement for that licensing period.

*CAMRT*—Canadian Association of Medical Radiation Technologists.

*CPR*—Cardio-Pulmonary Resuscitation. Category A credit will be awarded for valid CPR certification. Credits are awarded on the date of the certification or re-certification. A copy of a valid certification card will serve as documentation. Only one of the following options will be allowed during a biennium.

1. CPR certification in Basic life support will automatically be awarded 3 Category A credits limited to three credits per biennium, or

2. Advanced CPR certification (advanced life support, instructor, instructor trainer) will automatically be awarded six Category A credits limited to six credits per biennium.

*Category A Credit*—educational activity which qualifies as an approved continuing educational activity as defined in this document.

*Category B Credit*—educational activities not approved for Category A credits may be eligible to receive Category B credits provided that the activities are pertinent to the radiologic technology fields.

*Continuing Education (CE)*—educational activities which serve to improve and expand the knowledge and skills underlying professional performance that a radiologic technologist uses to provide services for patients, the public or the medical profession. A contact hour credit is awarded for each 50 to 60 minute educational activity. Educational activities of 30 to 49 minutes of duration will be awarded one-half of a credit.

*Directed Reading*—reading of recent professional journal articles and self-assessment testing to demonstrate comprehension of the material read. The directed readings must be offered through a post-secondary educational institution or as an approved continuing education activity.

*Documentation*—proof of participation in a particular educational activity. Documentation must include: dates of attendance; title and content of the activity; number of contact hours for the activity; name of sponsor; signature of the instructor or an authorized representative of the sponsor issuing the documentation; and a reference number if the activity has been approved by a RCEEM.

*Educational Activity*—a learning activity which is planned, organized, and administered to enhance professional knowledge and skills. These include, but are not limited to, meetings, seminars, workshops, courses programs.

*Eligible for Renewal Status*—a radiologic technologist who has completed all requirements for the renewal of a Louisiana radiologic technologist license is considered to be eligible for renewal status.

*Expired Status*—a radiologic technologist who fails to meet the continuing education requirements for renewal prior to or during probational status shall be placed on expired status and their license shall be considered *suspended*. The radiologic technologist shall no longer be considered as holding a valid license in the state of Louisiana.

*Inactive Status*—classification of license where the LSRTBE waives renewal fees to those licensees who confirm in writing to the board that they are not actively employed in the state of Louisiana as radiologic technologists.

*Independent Study* (only available for Category A Credit)—an educational activity offered by an accredited post-secondary educational institution or a comparable sponsor wherein the participant independently completes the objectives and submits the required assignments for evaluation. Independent study may be delivered through various formats such as directed readings, videotapes, audiotapes, computer-assisted instruction and/or learning methods.

*In-Service Education*—a planned and organized educational activity provided by an employer in the work setting.

*Ionizing Radiation*—commonly known as x-rays or gamma rays, they remove electrons from the atoms of matter lying in their path. (e.g., *ionization*).

*LSRT*—Louisiana Society of Radiologic Technologists.

*LSRTBE*—Louisiana State Radiologic Technology Board of Examiners.

*Licensing*—the process of granting a license attesting to the demonstration of qualifications in a profession.

*Licensing Term*—the LSRTBE issues licenses to radiologic technologists for two-year terms. All renewal licenses are issued on June 1 and expire on May 31 of the second year of its issuance.

*MDCB*—Medical Dosimetry Certification Board.

*NMTCB*—Nuclear Medicine Technology Certification Board.

*Probational Status*—radiologic technologists who apply for the renewal of their Louisiana radiologic technology license but who fail to meet the continuing education renewal requirements will be placed on a probational status. Probation shall not exceed a period of six months beyond the expiration date of a license.

*Recognized Continuing Education Evaluation Mechanism (RCEEM)*—a mechanism for evaluating the content, quality, and integrity of an educational activity. The evaluation must include review of educational objectives, content selection, faculty qualifications, and educational methods and materials.

Example: RCEEMs include: ASRT/ECE system, AMA Category 1/CME system, ACR/CME system, AHRA/CE system, ANA/CE system, CAMRT/CE system, LSRT/CE system, SDMS/CME, SNM-TS/VOICE system or others as they are granted RCEEM status in the future.

*Reinstatement*—those radiologic technologists on inactive status or those radiologic technologists who have been placed on expired status may be eligible to become licensed again by applying for reinstatement. Reinstatement and the requirements thereof shall be determined by the board on an individual basis.

*SDMS*—Society of Diagnostic Medical Sonographers.

*SNM-TS/VOICE*—Society of Nuclear Medicine-Technologist Section/Verification of Involvement in Continuing Education.

*Sponsor*—an organization responsible for the content, quality and integrity of the educational activity, which plans, organizes, supports, endorses, subsidizes and/or administers educational activities. Sponsors may be, but are not limited to, state, national, regional and district professional societies, academic institutions, health care agencies, health care facilities, federal or state government agencies. Sponsors must apply and receive approval from a RCEEM in order to offer Category A credit for activities. Sponsors may also award Category B credits.

*Suspension/Suspended*—license status whereby the radiologic technologist is not allowed to practice where a license is required by law.

*Teleconference*—an approved educational activity delivered by electronic means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:178 (February 1995), amended LR 23:71 (January 1997).

## **§1205. Continuing Education Requirements**

Twenty-four hours of continuing education credits must be earned per licensing term to meet the continuing education requirements. At least 12 of these credits must be from Category A activities. Credits earned in excess of 24 per licensing term may not be carried over into the next licensing term. The continuing education requirement is independent of the number of licenses held by an individual (i.e., a radiologic technologist certified in both radiography and radiation therapy technology needs only 24 credits).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997).

## **§1207. Licensing Term Schedule**

Since the licensing term is defined as that period from June 1 of the renewal or issuance of license year, to the second May 31 to occur after that date, the continuing education credits must be earned in the two years prior to the second occurrence of May 31.

Example: radiologic technologists who renew their license May 31, 1995 will be required to meet the continuing education requirements from June 1, 1995 to May 31, 1997 in order to renew their license in 1997. Radiologic technologists who renew their license May 31, 1996 will be required to meet the continuing education requirements in order to renew their license in 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997).

## **§1209. Renewal of License by Examination**

A. Radiologic technologists who pass one of the advanced-level examinations or entry-level examinations in a different category within a licensing term are exempt from the continuing education requirement for that licensing term.

B. Subsequent renewal of license will require documentation of 24 hours of active participation in continuing education activities for the following licensing term and every two years thereafter, unless another examination is passed.

Example: A radiographer in-good-standing who has passed the nuclear medicine examination or the radiation therapy examination given in March 1997 does not have to complete the 24-hour continuing education requirement for the licensing term from June 1, 1995 to May 31, 1997. However, beginning June 1, 1997, the radiologic technologist must document continuing education credits for the licensing term of June 1, 1997 to May 31, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997).

## **§1211. Biannual Application for License Renewal**

An application for the renewal of the license will be mailed to each radiologic technologist whose license to practice

radiologic technology will expire that May 31 with the license fee due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997).

#### **§1213. Documentation**

A licensed radiologic technologist is required to maintain proof of participation in continuing education activities and is required to attest to this participation on the form provided. Said documentation shall be provided by the radiologic technologist to the Louisiana State Radiologic Technology Board of Examiners as part of the renewal process. Failure to provide documentation acceptable to the Louisiana State Radiologic Technology Board of Examiners will result in probational status. The Louisiana State Radiologic Technology Board of Examiners will accept copies of documents. Original documents shall be kept by the radiologic technologist for two years after the end of the licensing term for the purpose of further verification should the board choose to audit the licensees' submissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:74 (January 1997).

#### **§1219. Reinstatement of License**

A. If a license lapses or is inactive for a period of less than four years and if the person is otherwise eligible for renewal of license, the person must supply evidence of having met the continuing education requirements and pay the designated standard renewal fee and any other associated fees as required by the board.

B. If a license lapses or is inactive for a period of four or more years and if the person is otherwise eligible for renewal of license, the individual must pass the entry-level examination and pay the designated special reinstatement fee.

C. The following groups of licensees may be exempt from compliance with the continuing education requirement:

1. Louisiana licensees who are unable to fulfill the requirement because of illness or other personal hardship. The number of hours may be modified by the board on a case-by-case review of supporting documentation, evidence and/or testimony.

2. The board must receive a timely request for an exemption. Such a request shall be considered timely if submitted to the board prior to March 31 of the license renewal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), amended LR 23:74 (January 1997).

#### **§1221. Requirements for Sponsors**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), repealed LR 23:74 (January 1997).

### **Chapter 13. Minimum Standards for the Accreditation of Education Programs**

#### **§1301. Minimum Standards for the Accreditation of Education Programs**

A. Pursuant to R.S. 37:3207(3), the board adopts as its minimum standards for education the *Essentials and Guidelines of an Accredited Educational Program for the Radiographer, Radiation Therapy Technologist and the Nuclear Medicine Technologists* as adopted by the American College of Radiology, American Medical Association and the American Society of Radiologic Technologists and accredited by the Joint Review Committee on Education in Radiologic Technology, provided that the standards do not conflict with board policies.

B. The Program Director shall submit evidence of compliance with minimum standards of education for the accreditation of educational programs to the board upon forms provided by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 11:874 (September 1985), amended LR 23:74 (January 1997).

Richard S. Whitehorn, L.R.T.  
Executive Director

9701#036

### **RULE**

#### **Department of Health and Hospitals Office of Public Health Medical Disclosure Panel**

Informed Consent—Anesthesia and Pregnancy; Oral Surgery; Radiation Therapy; Craniotomy; Plastic Surgery; and Septoplasty (LAC 48:I.Chapter 23)

As authorized by R.S. 40:1299.40.E, as enacted by Act 1093 of 1990 and later amended by Act 962 of 1992 and Act 633 of 1993, the Department of Health and Hospitals, Medical Disclosure Panel is making technical amendments to Rules which require 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 any such treatment or procedure.

**Title 48**  
**PUBLIC HEALTH—GENERAL**  
**Part I. General Administration**

**Chapter 23. Informed Consent**

**§2311. Anesthesia and Pregnancy**

A.1. - 9. ...

10. meconium aspiration (drawing of meconium, a fetal waste product sometimes present in the fluid surrounding the fetus, into the lungs of the unborn child).

11. - 12. ...

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 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended by the Office of Public Health, Medical Disclosure Panel, LR 23:75 (January 1997).

**§2317. Oral Surgery**

A.1. - 5. ...

6. Fracture of mandible (lower jaw) or maxilla (upper jaw).

A.7. - D. 4. ...

5. Premature loss of implant(s) and attachment(s).

D. 6. - G. 11. ...

12. Blood supply compromise to tissues, hard and soft, resulting in loss of tissues.

G. 13 - N. 7. ...

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 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended by the Office of Public Health, Medical Disclosure Panel, LR 23:75 (January 1997).

**§2337. Radiation Therapy (Radiation Oncology)**

A.1.a. - A.1.i. ...

2. Late Reaction(s)

a. Dry mouth and altered, or loss of sense of, taste.

A.2.b. - E.2.f. ...

g. These reactions are likely to be intensified by chemotherapy in a patient who is receiving, has received, or will receive radiation therapy.

E.2.a. - H.1.d. ...

2. Late Reaction(s)

H.2.a. - b. ...

c. Prominently dilated small blood vessels.

H.2.d. - K.2.h. ...

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 18:1391 (December 1992), repromulgated by LR 19:1581 (December 1993), amended by the Office of Public Health, Medical Disclosure Panel, LR 23:75 (January 1997).

**§2343. Craniotomy**

A. - M. ...

N. Numbness or sensory loss at the operative site or remote from the operative site.

O. - Q. ...

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 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21:470 (May 1995), amended by the Office of Public Health, Medical Disclosure Panel, LR 23:75 (January 1997).

**§2347. Plastic Surgery**

A. - C.9. ...

10. Alteration of appearance of breast tissue during mammograms.

C.11. - D.8. ...

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 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21:700 (July 1995), amended by the Office of Public Health, Medical Disclosure Panel, LR 23:75 (January 1997).

**§2377. Septoplasty**

A. - B. ...

C. Injury to nerve(s) of upper teeth;

D. - E. ...

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 20:670 (June 1994), amended by the Office of Public Health, Medical Disclosure Panel, LR 23:75 (January 1997).

Bobby P. Jindal  
Secretary

9701#069

**RULE**

**Department of Labor**  
**Office of Employment Security**  
**Board of Review**

Continuances, Postponements, Reopenings,  
and Rehearings (LAC 40:IV.113)

In accordance with the provisions for Rule adoption under R.S. 49:950 et seq., the Administrative Procedure Act, and under the statutory authority of R.S. 23:1631, the Board of Review of the Department of Labor adopts the following Rule.

The adoption of such Rule serves to avert the increasing danger of parties appearing before administrative hearings and being placed in jeopardy of adversely affecting themselves where the appellant does not appear. An administrative appeal shall be dismissed whereupon the appellant fails to appear at the scheduled hearing. Requests of continuances shall require a written showing of good cause by the requesting party. The Rule promotes efficiency and cost savings for the parties and the state.

**Title 40**  
**LABOR AND EMPLOYMENT**  
**Part IV. Employment Security**  
**Subpart 1. Board of Review**  
**Chapter 1. Appealed Claims for Board of Review**  
**§113. Postponements, Continuances, Reopenings, and Rehearings**

**A. Continuances or Postponements**

1. A scheduled hearing may be postponed or continued by the administrative law judge for good cause, either upon his own motion or upon a showing of good cause by written request of a party, submitted to the administrative law judge whose name and address appear on the notice of hearing. Written notice of the time and place of a postponed or continued hearing shall be given to the parties or their named representatives.

2. The administrative law judge shall provide written denial to any party whose written request for postponement or continuance is received after his decision has been mailed. The requesting party shall also be provided written notice of his right either to file written request for a reopening of hearing before the administrative law judge within seven days from the date of mailing of the decision on the claim or to file further appeal to the Board of Review under §§109 and 125. The untimely request for postponement or continuance shall not itself be treated as an appeal of the decision to the Board of Review. An appeal may also be timely filed by a party before the Board of Review under §§109 and 125 after a written response to the request for reopening is issued by the administrative law judge.

3. Any such request of a party and response of the administrative law judge shall be incorporated in the case file.

**B.** If the appellant, who is the party who files the appeal before the Appeals Tribunal, fails to appear within 15 minutes after the scheduled hearing time at an in-person hearing, or fails to be available to receive the telephone call to participate in a scheduled telephone hearing at the scheduled hearing time, the administrative law judge shall order the appellant in default and issue a dismissal of appeal. In such event, the agency determination shall become the final decision. Written notice of default of the appellant and dismissal of the appeal shall be mailed to the parties. The appellant either may file a written request for reopening before the administrative law judge, with a showing of good cause, within seven days of the date of mailing of the dismissal decision or may file an appeal before the Board of Review under §§109 and 125. If such appellant is denied a reopening by the administrative law judge, any such request shall be forwarded to the Board of Review as an appeal as of the date of the written request for reopening. If it is determined by the administrative law judge on reopening or by the Board of Review on appeal that the appellant has shown good cause for his nonappearance, the dismissal shall be vacated and a new hearing on the merits shall be scheduled.

**C.** If the appellee, who is the party whose agency determination is being appealed by another party before the appeals tribunal, fails to appear at the scheduled hearing time of an in-person hearing, or fails to be available to receive the

telephone call to participate in a scheduled telephone hearing at the scheduled hearing time, the administrative law judge shall proceed to conduct the hearing and issue a decision on the merits based upon the administrative record and any evidence and testimony presented by the appellant. The appellee may either file a written request for reopening before the administrative law judge, with a showing of good cause, within seven days of the date of mailing of the decision or may file an appeal before the Board of Review under §§109 and 125. If such appellee is denied a reopening by the administrative law judge, any such request shall be forwarded to the Board of Review as an appeal as of the date of the written request for reopening. If it is determined by the administrative law judge on reopening or by the Board of Review on appeal that the appellee has shown good cause for his non-appearance, the decision shall be vacated, and a new hearing on the merits shall be scheduled.

**D.** The administrative law judge or the Board of Review shall make a determination of good cause for failure to appear only if the written request for reopening or the appeal filed by the party contains a statement of the reason(s) for his failure to act in a timely manner and reasonably justifies a finding of good cause to excuse such failure.

**E. Good Cause for Reopening**

1. To determine whether good cause has been shown in a request for reopening or in an appeal to excuse the failure of a party to appear, the administrative law judge and the Board of Review shall consider any relevant factors, including, but not limited to:

- a. reasonably prudent behavior;
- b. untimely receipt of notice;
- c. administrative error;
- d. reasons beyond control or avoidance;
- e. reasons unforeseen;
- f. timely effort to request continuance;
- g. physical incapacities;
- h. degree of untimeliness; or
- i. prejudice to parties.

2. Failure to provide timely notice of change or correction of address shall not establish good cause for failure to appear, unless the party satisfactorily demonstrates his reasonable belief in his request or appeal that such notice was not needed or had been provided.

3. The basis of any determination by the administrative law judge or the Board of Review relating to good cause must be provided in the written response or decision. The fulfillment of each of the above factors is not required in any such response or decision for the establishment of good cause for failure to appear.

**F.** A written request for reopening before the administrative law judge may be filed within seven days of the date of mailing of his decision or an appeal to the Board of Review may be filed under §§109 and 125 by any party for admission of additional evidence upon the showing of good cause that any such evidence is newly discovered or was unavailable or unknown at the time of the hearing.

**G.** The term *Party* or *Parties*, as used in these Rules, shall mean the claimant and the employer or any legal or



designated representative thereof, including the administrator in those appeals in which he is specified as a party under R.S. 23:1629.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1631.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, Board of Review, LR 23:76 (January 1997).

K. Gordon Flory  
Chairman

9701#064

## RULE

### Department of Labor Office of Workers' Compensation

#### Hearing Officer Rules (LAC 40:I.2123)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby amends the Office of Workers' Compensation Rules, LAC 40:I.2123.D.

The amendment to this Rule will prevent unnecessary burdens upon the Workers' Compensation hearing process.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part I. Workers' Compensation Administration

#### Chapter 21. Hearing Rules

#### Subchapter B. Disputed Claims

#### §2123. Commencement of Claim; Place of Filing

A. - C. ...

D. No Class Action will be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.4, 1311 and 1314.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Workers' Compensation Administration, LR 16:297 (April 1990), repromulgated by the Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Department of Labor, Office of Workers' Compensation Administration, LR 19:350 (March 1993), LR 23:77 (January 1997).

Ronald L. Menville  
Director

9701#040

## RULE

### Department of Public Safety and Corrections Gaming Control Board

Board Hearings (LAC 42); Repeal of Video Draw Poker Hearings and Sanction Procedures (LAC 42:XI.2423); Repeal of Gaming Enforcement Division Procedure for Riverboat License and Permit Hearings (LAC 42:XIII.2167)

The Gaming Control Board hereby adopts §108 under LAC 42, Part and Chapter to be determined later, and repeals LAC 42:XIII.2167 and LAC 42:XI.2423.

## Title 42

## LOUISIANA GAMING

### §108. Board Hearings

A. Any person against whom an administrative action is proposed, and any person against whom an enforcement action is taken, may request a hearing by filing a written request with the board. The request shall be filed within 10 days of the date of receipt of the certified mailing or personal service of the notice of proposed action or within 10 days of the date the enforcement action is taken. All hearings requested and any matter the board determines should be heard in a public hearing shall be conducted in accordance with this Section.

B.1. A hearing will be conducted in accordance with procedural and evidentiary Rules contained in the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Gaming Control Law, 1996 La. Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and Rules promulgated in accordance therewith.

2. No discovery request shall be made within 20 days of the date scheduled for the hearing.

3. Hearings may be conducted by hearing officers employed by or under contract with the board.

C. 1. Hearing requests shall be promptly docketed and scheduled for hearing.

2. The requesting party shall be notified of the time, date and location of the hearing by certified mail or personal service.

D.1. Testimony taken at a hearing shall be under oath.

2. Depositions may be used at hearings as provided in the Administrative Procedure Act, R.S. 49:950 et seq.

E. A report shall be prepared in accordance with the provisions of R.S. 27:25 and submitted to the board within 60 days of the notice of any enforcement action involving suspending or conditioning a license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 23:77 (January 1997).

#### Part XI. Video Poker

#### Chapter 24. Video Draw Poker

#### §2423. Hearings and Sanction Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), repealed LR 23:77 (January 1997).

#### Part XIII. Riverboat Gaming

#### Subpart 2. State Police Riverboat Gaming Enforcement Division

#### Chapter 21. Licenses and Permits

#### §2167. Procedure for Hearings by the Division

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), repealed LR 23:77 (January 1997).

Hillary J. Crain  
Chairman

9701#010

## RULE

### Department of Revenue and Taxation Severance Tax Division

#### Oilfield Site Restoration Fee (LAC 61:I.5301)

Under the authority of R.S. 30:87 and 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.5301 pertaining to the oilfield site restoration fee.

Natural gas producers have experienced difficulties meeting the end of the month due date currently prescribed. This amendment extends the due date for natural gas to the fifteenth day of the following month, which is the same as it is for the severance tax.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

#### Chapter 53. Miscellaneous Fees

#### §5301. Oilfield Site Restoration Fee

\* \* \*

#### C. Due Dates and Delinquent Dates

1. The first fees due under R.S. 30:87(A) and (B) shall be for the period ending December 31, 1993, based on the oil, condensate, and natural gas production for the months of September, October, November, and December 1993, and shall be due on or before January 31, 1994, and shall become delinquent after such date and from such time shall be subject to the interest, penalties, and costs as provided in Chapter 18, Subtitle II of Title 47.

2. The fees levied by R.S. 30:87(A), on oil and condensate, shall be due on a quarterly basis and will be due on or before the last day of the month following the last day of the quarter period and shall become delinquent after this date and shall be subject to interest, penalties, and costs as provided in Chapter 18, Subtitle II of Title 47.

3. The fees levied by R.S. 30:87(B), on natural gas, shall be due on a quarterly basis and will be due on or before the fifteenth day of the second month following the last day of the quarter period and shall become delinquent after this date and shall be subject to interest, penalties, and costs as provided in Chapter 18, Subtitle II of Title 47.

#### D. Suspension and Reinstatement of the Fees

1. The Secretary of the Department of Natural Resources will certify to the secretary when the Oilfield Site

Restoration Fee fund equals or exceeds \$10 million. The secretary will notify, in writing, all parties who are remitting the fee to cease payment of the fee by a specific date. All fees collected up to that date will be remitted on or before the first day of the second month following the date specified.

2. The secretary of the Department of Natural Resources will certify to the secretary when the Oilfield Site Restoration Fee fund has fallen below \$6 million. The secretary will notify, in writing, all parties who are registered to collect and remit the fee to resume collection and payment of this fee starting with a specific date. The resumption date will be specified on the notice.

#### E. Reports and Payment of the Fees

1. All returns and reports shall be made on forms prescribed by the secretary and furnished by the Department of Revenue and Taxation, or on similar forms that have been approved for use by the secretary. Returns and reports shall be completed and filed in accordance with instructions issued by the secretary.

2. Any person who severs, purchases, or processes gas, oil, distillate, condensate, or similar natural resources is required to furnish information necessary for the proper enforcement and verification of the fees levied in R.S. 30:87.

3. Every operator of record of producing oil and/or gas wells must submit a return and make payments of the fees imposed by R.S. 30:87. Purchasers of oil and/or gas may make payment for the operator of record and their respective working-interest owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:87.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Severance Tax Division, LR 20:2 (February 1994), amended LR 23:78 (January 1997).

Carl L. Reilly  
Assistant Director

9701#032

## RULE

### Department of Social Services Office of Family Support

#### AFDC—Eligibility Requirements; Standard Filing Unit (LAC 67:III.1113 and 1133)

The Department of Social Services, Office of Family Support has amended LAC 67:III.Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Public Law 104-193), applicants and recipients of AFDC will no longer receive the benefit of a disregard of the first \$50 of child support collected. This Rule is being promulgated in order to count as income any child support payments made to the AFDC applicant/recipient. In §1133 reference to the disregard was removed from the Paragraph.

**Title 67**  
**SOCIAL SERVICES**  
**Part III. Office of Family Support**  
**Subpart 2. Aid to Families with Dependent**  
**Children (AFDC)**  
**Chapter 11. Application, Eligibility and Furnishing**  
**Assistance**  
**Subchapter B. Coverage and Conditions of Eligibility**  
**§1113. Eligibility Requirements**

\* \* \*

D. Child Support Payments. In any case in which child support payments are collected for a recipient of AFDC with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 232; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 1:494 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 23:79 (January 1997).

**§1133. Standard Filing Unit**

Parents and all minor siblings living with a dependent child who applies for or receives AFDC shall be included in the filing unit. SSI recipients, stepbrothers and stepsisters are excluded from this requirement. In addition, if a minor who is living in the same home as his/her parents applies for aid as the parent of a needy child, the income of the minor's parents will be counted available to the filing unit (after applying the same disregards as are applied to the income of stepparents).

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369 and F.R. 49:35586 et seq., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 23:79 (January 1997).

Madlyn B. Bagneris  
Secretary

9701#082

**RULE**

**Department of Social Services**  
**Office of Family Support**

**General Administrative Procedures and Food**  
**Stamp Program (LAC 67:III.Chapters 1 and 19)**

The Department of Social Services, Office of Family Support has amended LAC 67:III, Subpart I, General Administrative Procedures and Subpart 3, Food Stamps.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, mandated certain food stamp revisions. This Rule is promulgated to encompass these revisions in the areas of Certification Provisions, Program Violation Disqualifications, Work Requirements and Work Registration, Allotment, Shelter Limit and Vehicle Adjustments, and Alien Eligibility and the release of

confidential information which is addressed in LAC 67:III, General Administrative Procedures.

**Title 67**  
**SOCIAL SERVICES**  
**Part III. Office of Family Support**  
**Subpart 1. General Administrative Procedures**  
**Chapter 1. Confidentiality**  
**§101. Release of Confidential Information**

A. - B.24. ...

25. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(A), (B), (C), (E), (F) (4), and (H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990), amended by the Office of Family Support, LR 23:79 (January 1997).

**§103. Confidential Information**

A. - C.2. ...

3. information in case records pertaining to the Food Stamp Program except that state agencies may make available upon request to any federal, state or local law enforcement officer, the address, social security number, and (if available) photograph of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency that the individual is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation.

C.4. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:65, 7 CFR 273.2; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 2:36 (January 1976), amended by the Department of Social Services, Office of Family Support, LR 23:79 (January 1997).

**Subpart 3. Food Stamps**  
**Chapter 19. Certification of Eligible Households**  
**Subchapter A. Household Concept**  
**§1901. Household Composition**

A. - B.1. ...

2. natural, adopted or step-children, age 21 or under who live with their parents.

C. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:52328 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.1, P.L. 100-77, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 8:9 (January 1982), amended LR 9:62 (February 1983), LR 9:130 (March 1983), LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:79 (January 1997).

**Subchapter B. Application Processing**  
**§1909. Expedited Service—Maximum Allowable Limit,**  
**Definition, Verification**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:53828 et seq. and 7 CFR 271, 272, 273.3, 275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:62 (February 1983), repealed by the Department of Social Services, Office of Family Support, LR 23:79 (January 1997).

**§1911. Households Eligible for Expedited Service**

A. Expedited service is defined as the providing of food stamp benefits no later than seven calendar days from the application date.

B. Households entitled to receive benefits under the Food Stamp Program's expedited service procedure are defined as follows:

1. those households whose combined gross income and liquid resources are less than the household's monthly rent or mortgage and utilities;
2. households whose countable gross monthly income is less than \$150 and whose countable liquid resources are \$100 or less;
3. migrant or seasonal households who are destitute and whose countable liquid resources are \$100 or less.

C. Verification shall be required of income and liquid resources to the extent practical within the expedited service time frame.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 52:36390 et seq., 7 CFR 273.2, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), LR 13:738 (December 1987), amended LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997).

**Subchapter B. Application Processing**

**§1915. Homeless Food Stamp Household**

A. - B.2. ...

3. a temporary accommodation for not more than 90 days in the residence of another individual; or

4. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq, F.R. 52:36390 et seq., 7 CFR 273.2, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:287 (May 1987), LR 13:437 (August 1987), amended LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support LR 23:80 (January 1997).

**Subchapter G. Work Requirements**

**§1938. Work Registration Requirements**

A. Each household member who is not exempt from work registration shall be registered for employment at the time of application and once every 12 months after initial registration as a condition of eligibility. At the time of application, the state agency shall explain to the applicant the consequences of violation of the work requirements.

1. No individual physically and mentally fit and between the ages of 16 and 60, is eligible to participate if that individual:

a. refuses without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quits a job;

c. voluntarily and without good cause reduces his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refuses, at the time of application and every 12 months thereafter, to register for employment;

e. refuses without good cause to participate in an employment and training program; or

f. refuses without good cause to accept an offer of employment.

2. If it is determined that an individual other than the head of the household has violated the work requirements without good cause, that individual shall be ineligible to participate in the Food Stamp Program as follows:

a. first sanction—until failure to comply ceases or three months, whichever is longer;

b. second or subsequent sanction—until failure to comply ceases or six months, whichever is longer.

3. If the head of the household fails to comply, the entire household is ineligible to participate for the duration of the disqualification period.

4. If any household member who violated the work requirement joins another household as head of the household, that entire new household is ineligible for the remainder of the disqualification period. If the member who violated the work requirement joins another household where that individual is not head of household, that individual shall be considered an ineligible household member.

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the OFS shall determine whether any household member:

a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quit a job;

c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refused, at the time of application and every 12 months thereafter, to register for employment;

e. refused without good cause to participate in an employment and training program;

f. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved 20 hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by 20 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a violation for purpose of this Section. An employee of the federal government, or of a state or local

government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the OFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The OFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997).

### **§1939. Work Exemption Guidelines**

A. Exemptions from Work Registration. A parent or other household member who is responsible for the care of a dependent child under the age of 6 is exempt from work registration.

B. Job Search. The Office of Family Support has opted not to impose job search at the time of application.

AUTHORITY NOTE: Promulgated in accordance with F.R. 49:39035 et seq., 7 CFR 273.7; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resource, Office of Family Security, LR 10:865 (November 1984), LR 11:39 (January 1985), amended by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997).

### **§1940. Work Participation Requirements for Able-bodied Adults Without Dependents**

A. Individuals are ineligible to continue to receive food stamps if, during the preceding 36-month period they received food stamps for at least three months (consecutive or otherwise) while that individual did not either:

1. work at least 20 hours per week;
2. participate in and comply with a Job Training Partnership Act Program, Trade Adjustment Act Program, or Employment and Training Program (other than a job search or job search training program) for 20 hours or more per week; or
3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under 18 or over 50 years of age;
2. medically certified as physically or mentally unfit for employment;
3. a parent or a member of a household with responsibility for a dependent child;
4. pregnant; or
5. otherwise exempt.

C. Individuals can regain eligibility for assistance.

1. Individuals denied eligibility under the new work rule can regain eligibility if during a 30-day period the individual:

- a. works 80 hours or more;
- b. participates in and complies with a Job Training and Partnership Act program, Trade Adjustment Assistance Act program, or Employment and Training program (other than a job search or job search training program) for 80 hours or more;
- c. participates in and complies with a workfare program (under Section 20 of the Food Stamp Act or a comparable state or local program) for 80 hours or more.

2. If individuals subsequently lose this employment or cease participation in work or workfare programs, participation can continue for up to three consecutive months (beginning from the date the state is notified that work has ended), after which the only cure during the 36-month period will be to comply with the work requirement or to become exempt under other provisions of the requirement.

D. The first countable month of this provision is November, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997).

### **§1941. Work Requirements of the Food Stamp Household**

A. Persons losing exemption status due to any change in circumstances that are subject to the reporting requirements shall register for employment when the change is reported.

1. A person age 16 or 17 who is not head of household or who is attending school or enrolled in an employment training program on at least a half-time basis is exempt.

2. A household member subject to and complying with any work requirement under Title IV of the Social Security Act is also exempt.

B. The OFS shall register for work each household member who is not exempt. The OFS will explain to the applicant the pertinent work requirements, rights and responsibilities of work registered household members, and the consequences of failure to comply. A written statement of this will be given to each work registrant. The OFS shall be responsible for screening each work registrant to determine whether or not it is appropriate, based on OFS's criteria, to refer the individual to an employment and training program, if available, and if appropriate, referring the individual to an employment and training program component. The registrant will be told either orally or in writing, the requirements of the component, what will constitute noncompliance and the sanctions for noncompliance. The OFS shall take appropriate sanction action within 10 working days after learning of noncompliance.

C. Employment and Training (E&T) Programs

1. The OFS submitted an employment and training program plan to the United States Department of Agriculture, Food and Consumer Services (FCS) Dallas Regional Office and the FCS Office of Alexandria, Virginia. A copy of the

plan is available for public inspection at the Food Stamp Program Office, 438 Main Street, Baton Rouge, Louisiana.

2. Persons required to register for work and not exempted by OFS from placement in an employment and training program shall be subject to the requirements imposed by the OFS for that individual. Such individuals are referred to as E&T mandatory participants. Requirements may vary among participants. Failure to comply without good cause with the requirement imposed by the OFS shall result in disqualification.

3. Work registrants shall:

a. participate in an employment and training program, if assigned by the OFS;

b. respond to a request from the OFS or its designees for supplemental information regarding employment status or availability for work;

c. report to an employer to whom referred by the OFS or its designee if the potential employment meets the suitability requirements;

d. accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable state or federal minimum wage.

4. Ending or Avoiding Employment and Training (E&T) Sanctions

a. Conciliation is an attempt to reach a resolution of the participant's failure to comply with the employment and training requirement prior to initiation of a sanction. The purpose of conciliation is to determine the reason the work registrant did not comply with the employment and training requirement and to provide the noncomplying individual with an opportunity to comply prior to the issuance of a notice of adverse action. The conciliation period shall begin the day following the date an individual fails to comply and shall continue for a period not to exceed 30 calendar days. A conciliation letter will be sent to the participant by the contractor/provider when conciliation begins.

b. Conciliation must be initiated by the contractor/provider when there is knowledge of the participant's failure to comply; cannot exceed 30 days, and may end sooner if the participant refused to cooperate in the process; and is considered successful when a verifiable act of compliance is performed by the participant or good cause is established. If the conciliation process is not successful, the process of sanctioning shall be initiated.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.7 (c) (2); P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:229 (April 1987), LR 13:394 (July 1987), amended by the Department of Social Services, Office of Eligibility Determinations, 14:770 (November 1988), LR 15:96 (February 1989), amended by the Department of Social Services, Office of Family Support, LR 18:245 (March 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 23:81 (January 1997).

#### **§1943. Voluntary Quit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 44:17982 et seq., F.R. 49:39035 et seq., F.R. 51:47378, F.R. 53:31641 et seq., 7 CFR 273.7.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 5:245 (August 1979), amended LR 10:864 (November 1984), LR 11:38 (January 1985), LR 12:115 (February 1986), LR 13:229 (April 1987), LR 13:394 (July 1987), repealed by the Department of Social Services, Office of Family Support, LR 23:82 (January 1997).

### **Subchapter H. Resource Eligibility Standards**

#### **§1947. Resources**

A. ...

B. The fair market value of vehicles which is excluded in determining a household's resources will be \$4650 beginning October 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with F.R. 7:55463 et seq. and 47:55903 et seq., 7 CFR 273.8, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997).

### **Subchapter I. Income and Deductions**

#### **§1964. Standard Shelter Estimate (re: homeless households)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with FR 56:63614, 7 CFR 273.9, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), amended LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), repealed LR 23:82 (January 1997).

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

A. - C. ...

D. Households can switch between the SUA and actual utility costs only at recertification.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66 and 7 CFR 273.9(c)(11), P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), amended LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997).

#### **§1980. Income Exclusions**

A. Payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, except that provided under Title IV-A, are excluded as income, and the expense is not deductible.

B. Earnings of an elementary or secondary student through age 17 who is a member of the household are excluded.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9 (c)(11) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), amended LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997).

#### **§1983. Income Deductions and Resource Limits**

A. In determining eligibility and benefit levels, the household is allowed deductions for certain costs.

1. The earned income deduction is 20 percent of total countable gross earnings. The earned income deduction is not

allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

2. The maximum shelter deduction is \$247 for households which do not include a member who is elderly or disabled. Effective January 1, 1997, the maximum shelter deduction will increase to \$250 per month. Effective October 1, 1998, the maximum shelter deduction will increase to \$275 and effective October 1, 2000, the maximum shelter deduction will increase to \$300.

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, P.L. 103-66, 7 CFR 273.9 and 273.10 (d) (1) (i), P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1363 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997).

#### **Subchapter J. Determining Household Eligibility and Benefit Levels**

##### **§1988. Eligibility Disqualification of Certain Recipients**

Fleeing felons and probation/parole violators are ineligible for benefits.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997).

##### **§1991. Initial Month's Benefits**

A. Initial month means either the first month for which an allotment is issued to a household, or the first month for which an allotment is issued to a household following any period during which the household was not certified for participation in the Food Stamp Program.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.10, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 8:9 (January 1982), amended LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:83 (January 1997).

#### **Subchapter K. Action on Households with Special Circumstances**

##### **§1994. Alien Eligibility**

A. Only the following noncitizens are eligible for benefits for a period not to exceed five years after they obtain designated alien status:

1. refugees admitted under Section 207 of the Immigration and Nationality Act (INA);
2. asylees admitted under Section 208 of the INA; and
3. aliens whose deportation has been withheld under Section 243(h) of the INA.

B. For an unlimited period, the following aliens lawfully admitted for permanent residence are eligible:

1. veterans who were honorably discharged for reasons other than alienage and their spouses or unmarried dependent children;

2. active duty personnel (other than active duty for training) and their spouses or unmarried dependent children; and

3. aliens who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997).

##### **§1995. Sponsored Aliens**

The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997).

#### **Subchapter P. Recovery of Overissued Food Stamp Benefits**

##### **§2005. Collection Methods and Penalties**

A. - B. ...

1. Mandatory disqualification periods of one year for the first offense, two years for the second, and permanently for the third offense will be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or through a court of law.

2. Individuals will be disqualified for two years for a first finding by a court that the individual used or received food stamps in a transaction involving the sale of a controlled substance, and permanently for a second such finding. Permanent disqualification will also result for the first finding by a court that an individual used or received food stamps in a transaction involving the sale of firearms, ammunition or explosives with food stamps.

3. An individual convicted of trafficking food stamp benefits of \$500 or more shall be permanently disqualified.

4. An individual shall be ineligible to participate for 10 years if found to have made a fraudulent statement or representation with respect to identity and residence in order to receive multiple benefits simultaneously.

C. The agency is required to collect any overissuance from those households still participating in the program by reducing further allotments if the household does not agree to a repayment schedule. The amount by which the agency can reduce the household's monthly allotment in the collection of overissuances which are the result of intentional program violation is limited to 20 percent of the household's entitlement or \$10 per month, whichever is greater, and 10

percent of the allotment or \$10, whichever is greater, for all other overissuances.

1. The household responsible for overissuance due to an intentional program violation is allowed 10 days to choose between cash repayment or a reduced allotment.

2. The household responsible for overissuance due to administrative error, which occurred after October 1, 1996, or due to inadvertent household error is allowed 20 days to choose between cash repayment or a reduced allotment.

D. The agency may collect any type of overissuance by using means other than allotment reduction or cash repayment.

1. One of these means is the referral to the Internal Revenue Service of delinquent food stamp claims of previous food stamp recipients for the purpose of offsetting federal income tax refunds. Effective with the 1997 offset year, the IRS processing fee will be added to the claim and that amount will also be deducted from the individual's income tax refund.

2. Another means of collection is the withholding of Unemployment Compensation Benefits to repay an uncollected overissuance.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273, 276 and 277, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:899 (August 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997).

#### **Subchapter R. Claims Against Households §2007. Loss of Benefits Penalty**

This provision imposes a loss of benefits penalty on those food stamp recipients who fail to report earned income in a timely manner. When determining the amount of benefits the household should have received, the Office of Family Support shall not apply the 20 percent earned income deduction to the income the household did not timely report. By doing this, the household that benefitted from the failure to timely report is penalized since the amount it has to repay in overissuance will be increased. This provision is to be applied to allotments issued for October, 1996 and all allotments issued for subsequent months.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:36390 et seq., 7CFR 273.18; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 3:738 (December 1987), LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:84 (January 1997).

Madlyn B. Bagneris  
Secretary

9701#083

## **RULE**

### **Department of Transportation and Development Office of the Secretary**

#### **Bridge Toll—Crescent City Connection Exemptions - Law Enforcement Personnel (LAC 70:I.513)**

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts LAC 70:I.513 applicable to the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, and Lower Algiers/Chalmette.

This Rule is effective January 20, 1997.

The secretary of the Department of Transportation and Development has determined that rulemaking is necessary in order to eliminate the abuses of free passage as quickly as possible through immediate adoption of LAC 70:I.513. The abuse by certain law enforcement personnel has created an administrative burden which can only be eliminated through adoption of a Rule. In addition, it is necessary for the department to promptly reduce the amount of possible misappropriation of tolls by toll collectors. Finally, this action will improve traffic flow during peak periods by reducing the number of vehicles which are required to stop and sign a register for free passage.

#### **Title 70**

### **TRANSPORTATION AND DEVELOPMENT**

#### **Part I. Office of the General Counsel**

#### **Chapter 5. Tolls**

#### **§513. Crescent City Connection Exemptions—Law Enforcement Personnel**

A. Free passage across the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, and Lower Algiers/Chalmette shall be granted to all law enforcement personnel who are employed on a full-time basis and have law enforcement agency equipment.

B. Law enforcement agency, for purposes of R.S. 40:1392 and LAC 70:I.513 shall mean any agency of the state or its political subdivisions and the federal government, who are responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state or similar federal laws and who are employed in this state. Officers who serve in a voluntary capacity or as honorary officers are not included.

C. Agencies which meet the above criteria shall include the Louisiana State Police, sheriff's departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and the Federal Bureau of Investigation exclusively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1392 and R. S. 48:26.



HISTORICAL NOTE: Promulgated by the Department of Transportation, Office of the Secretary, LR 23:84 (January 1997).

Frank M. Denton  
Secretary

9701#004

**RULE**

**Department of Transportation and Development  
Office of the Secretary**

**Bridge Toll—Crescent City Connection  
Exemptions - Students (LAC 70:I.509)**

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R. S. 49:950 et seq., hereby amends LAC 70:I.509 implementing certain bridge toll exemptions applicable to the Crescent City Connection.

This Rule is effective January 20, 1997.

The secretary of the Department of Transportation and Development has determined that rulemaking is necessary in order to eliminate the abuses of free passage as quickly as possible through an amendment to LAC 70:I.509. In addition, it is necessary for the department to promptly eliminate vehicles which pass through the toll system without positive accountability. Further, it is necessary for the department to reduce the amount of possible misappropriation of tolls by toll collectors. Finally, this action will provide control over the amount of school buses which pass through the toll system.

**Title 70**

**TRANSPORTATION AND DEVELOPMENT**

**Part I. Office of the General Counsel**

**Chapter 5. Tolls**

**§509. Crescent City Connection Exemptions - Students**

A. - D. ...

**E. School Buses - Requirements for Exemption**

1. Free passage across the Crescent City Connection shall be granted to all clearly marked school buses at any time, upon the bus driver's delivery of a free passage coupon at the bridge toll plaza.

2. Free passage coupons for school buses shall be obtained by signed application of the official school system's transportation coordinator to the Department and Development Crescent City Connection Division office. The school system's transportation coordinator is responsible for distributing the free passage coupons to eligible school bus drivers for their school system.

3. Official school systems, for purposes of §509, are parish public school systems, private schools operating in the State of Louisiana, and parochial schools operating in the State of Louisiana.

4. bus drivers who privately own their clearly marked school buses are eligible for individual application to the Department of Transportation and Development Crescent City

Connection Division office for free passage coupons. These bus drivers must attach an original letter from the school system they serve to their signed application. The letter certified that their bus serves the school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158.

HISTORICAL NOTE: Promulgated by the Department of Transportation, Office of the Secretary, LR 19:1595 (December 1993), amended LR 23:85 (January 1997).

Frank M. Denton  
Secretary

9701#003

**RULE**

**Department of Treasury  
Board of Trustees of the Teachers' Retirement System**

**Deferred Retirement Option Plan (LAC 58:III)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana, pursuant to the Notice of Intent published October 20, 1996, and under authority contained in R.S. 11:739 and R.S. 11:786-791, amended Policies for Implementation of the Deferred Retirement Option Plan for purposes of clarifying the definition of *Teaching Experience* under the provisions of R.S. 11:739.

**Deferred Retirement Option Plan**

\* \* \*

19. Retirees who return-to-work under the provisions of R.S. 11:739 shall be governed by the following definition of *Teaching Experience*:

Any work experience which would have qualified the member for TRSL membership under the provisions of R.S. 11:701(23) if the experience had been gained in the Louisiana public education system will be considered *Teaching Experience*. *Teaching Experience* will include qualifying work (including work during DROP) in any recognized education setting, whether public or private, including both in-state and out-of-state locations. If the experience is not documented in the member's file, the member will be responsible for providing documentation from their previous employer in a timely manner. *Teaching Experience* will NOT include unused leave, furlough, strike time or unpurchased leave without pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997).

James P. Hadley, Jr  
Director

9701#024

**RULE**

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

Special Bait Dealer's Permit (LAC 76:VII.329)

The Wildlife and Fisheries Commission hereby amends regulations governing the Special Bait Dealer's Permit (LAC 76:VII.329). Authority for adoption of this Rule is included in R.S. 56:497(C).

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing**

**§329. Special Bait Dealer's Permit**

\* \* \*

**C. Operations**

\* \* \*

3. No more than two gallons of dead shrimp may be aboard the vessel while it is operating under the permit. All dead shrimp in excess of two gallons must be immediately returned to the water. Shrimp dying in onshore holding facilities may be sold for bait use only, in lots not to exceed 16 ounces in weight.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:497(C).

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 3:210 (April 1977), amended LR 15:867 (October 1989), LR 19:215 (February 1993), LR 23:86 (January 1997).

Daniel J. Babin  
Chairman

9701#052

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXXIX. Forestry**

**Chapter 201. Timber Stumpage**

**§20101. Stumpage Values**

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

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

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

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), LR 21:1069 (October 1995), amended by the Louisiana Forestry Commission and Louisiana Tax Commission, LR 22:581 (July 1996), LR 23:

Interested persons may submit written comments to Don Feduccia, Office of Forestry, Box 1628, Baton Rouge, LA 70821-1628. Written comments will be accepted through the close of business on February 28, 1997. No preamble regarding this amendment is available.

Billy Weaver, Chairman  
Forestry Commission

Malcolm Price, Chairman  
Tax Commission

# Notices of Intent

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Forestry Commission**

and

**Department of Revenue and Taxation  
Tax Commission**

1997 Timber Stumpage Values  
(LAC 7:XXXIX.20101)

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

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Timber Stumpage Values**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no additional implementation costs or savings to state or local governments required by the implementation of this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Since this net result of this action adjusts some average stumpage values downward for timber harvested, the severance tax revenue received by state and local governments will decrease slightly if 1997 timber production levels equal 1995 production. State revenue would decrease by \$10,623 and local

government revenues would decrease by \$31,869 during fiscal year 96-97, and again in the first half of fiscal year 97-98, based on the assumptions used in this analysis.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Although the estimated total tax paid by timber sellers and reported and remitted by wood-using industries will decrease as a result of this action, the prevailing severance tax rate for timber harvesting remains constant by statute. No increases in paperwork or procedures will result from this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action is taken on an annual basis and should have negligible effect on competition or employment. The slight tax revenue decreases that may result from the stumpage prices set by this action should have little or no effect on parish and state government.

Richard Allen  
Assistant Commissioner  
9701#051

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

Bob Odom  
Commissioner

**NOTICE OF INTENT**

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

**Examination Application  
(LAC 7:XXIX.15107)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission proposes to amend LAC 7:XXXIX.15107 regarding the deadlines to apply for retail florist and landscape architect examinations. 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**

**§15107. Procedures for Application for Examination and Licensure or Permitting**

\* \* \*

**B. Retail Florist**

1. Applicants who desire to take the examination for retail florist must file the completed application, together with the fee required under LAC 7:15109.A at the commission's state office in Baton Rouge. The application must be postmarked or received no later than 45 days preceding the scheduled examination date.

\* \* \*

**C. Landscape Architect**

1. Applicants who desire to take the examination for landscape architect must file the completed application, together with any supporting evidence, official transcript(s), and affidavit(s) as may be necessary, and with the fee required

under LAC 7:15109.B at the commission's state office in Baton Rouge. The application must be postmarked or received by the deadline date established for applying for examination, which date shall be published in a prior issue of the *Louisiana Register*.

\* \* \*

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 and Forestry, Horticulture Commission, LR 8:184 (April 1982), amended LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:

Interested persons should submit written comments to Craig M. Roussel, Director, Horticulture and Quarantine Programs, Box 3118, Baton Rouge, LA 70821-3118, prior to March 1, 1997.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Examination Application**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs or savings to state or local governmental units are anticipated to result from implementation of the proposed Rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue to state or local governmental units is anticipated to result from implementation of the proposed Rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No effect on costs or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is anticipated.

Richard Allen  
Assistant Commissioner  
9701#050

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Board of Architectural Examiners**

**Continuing Education (LAC 46:I.1117)**

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the amendment of LAC 46:I.1117 pertaining to continuing education and accreditation therefor. The board proposes to make continuing architectural education mandatory for all architects and all civil engineers

practicing architecture under the exemption provided for in R.S. 37:155(A)(2). Beginning with license renewals effective January 1, 1999, all architects and all civil engineers practicing architecture pursuant to the exemption must show compliance with the educational requirements of these Rules.

**Title 46**  
**PROFESSIONAL AND**  
**OCCUPATIONAL STANDARDS**  
**Part I. Architects**

**Chapter 11. Administration**

**§1117. Continuing Education**

A. Purpose. These Rules provide for a continuing education program to insure that all architects and all civil engineers practicing architecture remain informed of those technical and professional subjects necessary to safeguard life, health, and promote the public welfare.

B. Administration

1. A Continuing Education Committee shall consist of all members of the State of Louisiana Board of Architectural Examiners.

2. The committee shall have the following duties:

- a. to exercise general supervisory authority over the administration of these Rules;
- b. to organize subcommittees and delegate executive authority;
- c. to approve continuing education programs. Once a program has been approved, the board shall not have the authority to disapprove hours earned in such program;
- d. to promulgate an official list of approved seminar topics to accomplish the purpose of these Rules. The board's current list shall be published in the roster and is also available upon written request from the board.

C. Scope and Exemptions

1. Scope. These Rules shall apply to every architect practicing architecture in this state and every civil engineer practicing architecture as defined in R.S. 37:141(B)(3) under the exemption provided for in R.S. 37:155(A)(2).

2. Exemptions. Exempt from participating in the continuing education program required by these Rules are:

- a. a newly registered architect or a civil engineer practicing architecture pursuant to the exemption during his or her initial year of registration;
- b. an emeritus status architect as defined by board §905.E;
- c. a civilian who serves on active duty in the Armed Forces of the United States for a period of time exceeding 90 consecutive days during the annual report period;
- d. an architect or a civil engineer practicing architecture pursuant to the exemption who demonstrates to the satisfaction of the committee that meeting these requirements would work an undue hardship by reason of disability, sickness, or other clearly mitigating circumstances.

D. Definitions

*ARE*—the Architect Registration Examination prepared by the National Council of Architectural Registration Boards.

*Board*—the Louisiana State Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge,

Louisiana 70809, telephone: (504) 925-4802, telecopier: (504) 925-4804, at web site: <http://www.lastbdarchs.com>.

*Civil Engineer*—a civil engineer practicing architecture as defined in R.S. 37:141(B)(3) under the exemption provided for in R.S. 37:155(A)(2).

*Committee*—the Continuing Education Committee of the board.

*Exemption*—the exemption provided for in R.S. 37:155(A)(2).

*Hour*—a continuing education hour and shall represent a minimum of 50 minutes of actual course time.

*In-state Architect*—an architect domiciled in this state.

*NCARB*—the National Council of Architectural Registration Boards.

*Out-of-state Architect*—an architect domiciled outside of this state.

*Pre-approved Program* and *Program which has been Pre-approved*—a program approved by the board for continuing education credit prior to its presentation.

*Roster*—the annual roster of Louisiana registered architects issued by the board.

E. Requirements

1. Beginning with license renewals effective January 1, 1999, all architects and all civil engineers practicing architecture pursuant to the exemption must show compliance with the educational requirements of these Rules.

2. In-state architects and all civil engineers practicing architecture pursuant to the exemption shall complete a minimum of 12 hours each calendar year, beginning with 1998.

3. Out-of-state architects shall complete the requirements set forth herein for in-state architects or shall complete the requirements for continuing education established in the NCARB Model Law, beginning with 1998. The Model Law will be published in the roster and available from the board upon written request.

4. To satisfy the continuing education requirements *for the year 1998 only*, an architect or a civil engineer practicing architecture pursuant to the exemption may use hours obtained during calendar years 1997 and 1998.

F. Credit

1. Pre-approved Programs. Credit shall be given for all pre-approved programs.

2. Programs not Pre-approved. Under exceptional circumstances, credit may be given retroactively by the committee for a program which has not been pre-approved. A request for such credit shall be submitted by the architect or civil engineer on a Program Approval form provided by the committee, or on a like form contained in the roster. The request shall contain the same information set forth below which is required for a program sponsor seeking approval of a program from the committee.

3. To verify attendance each attendee shall obtain an Attendance form from the program sponsor. Attendees should retain these forms as part of their records, as same may be necessary to verify attendance.

4. Instructors and panelists of pre-approved programs shall receive equal credit as participants.

5. No carry over of hours from prior years is permitted.

#### G. Topics

1. All hours shall be in the areas of health, safety and public welfare. Only subject matters on the current ARE are considered acceptable.

2. Current approved seminar topics with a description of the subject matters on the ARE set forth in the roster, or may be obtained from the board upon written request.

#### H. Program Sponsor

1. Sponsors who propose to offer programs for approval shall submit the following information on a Program Approval form provided by the committee, or on a like form published in the roster:

a. program sponsor(s)—name(s), address(es), and telephone number(s);

b. program description—name, detailed description, length of instructional periods, and total hours for which credit is sought;

c. approved seminar topics—divisions and topics from the current list of approved seminar topics;

d. program instructor(s)/leader(s)—name(s) of instructor(s)/leader(s) and credential(s);

e. time and place—date and location of program; and

f. certification of attendance—sponsor's method for certifying attendance to the board.

2. The sponsor shall submit such information at least 15 calendar days in advance of the program so that the committee may comprehensively analyze, question, and respond.

3. The sponsor of a pre-approved program may announce or indicate as follows:

THIS COURSE HAS BEEN PRE-APPROVED BY THE LOUISIANA STATE BOARD OF ARCHITECTURAL EXAMINERS FOR A MAXIMUM OF \_\_\_ HOURS OF CONTINUING EDUCATION.

4. The sponsor of all pre-approved programs shall certify attendance to the committee within 30 days after the date of the program. For any program administered between December 11 and December 31, the sponsor shall certify attendance no later than January 10 of the following year.

a. The submission shall include the date of the program, the name of the program, and a Program Attendance form for each program attendee. The Program Attendance form will include the printed name, the discipline, the license number, the credit hours sought, and the signature of each program attendee attesting to attendance.

b. A program sponsor who fails to timely submit the required information shall be charged a delinquency fee of \$500. In addition, the committee may refuse to allow that sponsor to offer future programs.

5. The sponsor of all pre-approved programs shall issue a Program Attendance form to each attendee for completion, signature, and return to the sponsor at the end of the program, with the attendee maintaining the stub only for future verification, if necessary.

#### I. Annual Report and Continuing Education Certificate

1. Each architect and each civil engineer practicing architecture pursuant to the exemption shall have the full, complete, and sole responsibility for timely providing the required information to the board.

2. On or prior to December 31 of the year in which the required courses are completed, all architects and all civil engineers practicing architecture pursuant to the exemption shall submit to the board an annual report certifying to the fulfillment of continuing education requirements during the year. The annual report shall be submitted on the form provided by the committee, or on a like form contained in the roster.

3. The annual report shall describe the programs for which credit is sought by date, program sponsor, name, and number of hours claimed. In addition, the attendee shall submit a Program Approval form for each program which has not been pre-approved.

4. Each annual report shall be reviewed by the committee and may be subject to audit for verification of compliance with requirements. Upon request by the committee, supplemental information, including Attendance forms, shall be submitted to substantiate completion of the requirements of these Rules. Attendance forms should be retained for a period of one year after submission in the event that the annual report is selected for audit.

5. The committee may disallow claimed credit for hours. If so, the architect or civil engineer practicing architecture pursuant to the exemption shall have 180 calendar days after notification of disallowance of credit to substantiate the original claim or earn other hours which fulfill minimum requirements.

6. The board shall issue to all architects who have satisfactorily completed the requirements of these Rules a combination license renewal and continuing education certificate.

7. The board shall issue to all civil engineers who have satisfactorily completed the requirements of these Rules a continuing education certificate. The board shall include in the roster a list of those civil engineers who have satisfactorily completed the continuing education requirements.

#### J. Noncompliance, Delinquency Penalty, and Remedy

1. Architects. Failure to fulfill the continuing education requirements, or file the required annual report, properly completed and signed, shall result in nonrenewal of that architect's license and loss of the privilege to practice architecture.

2. Civil Engineers. Failure to fulfill the continuing education requirements, or file the required annual report, properly completed and signed, shall result in that civil engineer not being allowed to practice architecture pursuant to the exemption.

3. Delinquency Penalty. Architects and civil engineers practicing pursuant to the exemption who fail to timely comply with the requirements of these Rules by earning hours and by filing the annual report by the December 31 deadline shall be assessed a delinquency penalty of \$100 payable to the Louisiana State Board of Architectural Examiners.

#### 4. Remedy

a. If the committee receives information that an architect or a civil engineer is practicing architecture without obtaining the required Continuing Education Certificate, the committee shall mail, by certified mail, a Noncompliance Report form to each such person.

b. The recipient must, within 90 days of receipt, submit to the committee an annual report for the year in question and the following:

- i. documented proof that the architect or civil engineer has complied with the requirements; or
- ii. documented proof setting forth the reasons for failure to comply with the requirements because of illness or other good cause.

c. In addition, the board will notify the Louisiana State Board of Professional Engineers and Land Surveyors of any violation of these Rules by civil engineers.

5. Documentary proof of compliance furnished after the December 31 deadline shall consist of, at a minimum, photocopies of Attendance forms and must be accompanied by the delinquency penalty.

6. Upon receipt of a Noncompliance Report form, an architect or a civil engineer has 90 days from receipt to obtain the required number of hours needed for compliance. Hours earned during this period shall be applied toward the previous year's requirement until the necessary hours are earned.

K. Record of Continuing Education Credits. The committee shall maintain a record of those architects and those civil engineers who have satisfactorily completed their continuing education requirements for a period of three years; provided, however, the board will not keep a record of any architect whose license has expired for longer than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:6 (June 1991), amended LR 18:3 (March 1992), LR 23:

Interested persons may submit written comments on this proposed Rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons  
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)**

The proposed Rule amendment will impose additional costs on the board, consisting primarily of an additional full-time clerk and additional equipment, forms, supplies, postage, and other miscellaneous charges. The board estimates that during the first year of implementation the total additional costs will approximate \$34,200 and that during subsequent years the total additional costs will approximate \$24,400 per year.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule amendment will have no effect on the revenue collections of state or local governmental units. Although the proposed amendment provides for a delinquency fee for any program sponsor who fails to submit timely required information and a delinquency penalty for any architect or civil

engineer who fails to file timely the required annual report. It is anticipated that the total amount of any such fees and penalties will be minimal.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs or economic benefits to directly affected persons or nongovernmental groups, except any program sponsor who fails to submit timely required information will be charged a delinquency fee of \$500 and any architect or civil engineer who fails to file timely the required annual report will be assessed a delinquency penalty of \$100. In addition, it is assumed that some program sponsors may charge architects and civil engineers fees for the programs.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition or employment associated with this proposed Rule, since it is anticipated that all architects and all civil engineers practicing architecture pursuant to the exemption provided for in R.S. 37:155(A)(2) will comply with the mandatory requirements for continuing education set forth in the proposed Rule amendment.

Mary "Teeny" Simmons  
Executive Director  
9701#087

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Board of Architectural Examiners**

Prepared Documents (LAC 46:I.1115)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the amendment of LAC 46:I.1115 pertaining to when specifications, drawings, or other related documents will be deemed to have been prepared either by the architect or under the architect's responsible supervision, as required by R.S. 37:152(B). The board proposes to clarify the existing Rule and provide that if the documents are prepared outside the architect's office then the architect shall maintain all evidence of the architect's responsible control; otherwise, the architect shall be considered to be in violation of the architects' licensing law and subject to disciplinary penalties.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part I. Architects**

**Chapter 11. Administration**

**§1115. Interpretation of R.S. 37:152(B)**

Specifications, drawings, or other related documents will be deemed to have been prepared either by the architect or under the architect's responsible supervision only when:

1. the client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the architect, or the architect's employee as long as the employee works in the architect's office;

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Adding Elective Courses

2. the architect personally controls the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion;

3. if the plans, specifications, drawings, reports, or other such documents are prepared outside the architect's office, the architect shall maintain all evidence of the architect's responsible control including correspondence, time records, check prints, telephone logs, site visit logs, research done for the project, calculations, changes, and all written agreements with any persons preparing the documents outside of the architect's offices accepting professional responsibility for such work;

4. the architect reviews the final plans, specifications, drawings, reports or other documents; and

5. the architect has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents. If an architect fails to maintain written documentation of the items set forth above, when such are applicable, then the architect shall be considered to be in violation of R.S. 37:152, and the architect shall be subject to the disciplinary penalties provided in R.S. 37:153.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:575 (June 1991), amended LR 23:

Interested persons may submit written comments on this proposed Rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Prepared Documents

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed Rule.
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units associated with this proposed Rule.
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment associated with this proposed Rule.

Mary "Teeny" Simmons
Executive Director
9701#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, Louisiana Handbook for School Administrators, Standards 1.090.11, and 1.105.37 as stated below.

Adding Electives/Exploratories to the Program of Studies 1.090.11 A school system choosing to add an elective/exploratory course to its program of studies shall apply to the director of the Bureau of Elementary Education, State Department of Education (SDE), at least 60 days prior to the anticipated date of implementation. The State Department of Education shall follow the guidelines for elective approval as submitted to the SBESE.

The application for an elective/exploratory course shall be submitted by the superintendent and shall contain the following information:

- 1. detailed outline of course content;
2. time requirements (minutes per day; days per year or semester);
3. detailed course objectives and methods by which they shall be measured;
4. qualifications of the instructor;
5. date the course is to begin;
6. approximate number of students; and
7. criteria for enrollment.

If the course is to be offered for the succeeding school year, an end-of-year evaluation shall be sent on provided forms to the Bureau of Elementary Education for determining its continuation.

After an elective/exploratory course has been in effect for three successive school years and if the system wants the course to be a permanent part of its curriculum, the school superintendent shall apply by letter to the director of the Bureau of Elementary Education for permission to include it. The State Department of Education shall review the request along with course evaluations and notify the applicant whether or not the course is approved.

The State Department of Education will provide the SBESE with a listing of any new elective courses or permanently approved courses every two months.

Adding Elective Courses to the Program of Studies 1.105.37 A school system choosing to add an elective course to its program of studies shall apply to the director of the Bureau of Secondary Education, SDE, at least 60 days prior to the anticipated date of implementation. The State Department of Education shall follow the guidelines for elective approval as submitted to the SBESE.

The director of the Bureau of Secondary Education shall determine, from the information submitted, whether or not the course is approved and so notify the applicant.

The application for an elective course shall be signed by the superintendent and shall contain the following information:

1. detailed outline of course content;
2. units of credit to be granted;
3. detailed course objectives and the methods by which they shall be measured;
4. qualifications of the instructor;
5. date the course is to begin;
6. approximate number of students; and
7. criteria for enrollment.

Elective courses designed specifically for special education students shall also be approved by the Office of Special Education Services.

If the course is to be offered for the succeeding school year, an end-of-the-year evaluation shall be sent, on forms provided, to the Bureau of Secondary Education for determining its continuation.

After an elective course has been in effect for three successive school years and if the system wants the course to be a permanent part of its curriculum, the school superintendent shall apply by letter to the director of the Bureau of Secondary Education for permission to include it. The State Department of Education shall review the request along with course evaluations and notify the applicant whether or not the course is approved.

The State Department of Education will provide the SBESE with a listing of any new elective courses or permanently approved courses every two months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:

Interested persons may submit comments on the proposed amendment until 4:30 p.m. April 21, 1997 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Adding Elective Courses**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The estimated cost to state government units is \$100 to update and disseminate the changes to Bulletin 741.  
BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$160. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
9701#059

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 741—Alternate Schools/Programs**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to *Bulletin 741, Louisiana Handbook for School Administrators*, Standards 1.151.01 and 2.151.01 as stated below:

**1.151.01** Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the *Louisiana Handbook for School Administrators*, *Bulletin 741* policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school system choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau, (elementary education or secondary education) at least 60 days prior to the anticipated date of implementation.

Refer to guidelines for alternative schools.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs every two months.



**2.151.01** Approval shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (alternative within regular education or alternative to regular education placement);
4. list of the *Louisiana Handbook for School Administrators, Bulletin 741* policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class sizes;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school system choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau, (elementary education or secondary education) at least 60 days prior to the anticipated date of implementation.

Refer to guidelines for alternative schools.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs every two months.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6.

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 23:

Interested persons may submit comments on the proposed amendment until 4:30 p.m. April 21, 1997 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Alternate Schools/Programs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated cost to state government units is \$100 to update and disseminate the changes to Bulletin 741.

BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$160. Funds are available.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of state governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
9701#060

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

##### **Bulletin 746—Ancillary Secondary and Elementary School Principals**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an addition to Bulletin 746, Louisiana Standards for State Certification of School Personnel as follows:

##### **Ancillary Secondary School Principal**

Secondary school principals shall either hold a Louisiana teaching certificate which authorizes service as a secondary school principal or meet the following requirements:

- A. have an earned master's degree from a regionally accredited institution of higher education;
- B. have completed five or more years of professional school experience at the secondary level;
- C. a score of 620 on the Educational Administration and Supervision Area Exam of the National Teacher Examinations is required;
- D. have completed a minimum of 30 semester hours of graduate credit as follows:

1. nine semester hours of educational administration and instructional supervision to include the following:
  - a. foundations of (introductory) educational administration or theory of educational administration;
  - b. secondary school principal;
  - c. principles of instructional supervision in the secondary school;
2. twenty-one semester hours of professional education as follows:
  - a. eighteen semester hours in professional education to include the following:
    - i. educational research;
    - ii. history or philosophy of education;
    - iii. secondary school curriculum;
    - iv. school law;
    - v. school finance;

- vi. school personnel administration;
- b. three semester hours of electives in education administration from:
  - i. school-community relations;
  - ii. school facilities;
  - iii. program development and evaluation (in professional education or area(s) outside of professional education);

E. a provisional secondary school principal ancillary certificate may be issued to an applicant who has met the requirements of Paragraphs A through D.2 above and who is employed as a secondary school principal in a Louisiana school system. The certificate may be issued at the request of the Louisiana employing superintendent and is valid only for the period and place of employment. Upon employment as a principal, an individual with provisional certification must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy. A secondary school principal ancillary certificate will be issued upon satisfactory completion of the two-year Principal Internship Program;

F. persons holding an ancillary principal certificate at either the elementary or secondary school level may serve as a principal of a combination elementary-secondary school.

**Ancillary Elementary School Principal**

Elementary school principals shall either hold a Louisiana teaching certificate which authorizes service as an elementary school principal or meet the following requirements:

- A. have an earned master's degree from a regionally accredited institution of higher education;
- B. have completed five or more years of professional school experience at the elementary level;
- C. a score of 620 on the Educational Administration and Supervision Area Exam of the National Teacher Examinations is required;
- D. have completed a minimum of 30 semester hours of graduate credit as follows:
  - 1. nine semester hours of educational administration and instructional supervision to include the following:
    - a. foundations of (introductory) educational administration or theory of educational administration;
    - b. elementary school principal;
    - c. principles of instructional supervision in the elementary school;
  - 2. twenty-one semester hours of professional education as follows:
    - a. eighteen semester hours in professional education to include the following:
      - i. educational research;
      - ii. history or philosophy of education;
      - iii. elementary school curriculum;
      - iv. school law;
      - v. school finance;
      - vi. school personnel administration;
    - b. three semester hours of electives in education administration from:
      - i. school-community relations;
      - ii. school facilities;

iii. program development and evaluation (in professional education or area(s) outside of professional education);

E. a provisional elementary school principal ancillary certificate may be issued to an applicant who has met the requirements of Paragraphs A through D.2 above and who is employed as an elementary school principal in a Louisiana school system. The certificate may be issued at the request of the Louisiana employing superintendent and is valid only for the period and place of employment. Upon employment as a principal, an individual with provisional certification must enroll in the two-year Principal Internship Program under the auspices of the Administrative Leadership Academy. An elementary school principal ancillary certificate will be issued upon satisfactory completion of the two-year Principal Internship Program;

F. persons holding an ancillary principal certificate at either the elementary or secondary school level may serve as a principal of a combination elementary-secondary school.

Interested persons may submit written comments on the proposed revisions until 4:30 p.m, April 21, 1997 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: Promulgated in accordance with 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Ancillary Certification—  
School Principals**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

The adoption of this proposed Rule will cost the Department of Education approximately \$600 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and the first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$120. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

The proposed Rule will have no effect on revenue collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 

There will be no costs to directly affected persons or nongovernmental groups. The proposed Rule will enable a person to become certified as a school principal without first being certified as a teacher.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 

The proposed Rule may result in an increase in the number of persons who may be considered for employment in the capacity of school principal by Louisiana school systems.

Marlyn Langley  
Deputy Superintendent  
9701#058

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 746—Health and Physical Education Certification Requirements

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, revisions to certification requirements for health education, physical education, and combined health and physical education. This proposed change in certification requirements stated below is an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel. These revisions are mandatory September 1, 2001.

#### Health and Physical Education

##### Health Education

The minimal requirements for certification in health education are a total of 22 semester hours.

1. First Aid and Cardiopulmonary Resuscitation—1 semester hour.
2. Comprehensive School Health Program—3 semester hours.
3. Personal and Community Health—3 semester hours.
4. Methods and Materials in Health Education—3 semester hours.
5. Health Education Process—3 semester hours.
6. Health Content Areas\*\*—9 semester hours.

##### Physical Education

The minimal requirements for certification in physical education are a total of 24 semester hours.

1. Principles of Health and Physical Education—3 semester hours.
2. Physical Education Methods/Strategies—3 semester hours.
3. Exercise Physiology—3 semester hours.
4. Kinesiology or Biomechanics—3 semester hours.
5. Motor Learning or Motor Development or Adapted Physical Education—3 semester hours.
6. Physical Education Skills/Techniques—5 semester hours.
7. Measurement and Evaluation in Physical Education—3 semester hours.
8. First Aid and Cardiopulmonary Resuscitation—1 semester hour.

##### Health and Physical Education

The minimal requirements for certification in health and physical education are a total of 37 semester hours.

1. First Aid and Cardiopulmonary Resuscitation—1 semester hour.
2. Personal and Community Health—3 semester hours.
3. Principles of Health and Physical Education or Comprehensive School Health Program—3 semester hours.
4. Methods and Materials in Health Education—3 semester hours.
5. Physical Education Methods/Strategies—3 semester hours.

6. Physical Education Skills/Techniques\*—6 semester hours.
7. Exercise Physiology—3 semester hours.
8. Kinesiology or Biomechanics—3 semester hours.
9. Measurement and Evaluation in Health/Physical Education—3 semester hours.
10. Motor Development or Motor Learning or Adapted Physical Education—3 semester hours.
11. Health Content Areas\*\*—6 semester hours.

\*(Physical Education skills/techniques—selected from aquatics, dance, fitness and conditioning, gymnastics, individual activities, recreational activities, team sports. Coaching courses are excluded.)

\*\* (Health-problem-specific content areas including planning and evaluation of health education programs, aging, consumer health, death and dying, environmental health, family life, human sexuality, mental or emotional health, injury prevention and safety, nutrition, prevention and control of disease, substance abuse, stress management, spiritual health, or other current health problems or issues. Courses not acceptable include: exercise physiology, biology courses, kinesiology, coaching courses, physical education skill instruction, anatomy, physiology, athletic training.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.  
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:

Interested persons may submit comments on the proposed certification revisions until 4:30 p.m., April 21, 1997 to: Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Mary Louise "Weegie" Peabody  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Certification Requirements

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The adoption of this proposed Rule will cost the Department of Education approximately \$600 (printing and postage) to disseminate the policy. BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed Rule will have no effect on revenue collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs to directly affected persons or nongovernmental groups. The proposed Rule revises the requirements for certification to teach health and/or physical education in grades K-12.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed Rule will have no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
9701#057

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 1134—Standards for Library Media Programs (LAC 28:I.911)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, revisions to Chapter IV, Bulletin 1134, Standards and Guidelines for Library Media Programs. Bulletin 1134 is referenced in the *Louisiana Administrative Code*, LAC 28:I.911.A.

The current language describes the number of encyclopedias, magazines, and newspapers needed in the school library to fulfill the basic needs of the students. The current language deals with print versions only. The revisions incorporate electronic versions of these materials and provide school libraries options in mixing the print and electronic versions of the materials to comply with the standards of Bulletin 1134. Other changes replace the word "print" with the word "materials."

A complete text of revisions to Chapter IV of Bulletin 1134 may be viewed in the Department of Education, Bureau of Special Projects, in the Office of the State Board of Elementary and Secondary Education, both located in the Education Building, or at the Office of the State Register, Capitol Annex, Fifth Floor, Baton Rouge, LA 70802.

### Title 28 EDUCATION

#### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §911. School Library Standards

##### A. Bulletin 1134

1. Bulletin 1134, Standards and Guidelines for Library Media Programs in Louisiana Schools, is adopted, as revised.

2. This bulletin contains regulations and guidelines to be used by library media centers in public and nonpublic schools to assure standard library services to students. These apply to the library media staff, to the library collection, to the facilities, and to the service program and include guidelines for the selection of library media. The bulletin also includes a suggested procedure to be used in processing citizen complaints and censorship challenges.

AUTHORITY NOTE: Promulgated in accordance with 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:2 (January 1978), LR 4:360 (October 1978), LR 7:287 (June 1981), amended LR 16:297 (April 1990), LR 23:

Interested persons may submit written comments on the proposed revisions until 4:30 p.m., April 21, 1997 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Bulletin 1134—Standards for Library Media Programs

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The changes will not result in an increased costs to local school systems, since the electronic formats allowed by the changes are offered as options to the more traditional print formats. In fact, some of the electronic versions of the items (such as encyclopedias) are less expensive than the print versions and so the changes may actually decrease costs to school libraries. In any event, the changes will not require school libraries to purchase the electronic formats.

The cost of this implementation to state governmental units will be limited to the cost of reproducing it for dissemination. It is a 10-page document and the copy and postage costs will be \$130.

BESE's estimated cost for printing this policy change and the first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Although the changes do not necessarily entail costs or economic benefits, the consideration to allow electronic media to be considered viable reference materials will reduce redundancy for schools which have heretofore felt obligated to purchase both the print and the electronic version of the same reference materials. Vendors of these products, such as EBSCO or H.W. Wilson, are also migrating from the print to the electronic formats, so they remain partners in the economic process.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The vendors who have traditionally sold the print format of the relevant school library materials are for the most part migrating to the electronic formats. Those anchoring themselves to the print format will suffer some loss in sales as schools and school libraries begin to use more of their resources to purchase electronic materials.

Marlyn Langley  
Deputy Superintendent  
9701#061

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Permit Applications and Submittal of  
Information (LAC 33:III.517)(AQ147)

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.517 (AQ147).

The proposed Rule revises LAC 33:III.517.B.3 to allow the Department of Environmental Quality's Small Business Assistance Program (SBAP) staff to prepare and certify permit applications for exemptions, small source permits, and general permits. Current language requires that only persons properly qualified to perform engineering work as provided in the Louisiana Professional Engineers and Land Surveyors Registration Act are authorized to perform this activity. The average cost to hire consultants to prepare exemptions, small source permits, or general permits is generally cost prohibitive for small businesses. This amendment will allow DEQ to prepare permit applications for small businesses who do not have financial resources for outside consultants. This Section is in keeping with Section 507 of the 1990 Clean Air Act Amendments, which requires that SBAPs assist small business stationary sources in receiving permits.

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

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 5. Permit Procedures**

**§517. Permit Applications and Submittal of Information**

\* \* \*

[See Prior Text in A-B.2.d]

3. Any permit application for a major source, including Part 70 applications, shall be prepared by or under the supervision of a person properly qualified to perform engineering work as provided in the Louisiana Professional Engineers and Land Surveyors Registration Act. The application shall be certified by a professional engineer, as defined in the above named act, or by a responsible person authorized to act on behalf of the professional engineer. All other permit applications shall be certified by a responsible facility official or his/her designee.

\* \* \*

[See Prior Text in C-G]

**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 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:

A public hearing will be held on February 27, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ147. Such comments should be submitted no later than March 6, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX (504) 765-0486.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Permit Applications and**  
**Submittal of Information**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no estimated implementation costs to state or local governmental units. The existing Small Business Assistance Program (SBAP) staff can perform this task in addition to their other responsibilities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Small businesses will directly benefit from having SBAP staff prepare their permit. Consultant fees are generally prohibitive to small businesses. An average cost to prepare an exemption, small source permit or general permit ranges from \$3,000 to \$10,000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
All small businesses are eligible for this service, therefore, there is no effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9701#049

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Office of the Governor**  
**Office of Rural Development**

Projects and Funding (LAC 4:VII.1901 and 1903)

Under the authority of the Rural Development Law, R.S. 3:311 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the director gives notice that rulemaking procedures have been initiated to adopt Office of Rural Development Regulations, LAC 4:VII.1901 and 1903.

The proposed Regulation will serve as a guideline to apply for grants from the Office of Rural Development for proposed projects, for funding through a letter of commitment on awarded projects, and for obligation and de-obligation of funds.

The full text of this proposed Rule can be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

All interested persons are invited to submit comments on the proposed Regulations. Such comments should be submitted in writing no later than Thursday, April 10, 1997, at 5 p.m., to Larry Kinlaw, Executive Director, Governor's Office of Rural Development, Box 94004, Baton Rouge, LA 70804-9004, or by FAX to (504) 342-1609. Copies of this proposed Regulation are available from the Office of Rural Development at (504) 342-1618.

Larry Kinlaw  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Projects and Funding**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is estimated that there will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is estimated that there will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
It is estimated that there will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
It is estimated that the proposed Rule change will have a positive effect on competition and employment in the rural areas which are awarded grants. The evaluation process for grants under the new Rule will emphasize rural development needs in keeping with the original intent of the Legislature in creating the Rural Development Grant Program (Acts 216 and 396). There will be a positive impact on employment because the new grant application requests figures for local unemployment and estimates of job creation resulting from each project, and that information is one of the key factors to the grant scoring process. There will be a positive impact on competition at the local level because grant applicants are asked to provide more guarantees that funds will be spent in compliance with the state's public bid law, with Section 15C of Act 17 of 1996, and with other applicable laws. There also will be a positive impact on competition at the state level, as the rural development infrastructure needs that have been identified as keys to greater competitiveness for the state's economy are given greater weight in the criteria-based scoring system.

Larry Kinlaw  
Executive Director  
9701#066

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Sanitary Code—Permits (Chapter I)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Health and Hospitals proposes to amend Chapter I of the State Sanitary Code to establish a procedure for dealing with those individuals who pay for a permit with a check that is ultimately returned for nonsufficient funds.

**Proposed Rule  
Chapter I. General Provisions**

\* \* \*

Add 1:010-1 to read:

**1:010-1** If any permit requiring a fee is paid for by a check that is returned for insufficient funds, closed account, stop payment, or for any other reason, the permit holder must reimburse the appropriate agency within 30 days of notification that their check has been returned. Failure to comply with this Part shall be sufficient grounds for the revocation of said permit.

\* \* \*

Interested persons may submit written comments to: Frank L. Deffes, Jr., Sanitarian Services Chief, Box 60630, New Orleans, LA 70160 by the close of business on Friday, February 21, 1996. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed changes will be held on February 19, 1997, at 10 a.m., at the DOTD Annex, 1201 Capitol Access Road, Fourth Floor Conference Room. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Sanitary Code—Permits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The only cost associated with implementation of this Rule is the \$20 required to publish the amended Rule. There are no additional state or local costs associated with this Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This agency would be able to collect approximately \$3,500 per year that is usually lost due to NSF checks.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Those companies that issue NSF checks will have to reimburse the state for the permit fee or run the risk of having their permit revoked.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Bobby P. Jindal  
Secretary  
9701#068

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Sanitary Code—Toledo Bend  
Reservoir and Sabine River (Chapter I)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Health and Hospitals proposes to amend Chapter I of the Sanitary Code, Section 1:007-21 A.3 and Section 1:007-21 B to be in compliance with R.S. 40:1152 and 40:1153 wherein the Toledo Bend Reservoir and the Sabine River were added to those statutes.

**Chapter I  
General Provisions**  
\* \* \*

Change 1:007-21 A.3 to read:

3. In cases involving pollution of streams or rivers and located outside the Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, their drainage basins, or associated waterways, and pursuant to a decision of the hearing officer/administrative law judge;

\* \* \*

Change 1:007-21 B to read:

B. Pursuant to the provisions of R.S. 40:1152 and 40:1153, the state health officer acting through the Office of Public Health, in cases involving pollution of Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, their drainage basins, or associated waterways, and pursuant to a decision of the hearing officer/administrative law judge;

\* \* \*

Interested persons may submit written comments to: Frank L. Deffes, Jr., Sanitarian Services Chief, Box 60630, New Orleans, LA 70160 by the close of business on Friday, February 21, 1996. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on the proposed changes will be held at the DOTD Annex, 1201 Capitol Access Road, Fourth Floor Conference Room on February 19, 1997 at 10 a.m.

All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Toledo Bend Reservoir  
and Sabine River**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only costs associated with implementation of this Rule is the \$40 (approximately) required to publish the amended Rule. There will be no additional costs to local governmental units due to the implementation of this Rule change as the statute has been in effect for several years (since 1993), and is just another means of enhancing existing enforcement procedures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Historically, a majority of individuals have elected to correct the pollution problem rather than pay the fine.

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Those affected would be individuals polluting the Toledo Bend Reservoir, the Sabine River, their drainage basins, or associated waterways, and they would have to install an approved sewage treatment system. An estimated cost for an average home would be approximately \$2,000. Economic benefits would benefit the sportsmen, tourist and real estate industries around these water bodies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Bobby P. Jindal  
Secretary  
9701#067

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Ambulatory Surgical Centers (LAC 48:I.4539)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to amend the licensing Regulations for ambulatory surgical centers as authorized by R.S. 40:2131-2141. This proposed Rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources adopted licensing Regulations for Ambulatory Surgical Centers as authorized by the Ambulatory Surgical Centers Licensing Regulation in R.S. 40:2131 et seq. These licensing Regulations were published in the *Louisiana Register*, Volume 13, Number 4 and in the *Louisiana Administrative Code*, Title 48. The current Rule requires the department to indicate on the license whether the ambulatory surgical center is licensed without limitations or with limitations, depending on whether procedures performed by the licensee are invasive

or noninvasive. When only noninvasive procedures are performed, it is not necessary for a registered nurse, in addition to the one on duty in the surgical suite, to be assigned to the recovery room. The department has now determined that all ambulatory surgical centers perform invasive procedures. Therefore, the Department of Health and Hospitals amends the current Rule by removing Subsection G.1 of §4539, Nursing Personnel, due to obsolete language. The department is proposing to incorporate this revision into the current Rule for licensing ambulatory surgical centers.

**Title 48**

**PUBLIC HEALTH - GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 45. Ambulatory Surgical Center**

**§4539. Nursing Personnel**

\* \* \*

A. - G. ...

1. Delete

H - I. ....

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2131-2143.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 23:

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on this proposed Rule is scheduled for Tuesday, February 25, 1997 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Ambulatory Surgical Centers**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will increase state costs by approximately \$150 for SFY 1997 for the administrative expense of promulgating this proposed Rule. No costs are anticipated for SFY 1998 and SFY 1999.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no increase in federal revenue collections expected from the expense of promulgating this proposed Rule due to the capped federal funding for the state's administration of the Medicaid Program. Federal share of the expense of promulgating this proposed Rule is \$75.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no cost or economic benefit to persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9701#077

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Eligibility—Medicaid Application Centers**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following proposed Rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Reimbursement procedures for certified Medicaid Enrollment Centers were published in the *Louisiana Register* May 20, 1993 (Volume 19, Number 5). Reimbursement was set at a uniform, flat-fee rate on a per-application basis, with provision for sanction if a performance audit indicated above-average denial rates. Further instructions for submitting applications to the appropriate Medicaid Office were included in the procedural manual provided to enrollment centers. Reimbursement has not been contingent on the accuracy or timeliness of activities undertaken by the enrollment center.

Maximum standards for timeliness in processing applications for Medicaid are found at 42 CFR 435.911(a), which states, "These standards may not exceed 90 days for applicants who apply for Medicaid on the basis of disability; and 45 days for all other applicants." The Louisiana Medicaid Enrollment Center Program was established in July, 1992 to provide outstation sites for the purpose of interviewing the applicant for potential Medicaid benefits. It has been determined that delays occur at the Enrollment Center site because of applications that are incomplete (and thus require further clarification by Medicaid staff) are sent to a Medicaid office other than the one responsible for the eligibility determination for that applicant, or are forwarded later than required time frames. Delays in the application process result in failure to complete certification activities timely, which is reflected in the state error rate used to determine whether federal penalties will be levied. It is, therefore, necessary to prevent such delays whenever possible. This proposed Rule specifies conditions under which payment for applications will be withheld and incidentally changes the designation from Medicaid Enrollment Center Program to Medicaid Application Center Program.



The bureau previously adopted an Emergency Rule effective January 1, 1997 adopting these provisions, which was published in the December, 1996 *Louisiana Register*, (Volume 22, Number 12, December 20, 1996).

#### Proposed Rule

The Medicaid Enrollment Center Program is renamed the Medicaid Application Center Program. Reimbursement for applications taken by Medicaid Application Centers is available only when the applications are:

1. complete;
2. sent to the appropriate regional/parish Medicaid office; and
3. forwarded within established time frames as set forth in the *Application Center Handbook*.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing is scheduled for Tuesday, February 25, 1997 at 9:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At this time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the next business day following the public hearing.

Bobby P. Jindal  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Application Center Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is anticipated that implementation of this proposed Rule will increase state program costs by approximately \$80 for SFY 1997 for the administrative expense of promulgating this proposed Rule. No costs are anticipated for SFY 1998 and for SFY 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no increase in federal revenue collections expected from the expense of promulgating this proposed Rule due to the capped federal funding for the state's administration of the Medicaid Program. Federal share of the expense of promulgating this proposed Rule is \$40.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no effect on competition and employment.

Thomas D. Collins  
Director  
9701#078

H. Gordon Monk  
Staff Director  
LegislativeFiscalOffice

## NOTICE OF INTENT

### Department of Insurance Commissioner of Insurance

#### Medicare Supplement Insurance Minimum Standards—Regulation 33

Pursuant to the provisions of R.S. 49:950 et seq., R.S. 22:224, and 42 U.S.C. 1395 et seq., the Commissioner of Insurance gives notice of his intent to amend Regulation 33 relative to Medicare Supplement Insurance policies. The revised Regulation 33 implements a new provision governing the marketing of Medicare Select policies in this state as authorized by recent revisions to federal legislation (OBRA, 1990) governing the marketing of Medicare Supplement insurance policies. The new provision is found in Section 10 of the Regulation. The provisions formerly included in Section 10 have been moved to Section 19D.

Regulation 33 as revised establishes the minimum standards which must be complied with by insurers seeking to market Medicare Select policies in Louisiana. A Medicare Select policy is a Medicare Supplement policy which utilizes a restricted provider network.

The full text of this proposed Rule may be viewed in the Emergency Rule Section, pages 1179-1204, of the December, 1996 *Louisiana Register*.

#### Synopsis

#### Proposed Regulation 33B

#### Medicare Supplement Insurance Minimum Standards

The revision to Regulation 33 consists of the relocation of the current provisions of Section 10 relative to premium payment to Section 19. Revised Section 10 adopts new provisions regulating the marketing of Medicare Select policies in accordance with federally prescribed standards. Regulation 33 as revised establishes the minimum standards which must be complied with by insurers seeking to market Medicare Select policies in Louisiana. A Medicare Select policy is a Medicare Supplement policy which utilizes a restricted provider network. Use of a restricted provider network reduces costs thus making such policies more affordable for the elderly, many of whom are facing a financial crisis due to the escalating costs of medical care. Medicare does not cover the cost of prescriptions, which is one of the largest health care expenses for the elderly. An affordable supplemental policy is a life saving necessity for many senior citizens. The authority for implementation of this Regulation is found in R.S. 22:224 and in 42 U.S.C. 1395 et seq. (OBRA'90).

The revised Regulation sets forth the minimum standards for policy conditions and benefits that must be followed by insurers providing medicare select insurance plans. It also sets forth the requirements for coverage and standards for payment for services and fees. Issuers of such policies are required to The Regulation includes charts which detail the types of coverage and costs covered under the various plans. It also sets standards for the payment of claims, the payment of premiums, the filing and approval of policies including mandatory policy provisions and the approval of premium

rates. It also requires insurers to submit the plan of operation with evidence that it has an adequate number of providers in the network and that they are accessible to insureds.

Interested parties may submit written comments on the proposed Regulation until 4:30 p.m., February 10, 1997 at the following address: C. Noël Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown  
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Medicare Supplement Insurance Minimum  
Standards—Regulation 33**

- 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 proposed revision. Any new duties imposed upon the department by this proposed revision would be handled by existing personnel.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Adoption of this proposed revision will not have any effect on revenue collections by the local governmental units. No provisions in the proposed revision call for fines or other fees; therefore, there would be no additional revenue generated for the state.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There is insufficient data available to determine the effect this proposed revision would have on insurers and/or the insureds.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
It is not anticipated that this proposed revision would have any effect on employment or competition.

Brenda St. Romain  
Assistant Commissioner  
9701#063

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Revenue and Taxation  
Office of the Secretary**

**Electronic Funds Transfer (LAC 61:I.4910)**

Under the authority of R.S. 47:1519 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue and Taxation proposes to amend LAC 61:I.4910 concerning the electronic funds transfer of tax payments.

This amendment defines the term *Business Tax* for the purposes of electronic funds transfer and provides that effective January 1, 1998, taxpayers whose tax payments average \$20,000 or more will be required to electronically transfer the funds. In addition, this amendment also makes an exception to the tax return filing requirement for withholding

tax return Form L-1, which may be included with the electronic funds transfer transmission.

**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 business tax return or report, including declaration payments, during the prior 12-month period average \$50,000 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 January 1, 1995.

2. Effective January 1, 1998, electronic payments or payment by other immediately investible funds will be required of filers of all business taxes whose payments during the previous 12-month period averaged \$20,000 or more.

3. Any taxpayer whose tax payments for a particular tax averages less than \$20,000 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.

**B. Definitions.** For the purposes of this Section, the following terms are defined:

\* \* \*

*Business Tax*—any tax, except for individual income tax, collected by the Department of Revenue and Taxation.

\* \* \*

**E. Failure to Timely Transfer Funds Electronically**

\* \* \*

4. Except for the withholding tax return Form L-1, which may be included with the electronic funds transfer transmission, the filing of a tax return or report is to be made separately from the electronic transmission of the remittance. Failure to timely file a tax return or report shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law.

**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 20:672 (June 1994), LR 23:

Interested persons may submit their written comments on the proposed amendments to Linda Denney, Director, Severance Tax Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821, or by FAX to (504) 925-3862. Comments will be accepted through the close of business on Wednesday, February 26, 1997 at 4:30 p.m. A public hearing will be held on Thursday, February 27, 1997 at 10:30 a.m. in the Department of Revenue and Taxation Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

John Neely Kennedy  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Electronic Funds Transfer**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There should be no significant implementation costs associated with lowering the electronic funds transfer payment threshold to \$20,000 effective January 1, 1998.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is estimated that an additional \$164.5 million will be transferred electronically during the last six months of fiscal year 1997-1998 as a result of this amendment. Assuming that the state will earn interest for four additional days on the tax payments electronically transferred at an annual rate of 5.04 percent (the current earnings rate for short-term government securities), it is estimated that the state should earn \$90,000 in additional interest. Additional interest earnings are projected to be \$180,000 (double the first year to reflect the full 12 months) for fiscal year 1998-1999 and \$190,000 for fiscal year 1999-2000.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Currently, taxpayers whose average payments exceed \$50,000 are required to electronically transfer tax payments. This amendment will require taxpayers, whose average payments are more than \$20,000 to electronically transfer tax payments. These additional taxpayers will incur a small transaction charge (\$1.50-\$2) if they elect to use the ACH credit method. The department will incur the transaction cost if they elect to use the ACH debit method.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no anticipated impact on competition or employment.

John Neely Kennedy  
Secretary  
9701#043

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

AFDC—Alien Eligibility  
(LAC 67:III.1141 and 1143)

The Department of Social Services, Office of Family Support proposes to amend the LAC 67:III.Subpart 2, the Aid to Families with Dependent Children (AFDC) Program.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) mandated revision of AFDC Program policy regarding the eligibility of noncitizens. Subsequent to the Notice of Intent published in the *Louisiana Register* of October 20, 1996, additional policy interpretation was received from the U.S. Department of Health and Human Services, Administration for Children and Families. This Rule now proposes to modify and expand the eligibility of aliens. The original federal interpretation has been corrected so that all qualified aliens who entered the U.S.

prior to August 22, 1996 will meet the citizenship requirement. Those qualified aliens who enter the U.S. after August 22, 1996 will not be eligible for AFDC for five years after entry unless they meet one of the five provisions detailed in Subsection B of the Rule.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 2. Aid to Families with Dependent**

**Children (AFDC)**

**Chapter 11. Application, Eligibility and Furnishing Assistance**

**Subchapter B. Coverage and Conditions of Eligibility**

**§1141. Eligibility Requirements for Aliens**

A. An alien who is not a qualified alien is not eligible. A qualified alien is:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. an alien who is granted asylum under Section 208 of such Act;
3. a refugee who is admitted to the United States under Section 207 of such Act;
4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
5. an alien whose deportation is being withheld under Section 243(h) of such Act; or
6. an alien who is granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980.

B. Time-limited Benefits. An alien who is a qualified alien as defined above who enters the United States after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;
2. the alien is granted asylum under Section 208 of such Act;
3. the alien's deportation is being withheld under Section 243(h) of such Act;
4. the alien is lawfully residing in the United States and is a veteran who is honorably discharged for reasons other than alienage and his spouse and unmarried dependent children;
5. the alien is lawfully residing in the United States and is on active duty (other than for training) in the armed forces and his spouse and unmarried dependent children.

C. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child by applying the stepparent deeming formula. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:48687 et seq., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Eligibility Determinations, LR 14:280 (May 1988), LR 14:438 (July 1988), amended by the Department of Social Services, Office of Family Support, LR 23:

### §1143. Income and Resources of Alien Sponsors

In determining eligibility and benefit amount for an alien, the income and resources of their sponsor and the sponsor's spouse must be considered. A *Sponsor* is defined as any person who executed an affidavit of support pursuant to Section 213A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor and the sponsor's spouse shall apply until the alien:

1. achieves United States citizenship through naturalization; or

2. has worked 40 qualifying SSA quarters of coverage, or can be credited with such qualifying quarters, and in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefit during any such period. In determining the number of qualifying quarters of coverage an alien shall be credited with:

a. all of the qualifying quarters of coverage worked by a parent of such alien while the alien was under age 19; and

b. all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

**AUTHORITY NOTE:** Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402) and 45 CFR 205-206,233-234, P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 23:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on February 26, 1997, 9-11 a.m., at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge. 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, telephone (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: AFDC—Alien Eligibility

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No state costs or savings can be projected. There will be grant savings from the denial of assistance to noncitizens that are not eligible due to the new policy. However, the number of applications which will be received and the number to be denied cannot be determined. There are no projected costs or savings to local governmental units. The immediate cost of implementation in FY 96/97 is negligible.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Some future applicants will be ineligible for state assistance due to the more restrictive criteria. Persons who are ineligible for assistance due to these changes will have an average loss of \$52 per month in income. No effect is anticipated to local governmental units.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9701#085

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Social Services Office of Family Support

AFDC—Eligibility and Special Conditions; Job Opportunities and Basic Skills Training Program  
(LAC 67:III.Chapters 9, 11, 13, 15, 29)

The Department of Social Services, Office of Family Support proposes to amend the *Louisiana Administrative Code*, LAC 67:III.Subpart 2, the Aid to Families with Dependent Children (AFDC) Program and Subpart 5, Job Opportunities and Basic Skills Training Program.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, changes are being made in the AFDC Program regarding the eligibility of certain individuals for assistance. This Rule proposes to include changes regarding denial of assistance for failure to cooperate in establishing paternity or obtaining child support; denial of cash assistance to fleeing felons and probation/parole violators; permanent disqualification for cash assistance to an individual convicted of a felony involving a controlled substance; establishment of a 60-month life-time limit for cash assistance; denial of cash assistance to minor children who are absent from the home for a significant period; and denial of cash assistance to a person who fraudulently misrepresented residence in two or more states. The agency is adopting the Title IV-A, IV-F, and IV-A/F State Plans as they existed on October 1, 1996 to the extent that their provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996.

Copies of the proposed State Plans may be obtained from the Office of Family Support, Planning Section, Box 94065, Baton Rouge, LA 70804 or the Office of the State Register, Box 94095, Baton Rouge, LA 70804, telephone (504) 342-5015.

**Title 67**  
**SOCIAL SERVICES**  
**Part III. Office of Family Support**  
**Subpart 2. Aid to Families with Dependent**  
**Children (AFDC)**

**Chapter 9. Administration**

**§902. State Plan**

The Title IV-A State Plan as it existed on October 1, 1996 is hereby adopted to the extent that its provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE; Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**Chapter 11. Application, Eligibility and Furnishing Assistance**

**Subchapter B. Coverage and Conditions of Eligibility**

**§1113. Eligibility Requirements**

A. - B. ...

C. Cooperation. Each applicant for, or recipient of AFDC is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient. Effective January 1, 1997, failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

D. - F. ...

G. Living in the Home. A child must reside with a qualified relative who is responsible for the day-to-day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 232, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 1:494 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 23:

**§1116. Fleeing Felons and Probation/Parole Violators**

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**§1118. Individuals Convicted of a Felony Involving a Controlled Substance**

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)]) shall be permanently disqualified from receiving cash assistance. This shall not apply to convictions occurring on or before August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**Chapter 13. Special Conditions of Eligibility**

**Subchapter A. Family Independence Project (FIP)**

**§1301. Terms and Conditions**

A. - E. ...

F. Life-Time Limit

1. Eligibility for cash assistance is limited to a life-time limit of 60 months.

2. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive).

3. Any month for which such assistance was provided will be disregarded with respect to the individual, if the individual was:

a. a minor child; and

b. not the head of a household or married to the head of a household.

G. All individuals determined ineligible under any of these provisions shall retain the same Medicaid eligibility that they would have had in the absence of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:447.3, 46:460, 46:474, 46:477, 46:239, 46:459, P. L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1232 (December 1996), amended LR 23:

**Chapter 15. General Program Administration**

**Subchapter A. Fraud**

**§1501. Fraud Control Program**

A. - B.2. ...

3. Cash assistance shall be denied to an individual for 10 years from the date that individual is convicted in federal or state court of having made a fraudulent statement or representation with respect to his place of residence in order to receive assistance simultaneously from two or more states. This does not apply with respect to a conviction of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-203 and CFR 235, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 14:439 (July 1988), amended by the

Department of Social Services, Office of Family Support, LR 20:1019 (September 1994), LR 23:

**Subchapter B. Recovery**

**§1506. Special Considerations in Determining Recovery Amounts**

If the payee fails to report a child's absence of more than a 45-day duration by the end of the five-day period that begins with the date that it became clear to the payee that the child would be absent for a 45-day period, and good cause for the absence is not established, the needs of the payee as well as the needs of the child will be excluded when determining the recovery amount.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**Subpart 5. Job Opportunities and Basic Skills Training Program**

**Chapter 29. Organization**

**Subchapter A. Designation and Authority of State Agency**

**§2902. State Plan**

The Title IV-F and IV-A/F State Plan as it existed on October 1, 1996 is hereby adopted to the extent that its provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on February 26, 1997, 9 - 11 a.m., at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge. 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).

Madlyn B. Bagneris  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: AFDC—Eligibility and Special  
Conditions; Job Opportunities and  
Basic Skills Training Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The immediate cost of implementation is estimated to be \$4,200. Adoption of the IV-A, IV-F and IV-A/F state plans will not have any fiscal impact. Denial of cash assistance to fleeing felons, probation/parole violators and individuals who fraudulently misrepresent residence and permanent disqualification of individuals convicted of a felony involving

a controlled substance will have minimal fiscal impact. This impact cannot be determined as the agency has no information to project the number of individuals who might be denied due to these provisions. Denial of cash assistance to minor children who are absent from the home will have minimal fiscal impact because this federal mandate did not significantly change current policy. The 60-month life-time limit will not have a fiscal impact until FY 00/01. Grant savings for the denial of assistance for failure to cooperate in establishing paternity or obtaining child support is estimated as follows: FY 96/97 \$251,084 state, \$625,606 federal; FY 97/98 \$1,781,732 state, \$4,439,401 federal; FY 98/99 \$1,806,753 state, \$4,501,743 federal. There are no costs or savings to local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Since the amount paid in state grants will be reduced, there will be reductions in federal reimbursements received by the state. Loss of federal reimbursements are estimated to be \$625,606 for FY 96/97. \$4,439,401 for FY 97/98 and \$4,501,743 for FY 98/99. There is no estimated effect on local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Applicants and recipients of cash assistance affected by these proposed changes in policy will lose benefits. Families which are ineligible for assistance due to failure to comply will have an average loss of income of \$153 per month. Individuals who are ineligible due to the other provisions will average a benefit loss of \$52 per month. No costs or benefits are anticipated to any nongovernmental group.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9701#084

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

**Project Independence—Participation  
and Services (LAC 67:III.Chapter 29)**

The Department of Social Services, Office of Family Support proposes to amend LAC 67:III, Subpart 5, Job Opportunities and Basic Skills Training Program, known in Louisiana as the Project Independence Program.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 mandated changes regarding mandatory recipients and the number of participation hours required in a JOBS Program. This law places increased emphasis on work activities rather than educational activities which require changes in allowable work activities and available support services. This Rule is being promulgated to encompass those changes.

**Title 67**  
**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 5. Job Opportunities and Basic Skills Training Program**

**Chapter 29. Organization**

**Subchapter A. Designation and Authority of State Agency**

**§2903. Implementation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.0 and R.S. 46:451 et seq., P. L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 18:967 (September 1992), LR 19:504 (April 1993), LR 19:1297 (October 1993), LR 20:24 (January 1994), LR 20:199 (February 1994), repealed LR 23:

**§2905. Program Administration**

A. - A.1. ...

2. A case management system is maintained by case managers in each OFS parish office to assist participants in their efforts to become economically independent. Case managers shall assess the participant's family circumstances, education and training status, and level of job readiness; negotiate with the participant an individual responsibility plan that is realistic and achievable; provide positive intervention and act as a participant advocate to maximize the effectiveness of the program; select and arrange for appropriate work activity participation; and monitor program activities.

B. ...

C. A grievance procedure is available for resolving displacement complaints by regular employees or their representatives relating to JOBS participants. A grievance procedure is also available for resolving complaints by, or on behalf of JOBS participants in a work-related activity. This grievance procedure hears complaints relating to on-the-job working conditions and workers' compensation coverage.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33, R.S. 460.3(A) (3), R.S. 46:453(B), 45 CFR 251.4 and 45 CFR 251.5., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:646 (July 1991), LR 17:973 (October 1991), LR 19:504 (April 1993), LR 23:

**Subchapter B. Participation**

**§2907. Individual Participation Requirements**

A. All recipients of cash assistance are mandatory participants unless determined exempt.

1. A single parent/caretaker who is personally providing care for a child under age one is exempt. This exemption is limited to a total of 12 months per single parent/caretaker.

2. A parent/caretaker not included in the cash assistance certification, for any reason other than sanction, is exempt.

B. All non-exempt applicants and recipients are required to participate a minimum average number of hours per week

in an allowable work activity as an eligibility condition for receipt of cash assistance.

1. A single parent/caretaker eligible for cash assistance is required to participate a minimum of 20 hours per week, in an activity described in §2911.A.1, 2, 3, 4, 5, 9, or 10.

2. In any two-parent family eligible for cash assistance, one parent must participate a minimum of 35 hours per week, not fewer than 30 hours per week of which are attributable to an activity described in §2911.A.1, 2, 3, 4, 5, 9, or 10. If child care is provided, the second parent, unless disabled, must also participate a minimum of 20 hours per week in an activity described in §2911.A.1, 2, 3, or 9.

3. Participation in activities described in §2911.A.6 and 7 may only be counted for single heads of household who have not attained 20 years of age. All other participants may participate in the activities in §2911.A.6 and 7 if they simultaneously meet the requirements described in B.1 or B.2 of this Section.

4. Participation in activities described in Subsection B.3 of this Section and in §2911.A.5 cannot comprise more than 20 percent of individuals in all families and in two-parent families.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:

**§2909. Failure to Participate**

A. Failure to participate in the JOBS program, without good cause, will result in the following progressive levels of sanctioning:

1. first occurrence: until the failure or refusal to comply ceases;

2. second occurrence: until failure or refusal to comply ceases, or three months, whichever is longer;

3. any subsequent occurrence: until failure or refusal to comply ceases, or six months, whichever is longer;

B. Sanctions will result in the removal of needs of the sanctioned individual from the cash assistance budget.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 18:870 (August, 1992), LR 19:504 (April 1993), LR 23:

**Subchapter C. Activities and Services**

**§2911. Work Activities**

The following are allowable work activities, with certain limitations or restrictions, that may be provided to a participant:

1. any paid employment, unsubsidized or subsidized;

2. unpaid work experience (including Community Work Experience and Independence Through Work);

3. on-the-job training;

4. job search/job readiness, limited to six weeks per individual, of which no more than four may be consecutive;

5. vocational education, limited to a total of 12 months per individual;

6. secondary school attendance and preparation for a graduate equivalency diploma, in the case of a recipient who has not completed secondary school or received such a certificate;

7. education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

8. job skills training directly related to employment;

9. community service;

10. provision of child care services to an individual who is participating in community service.

**AUTHORITY NOTE:** Promulgated in accordance with P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Service, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20:1130 (October 1994), LR 22:1142 (November 1996), LR 23:

**§2913. Support Services**

Support services include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

**1. Child Care Payments**

a. The following is the Standard Rate Schedule for payment for child care services provided to the children of Project Independence participants. The statewide limit is established as the maximum amount allowable based upon the provider type, age of child, and the type of care provided.

<b>STANDARD RATE SCHEDULE</b>			
<b>Regular Care</b>			
<b>Child Under Age 2 - Class A Centers</b>			
<b>Full Time</b>		<b>Part Time</b>	
Monthly	\$238.50	Monthly	\$119.15
Weekly	\$ 55.00	Weekly	\$ 27.50
Daily	\$ 11.00	Daily	\$ 5.50
Hourly	\$ 1.38	Hourly	\$ 1.38
<b>Child Age 2 or Older - Class A Centers</b>			
<b>Full Time</b>		<b>Part Time</b>	
Monthly	\$216.50	Monthly	\$108.25
Weekly	\$ 50.00	Weekly	\$ 25.00
Daily	\$ 10.00	Daily	\$ 5.00
Hourly	\$ 1.25	Hourly	\$ 1.25
<b>Child Under Age 2 and Child Age 2 or Older - All Other Service Providers</b>			
<b>Full Time</b>		<b>Part Time</b>	
Monthly	\$216.50	Monthly	\$108.25
Weekly	\$ 50.00	Weekly	\$ 25.00

Daily	\$ 10.00	Daily	\$ 5.00
Hourly	\$ 1.25	Hourly	\$ 1.25

b. All rates herein are established as maximum allowable amounts; payments will be the provider's actual charges or the maximum rate, whichever is less. Daily rates are based on eight hours per day; weekly rates are based on five days per week; monthly rates are based on 4.333 weeks per month. Part-time care is considered to be 20 hours per week or less. Part-week care is considered to be fewer than five days per week, paid at the daily rate.

**2. Transportation Payment**

a. Payments may not exceed \$500 per participant per month.

b. Participants who become ineligible for cash assistance due to earned income are eligible for a transportation payment of \$33.33 1/3 per month, this paid as a one-time allotment of \$100 for the 90-day period following ineligibility.

**3. Other Supportive Services**

a. Payment of union dues not to exceed \$100.

b. Payments not to exceed a combined total of \$100 per fiscal year may be made for certain costs deemed necessary such as eyeglasses; hearing aids and other small medical appliances; uniforms, tools and training materials; medical exam not provided by medicaid or other resource; placement test fees and other course pre-requisite costs; safety equipment; and transportation related expenses.

c. The purchase of refreshments at a maximum cost of \$1 per day per participant is allowed for in-house activities. Supplies will be purchased in bulk from vendors following state procurement Rules and Regulations, and utilized in accordance with the projected numbers of participants and days of activities the supplies are to cover.

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR Parts 250, 255, 257, and R.S. 46:456 and 457, P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on February 26, 1997, 9-11 a.m., at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA. 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, telephone (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris  
Secretary



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: JOBS—Participation**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Form revisions will be required. However, at this time it cannot be determined how many will require revision. In the current year it is anticipated that there will be little or no change in program cost and that there are funds available to cover any associated costs. It is anticipated that FY 97/98 implementation costs will be \$37,546,925 and for FY 98/99, \$37,629,275. There are no anticipated costs or savings to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this Rule will increase federal revenue collections for fiscal years 97/98 and 98/99 by approximately \$34,842,935. There is no effect on revenue collections of local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
New Rules should accelerate recipient movement from welfare to work for many of our clients resulting in economic benefit for their household. However, at this time, it cannot be anticipated how many clients will be positively affected. Some providers with whom the Work Activities Program contracts services may find it necessary to adjust services they offer in order to be able to continue as a service provider.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
It is anticipated that many cash assistance recipients will be moved from welfare dependency to employment. Those recipients moved from welfare dependency will result in an increase in competition for jobs in the workforce.

Vera W. Blakes  
Assistant Secretary  
9701#081

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Experimental Dove Field Leasing  
(LAC 76:XIX.107)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate Rules governing hunting on property leased for public dove hunting by the Department of Wildlife and Fisheries.

**Title 76  
WILDLIFE AND FISHERIES  
Part XIX. Hunting**

**Chapter 1. Resident Game Hunting Seasons  
§107. Experimental Dove Field Leasing Program**

A. In recognition of the popularity of dove hunting and the lack of lands available to the general public for dove hunting, the Wildlife and Fisheries Commission establishes Rules for an experimental public dove hunting program on private lands leased by the Department of Wildlife and Fisheries.

B. The following Rules will apply to those lands which dove hunting rights have been leased by the Department of Wildlife and Fisheries for the day(s) specified in the lease:

1. All hunters are required to have a daily permit. This permit will be available at the field on the day of the hunt. Permits will be issued on a first come, first serve basis. An administrative fee may be charged for daily permits.

2. Leased fields may be closed to additional hunters when a predetermined number of permits have been issued. However, additional hunters may be admitted throughout the day as hunters leave the field and surrender their permits.

3. No alcoholic beverages may be consumed or possessed on the leased property. Persons who appear to be impaired or under the influence of alcohol or other controlled substances will be denied access to the field(s).

4. Shot larger than size 7½ is prohibited.

5. Only mourning doves may be taken.

6. Loaded firearms are prohibited in vehicles or at check stations.

7. Persons exhibiting unsafe gun handling shall be removed from the field(s).

8. Vehicles are restricted to designated areas or roads.

9. No littering. Each hunter is responsible for removing his/her trash, including shell hulls, from the leased property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:783 and 56:109B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:

The secretary of the Department of Wildlife and Fisheries is authorized 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, the filing of the fiscal and economic impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may comment on the proposed Rule in writing to Hugh Bateman, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., Tuesday, March 4, 1997.

Daniel J. Babin  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Experimental Dove Field Leasing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This Rule will not result in either costs or savings to state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This Rule establishes regulations for the on-going experimental dove field leasing program and 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)  
Landowners who lease property to the Department of Wildlife and Fisheries will receive payments for leases. Payments range from \$400 to \$2,000 per lease, depending on the acreage leased. Hunters will pay an administrative fee to hunt on these leased properties.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed Rule will not effect competition and employment.

Fredrick J. Prejean, Sr.  
Undersecretary  
9701#054

Richard W. England  
Assistant to the  
LegislativeFiscalOfficer

# Committee Reports

## COMMITTEE REPORT

**House Insurance Committee  
Subcommittee on Oversight and Accreditation  
December 13, 1996**

Regulation 61—Statement of Actuarial Opinion

*(Editor's Note: The full text of the Notice of Intent, published by the Commissioner of Insurance, may be viewed on pages 891-892 of the September 20, 1996 Louisiana Register.)*

Pursuant to the provisions of R.S. 49:968, the House of Representatives Subcommittee on Oversight and Accreditation of the Insurance Committee met on December 12, 1996 to review proposed Regulation 61, relative to the Statement of Actuarial Opinion submitted by the Department of Insurance.

There was lengthy testimony and discussion of the entire regulation. The committee concluded that changes should be made to the proposed regulation prior to acceptance and after a motion to reject with suggestions on changes to the proposed regulation, votes 2-1 to reject proposed Regulation 61.

The following suggestions for changes to the proposed regulation were made by the committee:

1. Include as a provision of the proposed regulation a Section providing for a proper phase-in for compliance with the proposed regulation. The phase-in contained in

Regulation 47, Section 5(F) of the Department of Insurance should be used as the model.

2. Include as a provision of the proposed regulation a Section providing for exemptions from the proposed regulation. This exemption Section should be identical to Section 6 of Regulation 39 of the Department of Insurance.

3. Include the definitions of Regulation 39, Section 4 of the Department of Insurance in the proposed regulation.

Shirley D. Bowler  
Vice Chairman

9701#025

# Administrative Code Update

**CUMULATIVE ADMINISTRATIVE CODE UPDATE  
January - December, 1996**

LAC Title	Part.Section	Effect	Location LR 22 Month Page	
4	III.Chapter 1	Amended	Jan 22	
	VII.341	Amended	May 345	
7	XIII.8789	Amended	Dec 1210	
	XXI.11734-11737	Amended	Oct 960	
	XXXIX.20101	Amended	Jul 581	
	XXXIX.20301	Amended	Dec 1210	
10	XV.Chapter 9	Amended	Mar 187	
13	I.Chapter 9	Amended	Jun 445	
	I.Chapter 42	Adopted	Oct 961	
16	II.105	Amended	Aug 717	
	22	XIII.Chapters 1-3	Amended	Aug 709
		XIII.501	Repromulgated	Aug 710
		XIII.503	Amended	Aug 710
25	VII.2105	Amended	Jan 12	
28	I.105	Amended	Feb 99	
	I.107	Amended	Nov 1124	
	I.915	Amended	Sep 809	
	I.920	Amended	Aug 698	
	I.929	Amended	Apr 278	
	I.1523	Amended	Jun 453	
	I.1523	Repromulgated	Sep 809	

33	I.Chapter 5	Adopted	May 342		VII.309	Amended	May 344
	I.3931	Amended	May 341		VII.529	Amended	Jan 18
	I.Chapter 69	Adopted	Oct 977		VII.Chapter 105	Amended	Dec 1213
	I.6915	Repromulgated	Dec 1212		IX.301,309,315	Amended	May 344
	III.Chapters 1-64	Amended	Dec 1212		IX.1123	Amended	Nov 1130
	III.107	Amended	May 343		IX.1307,1309	Amended	Jan 19
	III.209,211,215	Amended	Jan 17		IX.1507	Amended	May 345
	III.509	Amended	May 339		XI.307	Amended	Jan 19
	III.517	Amended	May 344		XV.Chapters 1,4,6,10	Amended	Oct 966
	III.918,919	Amended	May 339		XV.324	Amended	May 345
	III.2103	Amended	Jun 453		XV.2505,2509,2511	Amended	Jan 19
	III.2117	Repromulgated	Jan 14		*Various Sections of this Chapter repealed		
	III.2117	Amended	Aug 703	34	I.3105	Amended	Apr 280
	III.2121, 2122	Amended	Nov 1128		III.511	Amended	May 345
	III.2123	Amended	May 340	35	I.1507	Amended	Jan 12
	III.2129	Repealed	Aug 703		III.5711	Amended	Sep 804
	III.2531	Amended	Nov 1127		III.5736	Adopted	Jan 13
	III.Chapter 27	Amended	Aug 698		V.6353	Amended	Jan 13
	III.3107	Amended	May 340		XI.9905	Repealed	Jan 13
	III.3260,3264	Amended	Jan 17		XIII.11115	Amended	Jan 13
	III.3301	Amended	May 341		XIII.11701	Adopted	Sep 805
	III.5112	Amended	Apr 278	40	I.105	Amended	Mar 221
	III.Chapter 59	*	Nov 1125		I.105	Amended	Oct 992
	III.5901	Repromulgated	Dec 1212		I.107	Repealed	Mar 221
	III.5901, 5903	Amended	Nov 1124		I.109	Amended	Mar 221
	III.5907, 5913	Adopted	Nov 1126		I.109	Repromulgated	Apr 285
	III.5910	Adopted	Nov 1125		I.109	Amended	Oct 992
	III.5911	Amended	Nov 1125		I.Chapter 17	Adopted	Mar 222
	III.6115,6117	Adopted	Jan 15		I.Chapter 19	Amended	Mar 222
	V.Chapters 1-49	Amended	Sep 813		I.1905	Amended	Oct 993
	V.Chapters 1-49	Amended	Sep 830		III.107	Amended	Jan 34
	V.319	Amended	May 344		III.301-307	Adopted	Jan 35
	V.2245	Amended	Nov 1130	42	I.1789	Amended	Feb 110
	V.5125-5129, 5141	Amended	Jan 18		I.1791	Adopted	Feb 111
	V.1113	Amended	May 344		XIII.1701	Amended	Nov 1139
	V.3013	Repromulgated	Oct 980	46	XI.Chapters 1-5	Amended	Aug 697
	V.Chapter 11	Amended	Jan 20		XI.Chapter 7	Repealed	Aug 697
	V.Chapter 22	Amended	Jan 22		XXI.1101	Amended	Dec 1211
	V.4115,4139	Amended	Jan 21		XXI.1105	Amended	Jun 445
	V.4139	Repromulgated	Feb 100		XXVII.Chap.3-7	Amended	Mar 191
	VII.Chapters 1,3,7	Amended	Apr 279		XXVII.Chapter 9	Adopted	Mar 193

XXIX.1501-1509	Adopted	Feb 94		LXVII.2107	Repealed	Feb 97
XXXIII.105	Amended	Jan 23		LXXV.Chapters 1-7	Amended	May 346
XXXIII.106	Adopted	Jan 24		LXXXVI.703	Amended	Jul 582
XXXIII.301	Amended	Dec 1215	48	I.2303	Amended	Jan 29
XXXIII.303	Repealed	Dec 1215		I.2305	Repromulgated	Jun 456
XXXIII.301,306	Amended	Jan 23		I.2438-2444	Amended	Jan 30
XXXIII.502	Amended	Dec 1217		I.2446,2449	Adopted	Jan 31
XXXIII.503	Amended	Jan 22		I.2449	Repromulgated	Apr 285
XXXIII.701	Amended	Dec 1217		I.2449	Repromulgated	Aug 712
XXXIII.701,706	Amended	Jan 22		I.3945	Adopted	Mar 216
XXXIII.708	Adopted	Jan 23		I.Chapter 91	Amended	Nov 1135
XXXIII.903	Amends	Dec 1218		I.15101,15103	Repealed	Sep 840
XXXIII.907,919	Amended	Jan 24		V.Chapters 49-59	Amended	May 362
XXXIII.1505,1509	Amended	Dec 1216		V.12314	Adopted	Jan 25
XXXIII.1611	Amended	Dec 1216		V.13301,13303	Adopted	Sep 840
XXXIII.1613	Amended	Dec 1217	55	I.1301, 1303	Amended	Sep 845
XXXIII.1611-1615	Amended	Jan 21		I.1305-1317	Adopted	Sep 846
XLV.301-431	Amended	Mar 207		I.Chapter 15	Amended	Dec 1230
XLV.301-431	Rule Withdrawal	Apr 280		III.Chapter 1	Adopted	Apr 286
XLV.Chap.15,45	Amended	Mar 201		VII.317	Amended	Feb 116
XLV.Chapter 111	Adopted	Mar 195	58	I.Chapters 1-29	Amended	May 373
XLV.2541-2551	Amended	Dec 1218	61	I.1701	Adopted	Nov 1141
XLV.2553-2569	Adopted	Dec 1219		I.Chapter 33	Adopted	Jun 460
XLVII.3305,3307	Amended	Feb 104		I.4301	Amended	Sep 855
XLVII.3361	Amended	Oct 981		I.4351	Amended	Sep 852
XLVII.3705-3713	Repealed	Apr 280		I.4409	Amended	Sep 854
XLVII.4501-4517	Adopted	Apr 281		I.4418	Adopted	Sep 854
XLVII.4513	Amended	Oct 981		I.4905	Adopted	Jan 35
LIV.107,115	Amended	Apr 284		I.4907	Adopted	Dec 1230
LVII.512	Adopted	Jun 459		V.Chapters 3-35	Amended	Feb 117
LVII.518	Adopted	May 371	67	III.401	Adopted	Dec 1231
LX.Chapters 1-17	Amended	Feb 101		III.1136	Amended	Dec 1234
LXI.309	Amended	Apr 286		III.1137	Amended	Dec 1233
LXI.1701	Amended	Apr 287		III.1138	Adopted	Dec 1233
LXI.2501-2509	Amended	Aug 713		III.1301	Adopted	Dec 1232
LXIII.805	Amended	Nov 1131		III.1509	Repealed	Dec 1234
LXIII.1903	Amended	Oct 980		III.1931	Amended	Apr 286
LXVII.705	Amended	Mar 190		III.1978	Adopted	Nov 1141
LXVII.3103	Adopted	Feb 96		III.2005	Amended	Jul 584
LXVII.4707	Repromulgated	Feb 95		III.2011	Repealed	Nov 1142
LXVII.2101-2105	Repromulgated	Feb 96		III.2524	Adopted	Mar 224

# Potpourri

## POTPOURRI

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

#### Landscape Architect Registration Exam

The next Landscape Architect Registration Examination will be given June 9-11, 1997, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending application and fee is February 28, 1997. No applications will be accepted after February 28, 1997.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, telephone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify our office as soon as possible. Questions may be directed to (504) 925-7772.

Bob Odom  
Commissioner

9701#041

## POTPOURRI

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

#### Consolidated Fugitive Emission Program

On April 17, 1996 a Memorandum of Understanding Between EPA Region 6 and LDEQ was signed to implement a consolidated fugitive emission control program for industrial facilities in Louisiana. The program consolidates overlapping state and federal equipment leak control programs based on an "overall most stringent program" approach.

This notice serves to provide the names of those facilities that have submitted a Source Notice and Agreement during the period of June 27, 1996 to January 6, 1997 to consolidate fugitive emission programs for specified units:

Angus Chemical Company—Ouachita Parish  
Basis Petroleum, Inc.—St. Landry Parish  
Deltech Corporation—East Baton Rouge Parish  
Exxon Company, U.S.A., Baton Rouge Refinery—East Baton Rouge Parish  
Vulcan Chemicals—Ascension Parish

	III.2527	Amended	Feb 118
	III.2540	Adopted	Feb 118
	III.2543	Adopted	Mar 223
	III.2703	Adopted	Feb 117
	III.2705	Adopted	Feb 118
	III.2751,2753	Amended	Feb 117
	III.2911	Amended	Nov 1142
	III.4702	Amended	Dec 1232
	III.4703	Adopted	Dec 1233
	VII.101	Amended	Oct 993
	VII.Chapter 21	Adopted	Feb 119
70	I.101-113	Amended	Mar 224
	I.Chapter 2	Amended	Mar 228
	III.301-313	Repealed	Mar 228
	III.Chapter 21	Adopted	Mar 228
	XIII.2101	Adopted	Dec 1234
73	I.Chapters 5-19	Amended	Feb 120
	I.Chapter 11	Adopted	May 372
76	III.325	Adopted	Sep 861
	III.327	Adopted	Sep 860
	VII.161	Amended	May 374
	VII.169	Amended	May 376
	VII.181	Adopted	Mar 231
	VII.183	Adopted	Nov 1144
	VII.201,203	Amended	May 373
	VII.335	Amended	Sep 860
	VII.341	Amended	Mar 238
	VII.343	Amended	Mar 236
	VII.349	Amended	Mar 233
	VII.351	Adopted	Nov 1143
	VII.353	Adopted	Nov 1144
	VII.403	Adopted	Mar 240
	VII.405	Adopted	Mar 237
	VII.515	Adopted	Feb 120
	VII.703	Amended	Sep 859
	XVII.101	Adopted	Mar 235
	XVII.301	Adopted	Mar 231
	XIX.101, 103	Amended	Jul 585
	XIX.105	Adopted	Sep 856

Contact Jim Courville at (504) 765-0219 for additional information.

Gus Von Bodungen, P.E.  
Assistant Secretary

9701#047

**POTPOURRI**

**Office of the Governor  
Office of Community Development**

**Fiscal Year 1997 Consolidated Annual Action Plan**

As set forth in 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana, the four state agencies participating in this consolidated planning process and the HUD funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program); the Louisiana Housing Finance Agency (HOME Investments Partnership Program); the Department of Social Services (Emergency Shelter Grants Program); and the Department of Health and Hospitals/HIV Program Office (Housing Opportunities for Persons with AIDS Program).

A consolidated plan was prepared which outlined the state's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 1995-1999 and included a one year action plan for FY 1995 federal funds received for the four aforementioned HUD programs. An annual update or action plan for the distribution of funds must be prepared and publicized for each of the subsequent four program years.

A proposed FY 1997 Consolidated Annual Action Plan which identifies the proposed method of distribution of FY 1997 funds under the four HUD programs is being prepared and will be available for review beginning January 30, 1997, at the Office of Community Development, State Capitol Annex, 1051 North Third Street, Room 168, Baton Rouge, LA. Copies of the proposed annual action plan will also be available at the Louisiana Housing Finance Agency at 200 Lafayette Street, Suite 300, in Baton Rouge; the Department of Social Services/Office of Community Services at 333 Laurel Street, Room 802, in Baton Rouge; and the Department of Health and Hospitals/HIV Program Office at 1600 Canal Street, Ninth Floor, in New Orleans.

Written comments on the proposed plan may be submitted beginning January 30, 1997, and ending March 3, 1997, to the Office of Community Development, Box 94095, Baton Rouge, LA 70804-9095.

Mark C. Drennen  
Commissioner

9701#055

**POTPOURRI**

**Department of Health and Hospitals  
Board of Embalmers and Funeral Directors**

**Embalmer/Funeral Director Examinations**

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, January 18, 1997 at Delgado Community College, City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino  
Executive Director

9701#031

**POTPOURRI**

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

**Nursing Facility Reimbursement**

Medicaid reimbursement for NF services is amended effective October 1, 1996 in accordance with current approved reimbursement methodology to take into account an increase in the minimum wage. Rates are as follows:

LEVEL OF CARE	DAILY	MONTHLY
Skilled Nursing	\$64.07	\$1,948.80
Intermediate Care I	\$61.43	\$1,868.50
Intermediate Care II	\$61.43	\$1,868.50
Skilled Nursing - Infectious Disease	\$244.17	\$7,426.84
Skilled Nursing - Technology Dependent Care	\$154.12	\$4,687.82

Bobby P.Jindal  
Secretary

9701#079

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

**Orphaned Oilfield Sites**

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set

forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well No.	Serial No.
Brazos Petroleum, Inc.	California Bayou	Fairbanks A	3	187696
Brazos Petroleum, Inc.	California Bayou	Bond	2	112678
Brazos Petroleum, Inc.	California Bayou	Fairbanks SWD	1	183940
Brazos Petroleum, Inc.	Bancroft	Foster Heirs	1	99808
Brazos Petroleum, Inc.	Bull Creek	SMK A SUB; Mitcham	1	61294
A. D. Brown, et al	Caddo-Pine Island	Seybert	1	35076
E. M. Carpenter	Caddo-Pine Island	Dr Newton	1	51215
Greer Energy, Inc.	Bracky Branch	Sessions	3	204973
Greer Energy, Inc.	Gay Island	International Paper Co	1	197713
Greer Energy, Inc.	Ivan	CV RA SUD;Yeates	1	184330
Greer Energy, Inc.	Ivan	Yeates	1-D	186174
Greer Energy, Inc.	North Shongaloo-Red Rock	L TOK RA SUS;Sale	1	168482
Greer Energy, Inc.	North Shongaloo-Red Rock	L TOK RA SUZ;Sale	2	169668
Greer Energy, Inc.	North Shongaloo-Red Rock	L TOK RA SUR;Sale	3	170749
Grinnan and Yandell	Caddo-Pine Island	McDade	A-1	52115
Grinnan and Yandell	Caddo-Pine Island	McDade	2	52116
Grinnan and Yandell	Caddo-Pine Island	P B McDade A	3	52277
Grinnan and Yandell	Caddo-Pine Island	McDade	3	90823
J. E. Holmes	Belle Bower	PXY SUS;Wells-Allison	1	150423
J. E. Holmes	Belle Bower	M M Wells et al	1	194729

J. E. Holmes	Belle Bower	M W Wells	1	141424
J. E. Holmes	Belle Bower	PXY SUY;M W Wells et al	2	196611
Illinois Coal Oil and Gas, Inc.	Red River-Bull Bayou	Howard D Foster	1	158401
W. L. McClanahan	Converse	Frost	1	21242
Oklahoma-Texas Trusts	Converse	Frost Lbr Ind	3	22944
Oklahoma-Texas Trusts	Converse	Frost Lbr Ind	2	22604
Geo. L. Pace	Converse	Logan	4	23859
Geo. L. Pace	Converse	Logan	5	24239
Phillips and Sayes, Inc.	Caddo-Pine Island	Starks Barr	1	186477
Quatre "C" Corporation	Lockport	VUA;Olin Corporation	1	147986
Quatre "C" Corporation	Lockport	VUA;Olin Corporation	4	147989
Quatre "C" Corporation	Lockport	VUA;SL 6379	1	151746
Quatre "C" Corporation	Lockport	VUA;SL 6379	3	151748
Quatre "C" Corporation	Lockport	VUA;Olin Corporation	3	147988
Quatre "C" Corporation	Lockport	VUA;Olin Corporation	5	147990
Quatre "C" Corporation	Lockport	VUA;SL 6379	2	147987
D. J. Simmons and Co. of La.	Monroe	Union	55	96485
D. J. Simmons and Co. of La.	Monroe	Union	69	96486
D. J. Simmons and Co. of La.	Monroe	Union	86	97897
D. J. Simmons and Co. of La.	Monroe	Union	57	94338
Terrell H. Smith	Caddo-Pine Island	Hand-Schumaker	1	24442
Standard Production	Caddo-Pine Island	Jackson	1	185040
Standard Production	Caddo-Pine Island	Bronner	1	185534

Standard Production	Caddo-Pine Island	Bronner A	1	185521
Standard Production	Caddo-Pine Island	Barnwell-Caddo Oil Co	1	203417
Standard Production	Caddo-Pine Island	Posey-Dowty	1	184566
Standard Production	Caddo-Pine Island	Bronner	2	186654
Standard Production	Caddo-Pine Island	Kopecky	1	186247
Stateswide Oil Corporation	Hunter	Oilin Oil and Gas Corp.	1	82594
Tex Miss Oil Co.	Lake Curry	TUR SUB;E Fairbanks	11-15	213491
Tex Miss Oil Co.	Lake Curry	E Fairbanks	10-16	99364
Tex Miss Oil Co.	Lake Curry	Fairbanks SWD	A-2	96509
Tex Miss Oil Co.	Lake Curry	E Fairbanks	A-10-16	107009
B. J. Wynne	Converse	Monroe Crawford	6	18865

George L. Carmouche  
Commissioner

9701#080

## POTPOURRI

### Department of Social Services Office of Family Support

#### Summary of Welfare Reform Rulemaking and Public Hearings

The Department of Social Services, Office of Family Support (OFS), is responding to Court Order Number 431,846, as signed on December 9, 1996 by A. Foster Sanders, III, Judge, 19th Judicial District Court. The court order decreed that public notice, comment and input regarding welfare reform actions be provided within 90 days of the date of the order and that such amendments, deletions, corrections, and improvements be made as deemed appropriate and indicated by the public good and interest.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the state has adopted the Title IV-A, IV-F, and IF-A/F State Plans as they existed on October 1, 1996 to the extent that their provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996. This notice provides the major changes to the AFDC program that will take effect on or after January 1, 1997. Those major changes are as follows:

1. **Time Limited Benefits.** There is a 24-month limit in a 60-month period on eligibility unless adult family members

are actively seeking employment, are disabled, or have another hardship exemption.

2. **Refusal to Accept Full-Time Employment.** A family will be determined to be ineligible for AFDC benefits if the parent has declined or refused the opportunity for full-time employment without good cause.

3. **School Attendance.** Requires that school age children receiving benefits not be absent from school for more than 15 school days during the previous six-month period with certain exceptions. Continued excessive absences may result in the elimination of the child's needs from the grant.

4. **Immunizations.** Parents of all AFDC children must provide OFS with verification of immunization against vaccine preventable diseases.

5. **Parenting Skills.** All teen parents must attend parenting skills classes.

6. **Living Arrangements.** Minor unmarried parents must live in the household of a parent or other adult relative, legal guardian or adult supervised living arrangement.

7. **Participation in Work Activities.** Effective May, 1997 all recipients of cash assistance will be required to participate in work activities unless determined exempt.

8. **Paternity and Child Support Cooperation Requirements.** Assistance will be denied to applicants or recipients of AFDC and their families for failure to cooperate in establishing paternity or obtaining child support.

9. **Fleeing Felons and Probation/Parole Violators.** No cash assistance shall be provided to fleeing felons or to probation and parole violators.

10. **Drug Related Convictions.** An individual convicted after August 22, 1996 of a felony involving a controlled substance shall be permanently disqualified from receiving cash assistance.

11. **Lifetime Limit.** Sixty-month lifetime limit for cash assistance.

12. **Living in the Home.** Cash assistance shall be denied to a minor child who is temporarily absent from the home more than 45 days without good cause.

13. **Eligibility Requirements for Aliens (AFDC).** Limit eligibility of noncitizens by redefining the groups of noncitizens who may be eligible for benefits, assigning time limits and deeming income and resources of a sponsor and sponsor's spouse.

14. **Fraudulent Misrepresentation of Residence.** Cash assistance shall be denied to an individual for 10 years from the date that individual is convicted in federal or state court of having made a fraudulent statement or representation with respect to his place of residence in order to receive assistance simultaneously from two or more states.

15. **AFDC Disregard of Child Support.** Applicants and recipients of AFDC will no longer receive the benefit of a disregard of the first \$50 of child support paid to them.

16. **Child Support Distribution.** Reimbursement of the federal portion of the Aid to Families with Dependent Children Program (AFDC) or Family Independence Temporary Assistance Program (FITAP) grant.

#### Public Hearing Schedule

The Office of Family Support will conduct public hearings statewide to allow public comment and input regarding the



summarization provided in this Potpourri notice. The schedule of hearings is as follows:

Monday, January 27, 1997 - 1-3 p.m. - Baton Rouge Department of Education Building First Floor Auditorium 626 N. 4th Street Baton Rouge, LA (504) 342-3859
Monday, January 27, 1997 - 10 a.m.-12 p.m. - New Orleans Southern University at New Orleans Multi Purpose Auditorium 6400 Press Drive New Orleans, LA (504) 243-7700
Tuesday, February 4, 1997 - 1-3 p.m. - Alexandria OFS-SES Alexandria Regional Office State Office Building - Second Floor Conference Room 900 Murray Street Alexandria, LA (318) 487-5202
Tuesday, February 4, 1997 - 1:00 p.m. to 3:00 p.m. - Lake Charles OFS Calcasieu Parish Office Conference Room 1605 Broad Street Lake Charles, LA (318) 491-2211
Wednesday, February 5, 1997 - 1-3 p.m. - Lafayette OFS Lafayette Parish Office Brandywine VI, Suite 201 825 Kaliste Saloom Road Lafayette, LA (318) 262-5255
Wednesday, February 5, 1997 - 1-3 p.m. - Shreveport OFS Shreveport Regional Office 1525 Fairfield Ave., Third Floor Shreveport, LA (318) 676-7101
Thursday, February 6, 1997 - 1-3 p.m. - Monroe OFS Monroe Regional Office 122 St. John Street State Office Building Conference Room 453 Monroe, LA (318) 362-3386
Thursday, February 6, 1997 - 1-3 p.m. - Thibodaux OFS-SES Thibodaux Regional Office 1000-A Plantation Road Thibodaux, LA (504) 447-0952

Written comments will be accepted through February 14, 1997 at the address below. Copies of the Temporary Assistance for Needy Families (TANF) State Plan, as well as additional copies of this Potpourri notice, may be obtained by writing to the Department of Social Services, Office of Family Support, Planning Section, Room 321, Box 94065, Baton Rouge, LA 70804-9065 or by telephone at (504) 342-9967. Copies will also be available at each hearing site.

**Summarization of Rulemaking**

The following information is provided for each subject area:

1. brief summary;
2. type of rulemaking, e.g., Notice of Intent, Emergency Rule, etc. and actual/anticipated publication date;
3. *Louisiana Administrative Code* (LAC) text indicating revisions. All LAC citations are from Title 67, Social Services, Part III, Office of Family Support;
4. fiscal impact summary;

5. regular rulemaking public hearing date.

(Note: These are the normal monthly public hearing dates, not the special statewide hearings being conducted for this Potpourri notice).

**(1) Project Independence Program—Mandatory Recipients/Required Participation Hours**

**Summary:** Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 mandated changes regarding mandatory recipients and the number of participation hours required in a JOBS Program. This law places increased emphasis on work activities rather than educational activities which requires changes in allowable work activities and available support services. This Rule is being promulgated to encompass those changes.

**Rulemaking:** Emergency Rule published 10/20/96 (later rescinded). Notice of Intent published 1/20/97. Final Rule to be published 4/20/96.

**LAC Text:**

**Subpart 5. Job Opportunities and Basic Skills Training Program**

**Chapter 29. Organization**

**Subchapter A. Designation and Authority of State Agency**

**§2903. Implementation**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.0 and R.S. 46:451 et seq., P. L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 18:967 (September 1992), LR 19:504 (April 1993), LR 19:1297 (October 1993), LR 20:24 (January 1994), LR 20:199 (February 1994), repealed LR 23:

**§2905. Program Administration**

A. - A.1. ...

2. A case management system is maintained by case managers in each OFS parish office to assist participants in their efforts to become economically independent. Case managers shall assess the participant's family circumstances, education and training status and level of job readiness, negotiate with the participant an individual responsibility plan that is realistic and achievable, provide positive intervention and act as a participant advocate to maximize the effectiveness of the program, select and arrange for appropriate work activity participation, and monitor program activities.

B. ...

C. A grievance procedure is available for resolving displacement complaints by regular employees or their representatives relating to JOBS participants. A grievance procedure is also available for resolving complaints by, or on behalf of, JOBS participants in a work-related activity. This grievance procedure hears complaints relating to on-the-job working conditions and workers' compensation coverage.

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33, R.S. 460.3(A) (3), R.S. 46:453(B), 45 CFR 251.4 and 45 CFR 251.5., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:646 (July 1991), LR 17:973 (October 1991), LR 19:504 (April 1993), LR 23:

**Subchapter B. Participation**

**§2907. Individual Participation Requirements**

A. All recipients of cash assistance are mandatory participants unless determined exempt.

1. A single parent/caretaker who is personally providing care for a child under age one is exempt. This exemption is limited to a total of 12 months per single parent/caretaker.

2. A parent/caretaker not included in the cash assistance certification, for any reason other than sanction, is exempt.

B. All nonexempt applicants and recipients are required to participate a minimum average number of hours per week in an allowable work activity as an eligibility condition for receipt of cash assistance.

1. A single parent/caretaker eligible for cash assistance is required to participate a minimum of 20 hours per week, in an activity described in §2911.A.1, 2, 3, 4, 5, 9, or 10.

2. In any two-parent family eligible for cash assistance, one parent must participate a minimum of 35 hours per week, not fewer than 30 hours per week of which are attributable to an activity described in §2911.A.1, 2, 3, 4, 5, 9, or 10. If child care is provided, the second parent, unless disabled, must also participate a minimum of 20 hours per week in an activity described in §2911.A.1, 2, 3, or 9.

3. Participation in activities described in §2911.A.6 and 7 may only be counted for single heads of household who have not attained 20 years of age. All other participants may participate in the activities in §2911.A.6 and 7 if they simultaneously meet the requirements described in B.1 or B.2 of this Section.

4. Participation in activities described in Subsection B.3 of this Section and in §2911.A.5 cannot comprise more than 20 percent of individuals in all families and in two-parent families.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:

**§2909. Failure to Participate**

A. Failure to participate in the JOBS program, without good cause, will result in the following progressive levels of sanctioning.

1. first occurrence—until the failure or refusal to comply ceases;

2. second occurrence—until failure or refusal to comply ceases, or three months, whichever is longer;

3. any subsequent occurrence—until failure or refusal to comply ceases, or six months, whichever is longer.

B. Sanctions will result in the removal of needs of the sanctioned individual from the cash assistance budget.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July

1990), amended by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992), LR 19:504 (April 1993), LR 23:

**Subchapter C. Activities and Services**

**§2911. Work Activities**

The following are allowable work activities, with certain limitations or restrictions, that may be provided to a participant:

1. any paid employment, unsubsidized or subsidized;

2. unpaid work experience (including community work experience and independence through work);

3. on-the-job training;

4. job search/job readiness, limited to six weeks per individual, of which no more than four may be consecutive;

5. vocational education, limited to a total of 12 months per individual;

6. secondary school attendance and preparation for a Graduate Equivalency Diploma, in the case of a recipient who has not completed secondary school or received such a certificate;

7. education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

8. job skills training directly related to employment;

9. community service;

10. provision of child care services to an individual who is participating in community service.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Service, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20:1130 (October 1994), LR 22:1142 (November 1996), LR 23:

**§2913. Support Services**

Support services include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Child Care Payments

a. The following is the Standard Rate Schedule for payment for child care services provided to the children of Project Independence participants. The statewide limit is established as the maximum amount allowable based upon the provider type, age of child, and the type of care provided.

Standard Rate Schedule			
Regular Care			
Child under Age 2—Class A Centers			
	Full Time		Part Time
Monthly	\$238.50	Monthly	\$119.15
Weekly	\$ 55.00	Weekly	\$ 27.50
Daily	\$ 11.00	Daily	\$ 5.50
Hourly	\$ 1.38	Hourly	\$ 1.38

Child Age 2 or Older—Class A Centers	
Full Time	Part Time
Monthly \$216.50	Monthly \$108.25
Weekly \$ 50.00	Weekly \$ 25.00
Daily \$ 10.00	Daily \$ 5.00
Hourly \$ 1.25	Hourly \$ 1.25
Child under Age 2 and Child Age 2 or Older— All Other Service Providers	
Full Time	Part Time
Monthly \$216.50	Monthly \$108.25
Weekly \$ 50.00	Weekly \$ 25.00
Daily \$ 10.00	Daily \$ 5.00
Hourly \$ 1.25	Hourly \$ 1.25

b. All rates herein are established as maximum allowable amounts; payments will be the provider's actual charges or the maximum rate, whichever is less. Daily rates are based on eight hours per day; weekly rates are based on five days per week; monthly rates are based on 4.333 weeks per month. Part-time care is considered to be 20 hours per week or less. Part-week care is considered to be fewer than five days per week, paid at the daily rate.

2. Transportation Payment

a. Payments may not exceed \$500 per participant per month.

b. Participants who become ineligible for cash assistance due to earned income are eligible for a transportation payment of \$33.33 1/3 per month, this paid as a one-time allotment of \$100 for the 90-day period following ineligibility.

3. Other Supportive Services

a. Payment of union dues not to exceed \$100.

b. Payments not to exceed a combined total of \$100 per fiscal year may be made for certain costs deemed necessary such as eyeglasses, hearing aids and other small medical appliances, uniforms, tools and training materials, medical exam not provided by Medicaid or other resource, placement test fees and other course pre-requisite costs, safety equipment and transportation related expenses.

c. The purchase of refreshments at a maximum cost of \$1 per day per participant is allowed for in-house activities. Supplies will be purchased in bulk from vendors following state procurement Rules and Regulations, and utilized in accordance with the projected numbers of participants and days of activities the supplies are to cover.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR Parts 250, 255, 257, and R.S. 46:456 and 457, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR

18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:

**Fiscal Impact Summary:**

I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)

Form revisions will be required. However, at this time it cannot be determined how many will require revision. In the current year it is anticipated that there will be little or no change in program cost and that there are funds available to cover any associated costs. It is anticipated that FY 97/98 implementation costs will be \$37,546,925 and for FY 98/99 \$37,629,275. There are no anticipated costs or savings to local governmental units.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

Implementation of this Rule will increase federal revenue collections for fiscal years 97/98 and 98/99 by approximately \$34,842,935. There is no effect on revenue collections of local governmental units.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)

New Rules should accelerate recipient movement from welfare to work for many of our clients resulting in economic benefit for their household. However, at this time, we cannot anticipate how many clients will be positively affected. Some providers with whom the Work Activities Program contracts services may find it necessary to adjust services they offer in order to be able to continue as a service provider.

IV. Estimated Impact on Competition and Employment (Summary)

It is anticipated that many cash assistance recipients will be moved from welfare dependency to employment. Those recipients moved from welfare dependency will result in an increase in competition for jobs in the workforce.

**Public Hearing:** 2/26/97.

**(2) AFDC Program—Minor Unmarried Parent**

**Summary:** Pursuant to 45 CFR 233.107 of the Public Welfare Code of Federal Regulations, the department will impose certain restrictions in payment to households headed by a minor unmarried parent in order to encourage these minor parents to remain under the supervision of responsible adults.

Section 1137 (Minor Parents) of the Louisiana Administrative Code is being updated to reflect existing changes in the age of a minor child to age 18 and to remove the phrase "or legal guardians."

**Rulemaking:** Notice of Intent published 9/20/96. Final Rule published 12/20/96.

**LAC Text:**

**Subpart 2. Aid to Families with Dependent Children (AFDC)**

**Chapter 11. Application, Eligibility and Furnishing Assistance**

**Subchapter B. Coverage and Conditions of Eligibility §1137. Minor Parents**

Effective January 1, 1987, AFDC will not be denied to an otherwise eligible child solely because he is legally married or emancipated so long as his parent is responsible for his care and control. If a minor parent up to age 18, even if legally married or emancipated, lives with his/her parent(s), income must be deemed from the minor parent's parents.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20(a)(3)(xviii).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:678 (October 1986), amended by the Department of Social Services, Office of Family Support, LR 22:1233 (December 1996).

**§1138. Restriction in Payment to Households Headed by a Minor Unmarried Parent**

Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or other adult relative on behalf of the individual and dependent. The following exceptions apply.

1. the minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known;
2. no living parent or legal guardian allows the minor parent to live in his/her home;
3. the minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for AFDC;
4. the physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian;
5. there is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult relative, or an adult-supervised supportive living arrangement.

AUTHORITY NOTE: Promulgated in accordance with 45CFR §233.107.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1233 (December 1996).

**Fiscal Impact Summary:**

I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)

While it is anticipated that some minor unmarried parents will meet the exceptions and some will return to a suitable living arrangement, it is impossible to determine how many. Therefore for the purpose of determining fiscal impact, the assumption is that all cases would be adversely affected. (180 cases; one child per case; the urban flat grant of \$138 for 2).

Fiscal Year 96/97 would have a projected savings of state funds of \$42,685; fiscal years 97/98 and 98/99 would have a state fund savings of \$85,370.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

Because the amount paid in grants will be reduced, there will be reductions in federal reimbursements received by the state. Loss of reimbursements are estimated to be \$106,355 for FY 96/97 and \$212,710 for FY's 97/98 and 98/99.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)

This will encourage minor unmarried parents to remain in the home with a parent, guardian, other qualified relative, or in an adult-supervised living arrangement where they can receive support at a much needed time in their life. Minor unmarried parents need adult guidance and supportive familial environments to help them be responsible parents, stay in school and prepare for independent living. Studies show that minor unmarried parents that receive nurturing, support, structure, discipline and socialization in a positive family

environment improve their chances for successful, productive lives.

IV. Estimated Impact on Competition and Employment (Summary)

There is no impact anticipated on competition and employment.

**Public Hearing:** 10/29/96.

**(3) AFDC Program—Parenting Skills Education**

**Summary:** Pursuant to 45CFR 233.10 (a)(1)(ii)(B) of the Public Welfare *Code of Federal Regulations* and to further encourage responsible parenting in the AFDC population, the agency proposes to require that parents under the age of 20 attend a parenting skills training program as a condition of eligibility.

Because the Parenting Skills Program as initially implemented is no longer voluntary, §1509 is being repealed.

**Rulemaking:** Notice of Intent published 9/20/96. Final Rule published 12/20/96.

**LAC Text:**

**Subpart 2. Aid to Families with Dependent Children (AFDC)**

**Chapter 11. Application, Eligibility, and Furnishing Assistance**

**Subchapter B. Coverage and Conditions of Eligibility**

**§1136. Parenting Skills Education**

As a condition of eligibility for AFDC benefits any parent under age 20 must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in ineligibility for inclusion in the assistance unit. Ineligibility will continue until compliance is demonstrated. Individuals deemed ineligible under this provision will retain the same Medicaid eligibility that they would have had in the absence of this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:920.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:351 (March 1993), amended LR 22:1234 (December 1996).

**Chapter 15. General Program Administration**

**Subchapter D. Parenting Skills Program**

**§1509. Availability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:290.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:351 (March 1993), repealed LR 22:1234 (December 1996).

**Fiscal Impact Summary:**

I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)

It is anticipated that implementation of this proposed Rule will increase program costs by \$2,195 in FY 96/97. No costs or savings can be projected for subsequent years. It is expected that recipients will attend the required training rather than face a loss of benefits. Agency staff will work with these parents to schedule training sessions which do not conflict with employment or school attendance. Further, parents having good cause for delay in attending a training session will not be denied assistance.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

State revenue collection for the implementation year will increase federal funding by approximately 50 percent of the anticipated cost.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)

Recipients of AFDC would be affected by these proposed changes in policy. If they fail to comply, the parent will lose their share of the AFDC cash grant. Existing programs that offer parenting skills education can anticipate an increase in participation but cost increases cannot be anticipated.

IV. Estimated Impact on Competition and Employment (Summary)

There will be no impact on competition and employment.

**Public Hearing:** 10/29/96.

**(4) AFDC Program—Family Independence Project**

**Summary:** Pursuant to ACT 998 and 1219 of the 1995 Regular Session of the Louisiana Legislature, the department will implement the Family Independence Project (FIP) which provides new AFDC policies regarding medical immunization and school attendance requirements, time-limited benefits, and refusal to accept full-time employment.

The federal waiver requires continuation of medical benefits for recipients who are otherwise eligible for AFDC. If the AFDC grant is reduced or terminated for failure to comply with Family Independence Project requirements, Medicaid eligibility shall not be affected.

Whereas this action provides measures to reform the AFDC Program and promote independence and responsibility in recipients and whereas other measures are anticipated, such Rules shall be promulgated and amended as Chapter 13 of LAC 67:III Subpart 2.

**Rulemaking:** Notice of Intent published 9/20/96. Final Rule published 12/20/96.

**LAC Text:**

**Subpart 2. Aid to Families with Dependent Children (AFDC)**

**Chapter 13. Special Conditions of Eligibility**

**Subchapter A. Family Independence Project (FIP)**

**§1301. Terms and Conditions**

A. Time Limitations. The Office of Family Support shall deny AFDC cash benefits to families if the parent has received AFDC for at least 24 months during the prior 60-month period. Only months of AFDC receipt after the January 1, 1997 date of implementation count toward the 24-month limit. This provision does not apply in the following situations (in two-parent households both parents must meet at least one of these criteria):

1. the parent is incapacitated or disabled;
2. the parent has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the parent loses his job as a result of factors not related to his job performance; or
5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training.

B. Sanctions for Refusal to Accept a Job. Eligibility for AFDC shall be terminated for three months if a parent in the

assistance unit declines or refuses the opportunity for full-time employment without good cause. The three-month sanction period counts as months of AFDC receipt when applying the 24-month time limit.

C. Immunization. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's removal from the AFDC grant until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or their parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or their parent or guardian objects to the procedure on religious grounds.

D. School Attendance. At redetermination a child who has missed 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. The child remains in a probationary status for at least six months. If during the probationary period a child is absent from school for more than three days in a given calendar month without good cause, the child's needs shall be removed from the AFDC grant until documentation that the child's attendance meets the requirements is provided.

E. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to the time limitation provision or sanction for refusal to accept employment. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other AFDC eligibility requirements.

F. All individuals determined ineligible under any of these provisions shall retain the same Medicaid eligibility that they would have had in the absence of the project.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:447.3, 46:460, 46:474, 46:477, 46:239, 46:459.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 22:1232 (December 1996).

**Fiscal Impact Summary:**

I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)

The immediate cost of implementation is estimated to be under \$1,000. Fiscal impact will be minimal for the immunization requirement. Time-limited benefits would not have a fiscal impact until FY 98/99 at which time there is a projected grant savings of \$785,085 in state funds and \$1,956,135 in federal. Grant savings for the school attendance requirement is estimated to be \$383,981 in state funds for FY 97/98 and \$956,735 in federal funds, and approximately \$708,957 savings in state funds for FY 98/99 with \$1,766,451 in federal. Schools and local school boards may have an increase in administrative costs due to paperwork, but the amount cannot be determined. The grant savings for refusal to accept employment is as follows: FY 96/97 \$50,720 state, \$126,376 federal; FY 97/98 and FY 98/99 \$101,306 state, \$252,415 federal.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

Since the amount paid in grants will be reduced, there will be reductions in federal reimbursements received by the state. Loss of federal reimbursements are estimated to be \$51,376 for

FY 96/97, \$1,134,150 for FY 97/98 and \$3,900,001 for FY 98/99.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)

Recipients of AFDC may be affected by these proposed changes in policy. Recipients will have the burden of providing proof of immunization and school attendance. This, however, could result in improved school attendance and a healthier population as more children will be immunized on schedule.

With limited benefits, recipients could lose eligibility; however, they could become more self-sufficient. If a recipient refuses an offer of full-time employment they could lose benefits for three months or they may be encouraged to accept employment.

IV. Estimated Impact on Competition and Employment (Summary)  
None anticipated.

**Public Hearing:** 10/29/96.

**(5) AFDC Program—Eligibility Requirements for Aliens Summary:** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Public Law 104-193), mandated revision of AFDC Program policy regarding the eligibility of noncitizens. Subsequent to the Notice of Intent published in the *Louisiana Register* of October 20, 1996, additional policy interpretation was received from the U.S. Department of Health and Human Services, Administration for Children and Families. This Rule now proposes to modify and expand the eligibility of aliens. The original federal interpretation has been corrected so that all qualified aliens who entered the U.S. prior to August 22, 1996 will meet the citizenship requirement. Those qualified aliens who enter the U.S. after August 22, 1996 will not be eligible for AFDC for five years after entry unless they meet one of the five provisions detailed in Subsection B of the Rule.

**Rulemaking:** Emergency Rule published 10/20/96 (later rescinded). Emergency Rule published 12/20/96. Notice of Intent published 01/20/97. Final Rule to be published 4/20/97.

**LAC Text:**

**Subpart 2. Aid to Families with Dependent Children (AFDC)**

**Chapter 11. Application, Eligibility and Furnishing Assistance**

**Subchapter B. Coverage and Conditions of Eligibility**

**§1141. Eligibility Requirements for Aliens**

A. An alien who is not a qualified alien is not eligible. A qualified alien is:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. an alien who is granted asylum under Section 208 of such Act;
3. a refugee who is admitted to the United States under Section 207 of such Act;
4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
5. an alien whose deportation is being withheld under Section 243(h) of such Act; or
6. an alien who is granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980.

B. Time-limited Benefits. An alien who is a qualified alien as defined above who enters the United States after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;
2. the alien is granted asylum under Section 208 of such Act;
3. the alien's deportation is being withheld under Section 243(h) of such Act;
4. the alien is lawfully residing in the United States and is a veteran who is honorably discharged for reasons other than alienage and his spouse and unmarried dependent children;
5. the alien is lawfully residing in the United States and is on active duty (other than for training) in the armed forces and his spouse and unmarried dependent children.

C. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child by applying the stepparent deeming formula. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 52:48687 et seq., P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Eligibility Determinations, LR 14:280 (May 1988), LR 14:438 (July 1988), amended by the Department of Social Services, Office of Family Support, LR 23:

**§1143. Income and Resources of Alien Sponsors**

In determining eligibility and benefit amount for an alien, the income and resources of their sponsor and the sponsor's spouse must be considered. A sponsor is defined as any person who executed an affidavit of support pursuant to Section 213A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor and the sponsor's spouse shall apply until the alien:

1. achieves United States citizenship through naturalization; or
2. has worked 40 qualifying SSA quarters of coverage, or can be credited with such qualifying quarters, and in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefit during any such period. In determining the number of qualifying quarters of coverage an alien shall be credited with:
  - a. all of the qualifying quarters of coverage worked by a parent of such alien while the alien was under age 19; and
  - b. all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

**AUTHORITY NOTE:** Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402) and 45 CFR 205-206,233-234, P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 23:

**Fiscal Impact Summary:**

- I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)  
No state costs or savings can be projected. There will be grant savings from the denial of assistance to noncitizens that are not eligible due to the new policy. However, the number of applications which will be received and the number to be denied cannot be determined. There is no projected costs or savings to local governmental units. The immediate cost of implementation in FY 96/97 is negligible.
- II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)  
There will be no effect on revenue collections of state or local governmental units.
- III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)  
Some future applicants will be ineligible for state assistance due to the more restrictive criteria. Persons who are ineligible for assistance due to these changes will have an average loss of \$52 per month in income. No effect is anticipated to local governmental units.
- IV. Estimated Impact on Competition and Employment (Summary)  
There is no anticipated impact on competition and employment.

**Public Hearing:** 2/26/97.

**(6) AFDC Program—\$50 Disregard of Child Support Summary:** Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Public Law 104-193), applicants and recipients of AFDC will no longer receive the benefit of a disregard of the first \$50 of child support collected. This Rule is being promulgated in order to count as income any child support payments made to the AFDC applicant/recipient. In §1133 reference to the disregard is removed from the Paragraph.

**Rulemaking:** Notice of Intent published 10/20/96. Final Rule to be published 1/20/97.

**LAC Text:**

**Subpart 2. Aid to Families with Dependent Children (AFDC)**

**Chapter 11. Application, Eligibility and Furnishing Assistance**

**Subchapter B. Coverage and Conditions of Eligibility §1113. Eligibility Requirements**

\* \* \*

D. Child Support Payments. In any case in which child support payments are collected for a recipient of AFDC with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR 232; P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 1:494 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 23:

**§1133. Standard Filing Unit**

Parents and all minor siblings living with a dependent child who applies for or receives AFDC shall be included in the filing unit. SSI recipients, stepbrothers and stepsisters are excluded from this requirement. In addition, if a minor who is living in the same home as his/her parents applies for aid as

the parent of a needy child, the income of the minor's parents will be counted available to the filing unit (after applying the same disregards as are applied to the income of stepparents).

**AUTHORITY NOTE:** Promulgated in accordance with P.L. 98-369 and F.R. 49:35586 et seq., P. L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 23:

**Fiscal Impact Summary:**

- I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)  
The immediate cost of implementation is the cost associated with the publishing of the Rule and the printing of policy material. No new forms will result from implementation of this Rule. Grant savings are estimated to be \$81,993 in SFY 96/97 and \$334,488 and in SFY 97/98 and SFY 98/99.
- II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)  
There will be a loss of federal funds in the amount of \$58,510 which is the federal match on grant savings.
- III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)  
AFDC applicants receiving child support will not receive the benefit of a disregard of the first \$50 in determining AFDC eligibility. Some currently eligible recipients will lose eligibility due to the loss of the disregard.
- IV. Estimated Impact on Competition and Employment (Summary)  
There is no anticipated impact on competition and employment.

**Public Hearing:** 11/26/96.

**(7) Support Enforcement Program—Reports of Delinquencies to Credit Bureaus**

**Summary:** Pursuant to the Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the state is required to report the names of noncustodial parents who are delinquent in the payment of child support, and the amount of overdue support to credit reporting agencies, after due process. This Rule is being promulgated to strengthen the agency's role in the enforcement of support. Previously promulgated as §2753, the Section is being renumbered.

**Rulemaking:** Notice of Intent published 11/20/96. Final Rule to be published 2/20/97.

**LAC Text:**

**Subpart 4. Support Enforcement Services**

**Chapter 25. Support Enforcement**

**Subchapter L. Enforcement of Support Obligations §2541. Information Released to Consumer Reporting Agencies**

The Support Enforcement Program will report periodically to credit bureaus/consumer reporting agencies, the name of any noncustodial parent (absent parent) who is delinquent in the payment of support, and the amount of overdue support owed by such parent. The agency shall provide due process to the noncustodial parent providing such parent with advance notice and a reasonable opportunity to contest the accuracy of such information.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), LR 23:

**Chapter 27. General Program Administration**  
**Subchapter B. Notice of Collection of Assigned Support**

**§2753. Information Released to Consumer Reporting Agencies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), repealed LR 23:

**Fiscal Impact Summary:**

I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)

This procedure will reflect only a slight change in the time frame for reporting. Changes will be made to enhance policy on consumer reporting. The only implementation cost to state government will be the cost of publishing the Rule and the printing of the policy revision for staff. This is estimated to be \$90. There is no cost to local governmental units.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

This procedure is currently in effect. The change means that there is no delay in reporting arrearages to credit bureaus/consumer reporting agencies. No increased effect on revenue collections is anticipated.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. Estimated Impact on Competition and Employment (Summary)

There is no estimated impact on competition and employment.

**Public Hearing:** 12/30/96.

**(8) Support Enforcement Program—Method of Distribution of Collections**

**Summary:** Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, revisions have been made to the method in which Support Enforcement Services distributes child support collections. Prior federal law totally mandated the manner of distribution. Federal law now requires that reimbursement of the federal portion of benefits from the Aid to Families with Dependent Children Program (AFDC) or Family Independence Temporary Program (FITAP) be made first. The state may then retain or distribute the remainder as it chooses. Therefore, the state now proposes to establish a procedure to distribute funds.

**Rulemaking:** Emergency Rule published 11/20/96, to be published 2/20/97. Notice of Intent published 12/20/96. Final Rule to be published 3/20/97.

**LAC Text:**

**Subpart 4. Support Enforcement Services**  
**Chapter 25. Support Enforcement**  
**Subchapter D. Collection and Distribution of Support Payments**

**§2514. Distribution of Child Support Collections**

A. Effective November 1, 1996 the agency will distribute child support collections in the following manner:

1. In cases in which the applicant/recipient (AR) currently receives AFDC or Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will be retained by the state to reimburse previous and current assistance amounts, with the following exceptions:

a. In cases in which the collection amount and the court-ordered monthly obligation exceed the AFDC/FITAP amount, the AR will be refunded an amount that, added to the AFDC/FITAP amount, will bring the AR up to the court-ordered monthly obligation amount, or the collection amount, whichever is smaller.

b. In cases in which the collection amount exceeds the amount of unreimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received in a month will be distributed as follows:

a. the AR will be refunded an amount equal to the court-ordered monthly obligation;

b. any excess amount will be applied to amounts owed to the state;

c. any remaining amounts will be paid to the AR.

3. In cases in which the AR never received assistance, or the AR previously received AFDC or FITAP and no amount is owed to the state, all collections will be refunded to the AR.

4. In IV-E Foster Care cases, all amounts collected are sent to the IV-E Agency for appropriate distribution.

B. There are general exceptions to distribution. Any collections received through intercept programs or income assignments, are subject to refund to the noncustodial parent based on federal and state laws and regulations. Amounts collected through IRS and/or state tax intercepts will be applied to arrears in this order: 1) amounts owed to the state, and 2) amounts owed to the AR.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**Fiscal Impact Summary:**

I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)

There are no implementation costs or savings to state or local governmental units. No real costs or savings can be attributed to the new Rule. The Rule represents a shift in revenues. Although the major impact is that the state will no longer



distribute a portion of collections, the expenditures for this distribution are not budgeted and the funds generated will only serve to increase the revenue used as state match and federal offset.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

This Rule results in a shift in state revenue distribution. Although the state will retain funds (\$3,193,962) that were previously distributed to some AFDC recipients, these funds will now be applied as revenue used for state match (\$914,751) and federal offset funds (\$2,279,211). There will be no effect on revenue collection of local governmental units.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)

Eligible recipients on whose behalf child support payments are collected will no longer receive income of up to \$50 per month. The total impact on AFDC recipients will be \$3,193,962 in FY 96/97.

IV. Estimated Impact on Competition and Employment (Summary)

There is no anticipated impact on competition and employment.

**Public Hearing:** 1/28/97.

**(9) AFDC Program—Denial of Disqualification for Assistance; Establishment of Time Limits; Submittal of State Plans**

**Summary:** Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, changes are being made in the AFDC Program regarding the eligibility of certain individuals for assistance. This Rule proposes to include changes regarding denial of assistance for failure to cooperate in establishing paternity or obtaining child support; denial of cash assistance to fleeing felons and probation/parole violators; permanent disqualification for cash assistance to an individual convicted of a felony involving a controlled substance; establishment of a 60-month life-time limit for cash assistance; denial of cash assistance to minor children who are absent from the home for a significant period; and denial of cash assistance to a person who fraudulently misrepresented residence in two or more states. The agency is adopting the Title IV-A, IV-F, and IV-A/F State Plans as they existed on October 1, 1996 to the extent that their provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996.

**Rulemaking:** Emergency Rule published 12/20/96. Notice of Intent to be published 1/20/97. Final Rule to be published 4/20/96.

**LAC Text:**

**Subpart 2. Aid to Families with Dependent Children (AFDC)**

**Chapter 9. Administration**

**§902. State Plan**

The Title IV-A State Plan as it existed on October 1, 1996 is hereby adopted to the extent that its provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**Chapter 11. Application, Eligibility and Furnishing Assistance**

**Subchapter B. Coverage and Conditions of Eligibility**

**§1113. Eligibility Requirements**

A. - B. ...

C. Cooperation. Each applicant for, or recipient of AFDC is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient. Effective January 1, 1997, failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

D. - F. ...

G. Living in the Home. A child must reside with a qualified relative who is responsible for the day-to-day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days.

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR 232, P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 1:494 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 23:

**§1116. Fleeing Felons and Probation/Parole Violators**

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the president of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the president of the United States grants a pardon with respect to the conduct.

**AUTHORITY NOTE:** Promulgated in accordance with P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**§1118. Individuals Convicted of a Felony Involving a Controlled Substance**

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance [as defined in Section 102(6) of the Controlled Substances Act 21 U.S.C. 802(6)] shall be permanently disqualified from receiving cash assistance. This shall not apply to convictions occurring on or before August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**Chapter 13. Special Conditions of Eligibility**  
**Subchapter A. Family Independence Project (FIP)**  
**§1301. Terms and Conditions**

A. - E. ...

F. Life-Time Limit

1. Eligibility for cash assistance is limited to a life-time limit of 60 months.

2. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive).

3. Any month for which such assistance was provided will be disregarded with respect to the individual, if the individual was:

a. a minor child; and

b. not the head of a household or married to the head of a household.

G. All individuals determined ineligible under any of these provisions shall retain the same Medicaid eligibility that they would have had in the absence of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:447.3, 46:460, 46:474, 46:477, 46:239, 46:459, P. L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1232 (December 1996), amended LR 23:

**Chapter 15. General Program Administration**  
**Subchapter A. Fraud**

**§1501. Fraud Control Program**

A. - B.2. ...

3. Cash assistance shall be denied to an individual for 10 years from the date that individual is convicted in federal or state court of having made a fraudulent statement or representation with respect to his place of residence in order to receive assistance simultaneously from two or more states. This does not apply with respect to a conviction of an individual, for any month beginning after the president of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-203 and CFR 235, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 14:439 (July 1988), amended by the Department of Social Services, Office of Family Support, LR 20:1019 (September 1994), LR 23:

**Subchapter B. Recovery**

**§1506. Special Considerations In Determining Recovery Amounts**

If the payee fails to report a child's absence of more than a 45-day duration by the end of the five-day period that begins with the date that it became clear to the payee that the child would be absent for a 45-day period, and good cause for the absence is not established, the needs of the payee as well as the needs of the child will be excluded when determining the recovery amount.

AUTHORITY NOTE: Promulgated in accordance with PL 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**Subpart 5. Job Opportunities and Basic Skills Training Program**

**Chapter 29. Organization**

**Subchapter A. Designation and Authority of State Agency**

**§2902. State Plan**

The Title IV-F and IV-A/F State Plan as it existed on October 1, 1996 is hereby adopted to the extent that its provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

**Fiscal Impact Summary:**

I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)

The immediate cost of implementation is estimated to be \$4,200. Adoption of the IV-A, IV-F and IV-A/F state plans will not have a fiscal impact. Denial of cash assistance to fleeing felons, probation/parole violators and individuals who fraudulently misrepresent residence and permanent disqualification of individuals convicted of a felony involving a controlled substance will have minimal fiscal impact. This impact cannot be determined as the agency has no information to project the number of individuals who might be denied due to these provisions. Denial of cash assistance to minor children who are absent from the home will have minimal fiscal impact because this federal mandate did not significantly change current policy. The 60-month life-time limit will not have a fiscal impact until FY 00/01. Grant savings for the denial of assistance for failure to cooperate in establishing paternity or obtaining child support is estimated as follows: FY 96/97 \$251,084 state, \$625,606 federal; FY 97/98 \$1,781,732 state, \$4,439,401 federal; FY 98/99 \$1,806,753 state, \$4,501,743 federal. There is no costs or savings to local governmental units.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

Since the amount paid in state grants will be reduced, there will be reductions in federal reimbursements received by the state. Loss of federal reimbursements are estimated to be \$625,606 for FY 96/97, \$4,439,401 for FY 97/98 and \$4,501,743 for FY 98/99. There is no estimated effect on local governmental units.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Nongovernmental Groups (Summary)

Applicants and recipients of cash assistance affected by these proposed changes in policy will lose benefits. Families which are ineligible for assistance due to failure to comply will have an average loss of income of \$153 per month. Individuals who are ineligible due to the other provisions will average a benefit loss of \$52 per month. No costs or benefits are anticipated to any nongovernmental group.

IV. Estimated Impact on Competition and Employment (Summary)

There is no anticipated impact on competition and employment.

**Public Hearing: 2/26/97.**

Madlyn B. Bagneris  
Secretary

9701#086

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