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**LOUISIANA  
ADMINISTRATIVE CODE**

**Title 33  
ENVIRONMENTAL QUALITY  
Part IX. Water Quality  
Part XIII. Groundwater Protection**

**Certified by the Office of the State Register**

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# EXECUTIVE ORDERS

## EXECUTIVE ORDER EWE 95-19

### Allocation of Bond

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1995 (the "1995 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1995 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the England Economic and Industrial Development District has requested an allocation from the 1995 Ceiling to be used in connection with the financing of the acquisition, construction, installation and rehabilitation of a building, transfer station, landfill and related solid waste handling and disposal facilities (the "project") located in Alexandria, Rapides Parish, Louisiana; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the state of Louisiana, the parish of Rapides; and

WHEREAS: it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the state of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1995 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$2,065,000	England Economic Industrial Development District	TransAmerica Waste Industries, Inc.

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the state of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through August 31, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about August 31, 1995.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order 92-47,

supercedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of June, 1995.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9507#051

## EXECUTIVE ORDER EWE 95-20

### Allocation of Bond

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1995 (the "1995 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1995 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the city of Leesville has requested an allocation from the 1995 Ceiling to be used in connection with the financing of the acquisition, construction, installation and rehabilitation of a facility for the manufacturing of mobile homes, which includes incidental office space (the "project"), on behalf of Vogue Manufactured Homes Corporation, located in the city of Leesville, Vernon Parish; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the state of Louisiana, the city of Leesville; and

WHEREAS: it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the state of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1995 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$700,000	City of Leesville	Vogue Manufactured Homes Corporation

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the state of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through July 31, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about July 31, 1995.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order 92-47, supercedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of June, 1995.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9507#052

### EXECUTIVE ORDER EWE 95-21

#### Allocation of Bond

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1995 (the "1995 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1995 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the parish of Jefferson Home Mortgage Authority has requested an allocation from the 1995 Ceiling for the purpose of financing mortgage loans for first time homebuyers throughout the city and the parish of Jefferson in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the state of Louisiana, the parish of Jefferson; and

WHEREAS: it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the state of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1995 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,500,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The allocation granted hereunder is to be used only for the bond issue described in Section 1 and for the general purpose set in the "Application for Allocation of a Portion of the state of Louisiana IDB Ceiling" submitted in connection with the bonds described in Section 1.

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through August 30, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about August 30, 1995.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order 92-47, supercedes and prevails over the provisions of such executive order.

SECTION 6: All references herein to the singular shall include the plural and all plural references shall include the singular.

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of June, 1995.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9507#053

# EMERGENCY RULES

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences

### Southern Pine Beetle—Regulated Area

The state entomologist has evidence that the southern pine beetle has seriously infested certain areas of the state. Accordingly, this grave situation requires promulgation of an emergency rule to designate regulated areas, and to describe the recommended control measures to be taken in specific areas, in an effort to suppress this dangerous pest.

The further spread of the southern pine beetle throughout the forested areas of Louisiana will cause substantial financial damage to the Louisiana forest landowners and industry. Due to the warm semi-tropical climate in Louisiana, this pest may, if populations are allowed to continue to spread throughout the state, inflict even greater economic damage on an annual basis and may even kill most pine forest timber in Louisiana.

In view of the specific facts and reasons above mentioned, and in accordance with the Administrative Procedures Act (R.S. 49:950 et seq.) and R.S. 3:1651-1655, the state entomologist does hereby find that an immediate danger to the public health, safety and welfare exists and declares regulated areas for the southern pine beetle, as set forth in the following emergency rule hereinafter adopted.

### Southern Pine Beetle Rule And Quarantine (Regulated Areas)

The state entomologist has evidence that the southern pine beetle has infested certain areas of the state. Accordingly, this grave situation requires adoption of an emergency rule to designate regulated areas, to provide for identification of control areas, and to set forth the recommended control measures to be taken in specific areas, in an effort to suppress this dangerous pest. This rule designates regulated areas and provides for identification of control areas, in order to prevent subsequent spread of the southern pine beetle throughout Louisiana and the severe damage caused by this insect pest. This rule specifies the actions to be taken to prevent unacceptable losses of forest resources, and further dissemination of the southern pine beetle throughout the state of Louisiana, by implementing certain control measures known to be effective against this pest.

#### A. Definitions

1. *Agent*—those employees or designees of the Louisiana Department of Agriculture and Forestry whom the state entomologist and state forester have designated as the individuals authorized to enter on public and private lands to inspect for and take necessary action to destroy or prevent the further spread of the southern pine beetle.

2. *Certificate*—an official document certifying compliance with the requirements of the Louisiana Department of Agriculture and Forestry.

3. *Pines*—all members of the southern pine family.

4. *Bark*—the tough exterior covering of a woody root or stem in pines.

5. *Salvage*—the cutting and removal of infested and/or potentially infested trees to prevent further spread of the southern pine beetle.

6. *Buffer Strip*—an area of uninfested trees adjacent to the active portion of a southern pine beetle infestation.

7. *Host Plant*—a plant or part thereof known or suspected to be capable of harboring the southern pine beetle in any of its stages.

8. *Infested*—any plant, article or soil wherein the southern pine beetle may be present.

9. *Southern Pine Beetle*—the insect known as the southern pine beetle, *Dendroctonus frontalis*, Zimmermann, in any stage of its development.

10. *Regulated Areas*—any parish in which evidence furnished to the state entomologist clearly indicates infestation by the southern pine beetle and which has been designated as such by the state entomologist in this rule.

11. *Control Area*—a specific geographic area within a regulated area, in which control measures shall be carried out.

12. *Regulated Article*—any plant, tree, article or soil which the agent determines to be capable of transporting or harboring the southern pine beetle, and of which no movement outside of the physical boundaries of a regulated area shall take place without written permission of the state entomologist.

13. *Shipment or Shipments*—the act or process of transferring or moving products from one point to another, or the products being transferred or moved.

14. *Products*—pine trees or portions of trees containing bark.

15. *Louisiana Department of Agriculture and Forestry*—the Louisiana state agency that officially designates regulated areas.

B. Purpose of Rule. The purpose of this rule is to minimize damage and prevent further spread of the southern pine beetle throughout the state of Louisiana. Due to the presence of this pest in the state, it is necessary to designate areas to be regulated, to provide for identification of control areas to be regulated and to initiate certain approved control measures to prevent the further spread of this pest, and the resulting timber destruction caused by it. The established infestation of the southern pine beetle in the state of Louisiana poses an extremely serious threat to Louisiana's landowners and forest industry. This rule is adopted to provide regulated areas and control areas within the state of Louisiana and to specify conditions under which regulated articles may be treated by certain control measures.

#### C. Regulated Areas

1. The following Louisiana parishes are hereby designated as regulated areas, effective immediately: St. Tammany.

2. Removal of Parish from List of Regulated Areas. When the state entomologist has determined that the threat posed by the infestation of the southern pine beetle in a parish has substantially been eliminated or entirely removed, he shall publish a notice in the *Potpourri* section of the *Louisiana Register*, thereby removing the parish from the list of regulated areas.

3. Additional Regulated Areas. When the state entomologist has reason to believe that infestation by the southern pine beetle has spread to other parishes in the state than those listed in paragraph C.1 of this rule, he shall publish the names of those parishes in the *Potpourri* section of the *Louisiana Register*, thereby adding those parishes to the list of regulated areas.

#### D. Control Areas

1. The state entomologist shall designate, in writing, specific control areas after he has received an agent's report which shall consist of:

a) A signed written inspection report attesting that the agent: (i) personally has inspected the proposed control area at ground level, (ii) found concentrated levels of the southern pine beetle present, (iii) submits a listing of control measures he proposes to implement, and if applicable, (iv) has made a good faith effort to ascertain the owner of any land proposed as a control area. His findings shall be based on the following generally accepted forest management procedures:

(I) Southern pine beetle infestations are detected through aerial observation by noting color changes in the crown of the trees.

(II) Infestations then are located at ground level, and the determination is made whether or not the infestation is active or inactive. This consists of close and careful examination, primarily of the bark, of individual or groups of trees, to determine the presence or absence of lifestages, i.e., eggs, larvae, pupa or adult beetle.

(III) If the infestation is active, the size of the infestation will determine the best suited control technique.

2. The state entomologist must approve the designation of the control area, and the control measures to be utilized therein. Following the state entomologist's designation of a control area, a notice containing a description of the proposed control measures and the date they are to commence shall be mailed to the landowner or his duly appointed agent at his last known address of record with the parish assessor's office.

3. Control measures specified by the state entomologist for utilization in a control area may include one or more of the following:

- a. Salvage. Remove by commercial sale and cut buffer strip around active area of infestation. (Cut and Remove).
- b. Cut and leave infested trees and also cut a buffer strip of uninfested trees around the active part of the infestation.
- c. Chemical control with a registered pesticide.
- d. Cut, pile and burn infested trees, products or other regulated articles.
- e. Buffer Strip. The buffer strip, in order to be effective, must be equal in width to the height of the tallest

trees in the area which recently experienced attack by the southern pine beetle. In large infestations (10 acres or more) it may be necessary to cut a wider buffer strip (approximately two tree lengths) to be effective in preventing further spread of the beetles.

4. How Control Area Designation may be Removed. The control area designation may be rescinded only under the following conditions:

a. When a visual examination by the Louisiana Department of Agriculture and Forestry, Office of Forestry, of the control area determines that control measures have been satisfactorily completed, the Office of Forestry shall certify in writing to the state entomologist that the action required in this part has been completed.

b. The state entomologist then may remove the designation of control area by mailing a copy of the certificate of completion in 4.a above to the landowner or his duly appointed agent at his last known address of record with the parish assessor's office.

E. Penalties. R.S., 3:1653 provides that penalties may be imposed on anyone who violates the provisions of these regulations, or in any way attempts to prevent or impede an agent from carrying out any inspections of control areas or implementation of control measures.

Bob Odom  
Commissioner of Agriculture and  
Forestry

Matthew Keppinger  
State Entomologist

9507#047

## DECLARATION OF EMERGENCY

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

Azinphos-methyl

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

The department has determined that these emergency rules are necessary in order to implement a monitoring program and registration and permitting requirements during the current crop year. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment. The rule becomes effective June 16, 1995, upon signature and will remain in effect 120 days.

## Application of Azinphos-methyl

### A. Registration Requirements

1. The commissioner hereby declares that prior to making any aerial application of azinphos-methyl to sugarcane, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing.

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

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

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

### C. Azinphos-methyl Application Restriction

1. Application of Azinphos-methyl on sugarcane is limited to one application per season.

2. Do not apply by ground within 25 feet, or by air within 150 feet of lakes; reservoirs; rivers; permanent streams, marshes or natural ponds; estuaries and commercial fish farm ponds.

### D. Procedures for Permitting Applications of Azinphos-methyl

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

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

- a. weather patterns and predictions;
- b. soil moisture;
- c. propensity for run-off;
- d. drainage patterns;
- e. quantity of acreage to be treated;
- f. extent and presence of vegetation in the buffer zone between application site and water body;
- g. water monitoring results;
- h. targeted pest must exceed the following prescribed thresholds:

Yellow sugarcane aphid, 20-25 live aphids per leaf or sugarcane borer - a three-fold threshold (15 percent) i.e., one or more live borers in 15 different stalks per 100 stalks;

i. Azinphos-methyl total acreage target shall not exceed 80,000 acres; and

j. any other relevant data.

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

### F. Determination of Appropriate Action

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

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

Bob Odom  
Commissioner

9507#025

## DECLARATION OF EMERGENCY

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

Malathion

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

The department has determined that these emergency rules are necessary to avoid imminent peril to public health, safety, and welfare by aiding in the control of boll weevil in cotton during the current crop year. The rule becomes effective June 16, 1995, upon signature and will remain in effect 120 days.

The commissioner hereby declares that aerial applicators with aircraft equipped with a Global Positioning System (GPS) may apply Malathion as an ultra low volume (ULV) application, according to label and labeling, on cotton. Aerial applicators using aircraft not equipped with GPS shall provide written notification to LDAF. Notification shall be obtained by writing or send by FAX notification to the closest LDAF District office prior to application. Tank mixing of any additional pesticide is prohibited. Violation of this regulation will be considered a major violation.

Bob Odom  
Commissioner

9507#026

## DECLARATION OF EMERGENCY

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

Pesticide Use in School Buildings and  
Grounds Area (LAC 7:XXIII.13123 and 13144)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:3203(A), the commissioner of agriculture and forestry is amending and adopting the following rules for the implementation of regulations governing the use of pesticides in, on, or around school buildings and grounds.

This emergency adoption is necessary in order that the department may continue in place the regulation adopted by emergency rule on November 15, 1994, which immediately put into place more stringent regulations governing the qualifications required for school personnel making pesticide applications, and to implement an Integrated Pest Management Plan for pesticide applications in, on, or around school buildings and grounds by the governing authorities of the schools.

The department has further deemed these regulations necessary to help ensure the safety and well-being of school children in the state.

The effective date of these rules is July 7, 1995, and they shall remain in effect for 120 days or until these rules take effect through the normal promulgation process, whichever takes the least time.

### Title 7

### AGRICULTURE

#### Part XXIII. Advisory Commission on Pesticides

#### Chapter 131. Advisory Commission on Pesticides

#### Subchapter F. Certification

#### §13123. Certification of Commercial Applicators

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B. Categories are established on the basis of the location where the application of pesticides will be made, and each applicant for certification is required to successfully complete an examination in the category in which the applicant desires certification.

1. Certification in a category authorizes the commercial applicator to make application of or supervise the application of restricted use pesticides in the areas listed for each category.

2. The commissioner hereby establishes the following categories and subcategories of certification for commercial applicators:

(Note: The classifications in this Subsection reflect national categories established by EPA.)

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Category 7. Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators and nonfee commercial applicators

using or supervising the use of pesticides with restricted uses in, on or around food handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products.

This category has been subdivided into four subcategories:

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b. Subcategory 7b is for applicators who apply or supervise the application of restricted use pesticides on a nonfee basis in, on or around institutions, motels, apartment houses, hotels, hospitals and like places as the owner or in the employ of the owner.

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d. Subcategory 7d is for applicators who apply or supervise the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around structures and grounds of schools that provide education for classes kindergarten through 12. Pesticide applications for wood destroying insects shall be applied by licensed structural pest control operators.

i. All persons certified under 7d shall attend a continuing education program, annually.

ii. Each 7d certified applicator shall annually train all persons applying pesticides under his/her supervision according to the handler training requirements of 40 CFR 170 (Worker Protection Standards).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:

#### Subchapter I. Application of Pesticides

#### §13144. Special Restrictions on Pesticide Applications in Schools

A. Any person who applies or supervises the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around school structures and grounds shall be a certified commercial applicator or under the supervision of a certified commercial applicator.

B. School systems with 10 or more schools shall employ a minimum of two certified commercial applicators. School systems with less than 10 schools shall employ a minimum of one certified commercial applicator.

C. The governing authority (including but not limited to superintendents, headmasters, school boards, board of directors, chief executive officer, or principals) shall prepare and submit in writing, for each school under its authority, to the director of Pesticide and Environmental Programs (PEP), an annual integrated pest management (IPM) plan for pest control for grass and weed control and rodent and general pest control (roaches, wasps, and ants) in, on, or around school



structures and grounds. The IPM plan shall include all pest control methods employed, including pesticide and nonpesticide methods. The first IPM plan shall be submitted prior to any application of pesticides beginning March 1, 1995 and shall be submitted on an annual year of August 1 through July 31. The plan shall be available for review, upon request, by the commissioner and the general public, during normal school hours, at each school, in the business office. The annual IPM plan shall include, but not be limited to the following:

1. school name and mailing address, physical address, telephone number and contact person;
2. name and license or place of business number of company(s) and certification numbers of applicators, if contracted;
3. name and certification number of certified commercial applicator(s) of school system;
4. brand name and EPA registration number of all pesticides to be used;
5. for each pesticide to be used list the following:
  - a. pest to be controlled;
  - b. type of application to be used;
  - c. location of application;
  - d. restricted use pesticide or general use pesticide;
6. proposed location and date for noncertified applicator training;
7. other methods of pest control.

C. Any deviation from the integrated pest control management plan submitted shall be submitted in writing to LDAF, Director of PEP 24 hours prior to any application.

D. Records of pesticide applications for grass and weed control and general pest control, shall be maintained in accordance with LAC 7:13157.

E. No pesticides shall be applied for general pest control inside school buildings when students are present or expected to be present for normal academic instruction or extracurricular activity for at least eight hours after application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 21:

Bob Odom  
Commissioner

9507#061

## DECLARATION OF EMERGENCY

### Department of Economic Development Racing Commission

#### Purses from Video Poker (LAC 35:III.5736)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures 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 July 1, 1995, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to adopt this rule to comply with R.S. 33:4862.23, concerning distribution of video poker funds for purse supplements.

## Title 35 HORSE RACING

### Part III. Personnel, Registration and Licensing Chapter 57. Associations' Duties and Obligations §5736. Purses from Video Poker

A. In accordance with, and as defined by, R.S. 33:4862.23, monies in the Video Draw Poker Purse Supplement Fund shall be annually appropriated to the commission, and shall be allocated by the commission as follows:

1. Two-thirds of the total funds to all thoroughbred racing associations, proportionately distributed to each association based on the number of prior calendar year thoroughbred race days per track to the total number of prior calendar year thoroughbred race days. Such funds shall be used solely to supplement purses in accordance with a schedule or formula established by the purse committee of the Louisiana Thoroughbred Breeders Association, and only on Louisiana-bred thoroughbred races with purses not exceeding \$15,000.

2. One-third of the total funds to the Louisiana Quarter Horse Breeders Association to be used solely to supplement Louisiana-bred quarter horse purses.

B. The commission shall distribute the above thoroughbred funds based upon issuance of each condition book from each racing association. Quarter horse funds shall be distributed periodically based on requests from the Louisiana Quarter Horse Breeders Association for scheduled race days during active race meetings.

C. Each receiving association shall maintain funds in a separate interest-bearing bank account approved by the commission, with appropriate transfers made to the horsemen's bookkeeper for purse distribution. The purse fund account so designated shall be a separate account from all other sources of purse funds, and the source of funds shall be indicated as such on racing association daily racing programs (Louisiana Thoroughbred Breeders Association or Louisiana Quarter Horse Breeders Association).

D. Unused funds at the end of a race meeting shall be retained in such bank account, for use during the next race meeting, and shall be subject to the same restrictions as specified herein.

E. Adequate records, to the satisfaction of the commission, shall be maintained, and fund usage and records will be audited by the commission, with reports issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 33:4862.23.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Racing Commission, LR 21:

Paul D. Burgess  
Executive Director

9507#048

## DECLARATION OF EMERGENCY

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

Adult Denture Program

The Department of Health and Hospitals, Office of the Secretary 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 1995-96 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 beginning July 13, 1995, 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 previously reimbursed providers for partial casts and for a new denture once every five years. The bureau is revising the service coverage for adult dentures effective for dates of service July 1, 1995 and after to require a minimum of seven years before a new denture may be reimbursed for adult Medicaid patients and to eliminate coverage of partial casts.

This action is being taken to avoid a budget deficit in the Medical Assistance program. It is estimated that these actions will reduce expenditures in the Medicaid Program for adult denture services by approximately \$980,460 for state fiscal 1995-1996.

### Emergency Rule

Effective for dates of service of July 13, 1995 and after, the Department of Health and Hospitals Bureau of Health Services will require in the Adult Dental Program that new dentures are only allowable seven years after the original dentures are provided. In addition, the adult dental program shall no

longer reimburse for cast partial dentures (Procedure Codes 05123 and 05214). Any of the above services previously authorized but not completed prior to July 1, 1995 shall not be reimbursed.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#027

## DECLARATION OF EMERGENCY

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

Emergency Medical Transportation Air Ambulance Service

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant Title XIX of the Social Security Act and as directed by the 1995-96 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 rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 7, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The bureau reimburses air ambulances services including helicopter and fixed wing air ambulance services in accordance with the provider's usual and customary rate as determined by the Medicaid Program minus the amount which any third party coverage would pay. The department has now determined that this reimbursement methodology must be repealed and a new methodology established based on Medicare's reimbursement. This action is necessary to avoid a budget deficit in the medical assistance programs. Therefore, the bureau is adopting the following emergency rule establishing a new reimbursement methodology and implementing standards for payment governing the reimbursement of air medical services. It is anticipated that adoption of this emergency rule will reduce expenditures for air ambulance services by approximately \$535,000 during state fiscal year 1995 and 1996.

## Emergency Rule

Effective for dates of service July 7, 1995, and after the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following provisions governing the reimbursement of air ambulance services.

### I. Reimbursement Methodology

Medicaid will pay a base rate plus mileage according to the rates in effect for Medicare as of January 1, 1995. Separate reimbursement for oxygen and disposable supplies will be made when the provider incurs these costs. Reimbursement for these services will be made in accordance with the rates previously established by Medicare and approved by Medicaid effective April 1, 1995.

### II. Standards for Payment

1. Helicopters and fixed winged aircraft must be certified by the Department of Health and Hospitals, Bureau of Health Services Financing in order to receive Medicaid reimbursement and all air ambulance services must be provided in accordance with the state law and regulations governing the administration of these services. All air ambulance services must comply with the state law and regulations governing the personnel certifications of the emergency medical technicians administered by the Department of Health and Hospital's Bureau of Emergency Medical Services.

2. The Prior Authorization Unit of the fiscal intermediary must approve the medical necessity for all air ambulance services.

3. The Prior Authorization Unit of the fiscal intermediary must review air ambulance claims and either approve or disapprove these services based on the following requirements:

a. Air ambulance services are covered only if speedy admission of the patient is essential and the point of pick-up of the patient is inaccessible by land vehicle or great distances or other obstacles are involved in getting the patient to the nearest hospital with appropriate facilities.

b. Payment for air mileage will be limited to actual air mileage from the point of pick-up to the point of delivery of the patient.

c. Payment for a round trip transport on the same day between two hospitals, is the base rate plus the round trip mileage.

d. If a land ambulance must be used for part of the transport, the land ambulance provider will be reimbursed separately according to rules and regulations for ground ambulance services.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#007

## DECLARATION OF EMERGENCY

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

### Case Management Services

The Department of Health and Hospitals, Office of the Secretary 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 1995-96 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 beginning July 7, 1995, 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 reimburses providers of case management services a flat fee for assessment/service planning and on a unit of service basis utilizing 15 minutes as the unit of service for ongoing allowable case management services to implement the service plan. The bureau has now determined it is necessary to reduce both the flat fee amount and the \$13.26 unit rate by 20 percent. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for case management services by approximately \$5,563,980 for state fiscal year 1995-1996.

### Emergency Rule

Effective for dates of service July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing is reducing the reimbursement for case management services by lowering both the flat fee amount and the \$13.26 unit rate by 20 percent.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#011

# DECLARATION OF EMERGENCY

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

## Professional Service Program—Chiropractic

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 1995-96 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 Bureau of Health Services Financing established chiropractic services under the Professional Services Program effective January 1, 1993 (*Louisiana Register*, Volume 16, Number 12) to provide coverage and reimbursement for medically necessary chiropractic care for Medicaid recipients. This rule provides for: 1) unlimited services to EPSDT recipients; 2) service limits for adults office visits and 25 treatments with provision for extensions if medically necessary; 3) a diagnostic radiology services limit of \$225 per year; and 4) reimbursement in accordance with a maximum fee schedule. The bureau has determined it is necessary to establish the requirement of prior authorization for all treatment of Medicaid recipients under the age of 21, to reduce both the level of allowable services, and to reduce the reimbursement for certain procedure codes under the maximum fee schedule.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for chiropractic services by approximately \$9,263,370 for state fiscal year 1995-1996.

### Emergency Rule

Effective for dates of service July 13, 1995, and after, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 1, 1993 rule on chiropractic care and establishes the following provisions to govern Chiropractic Services under the Professional Services Program.

#### A. General Provisions

1. Chiropractors' services consist of diagnostic and treatment services which are within the scope of practice for chiropractors under state law and regulations.

2. An encounter is defined as any visit in which any of the services listed in the Professional Services Program

Manual are rendered which are included under the selected CPT treatment codes.

3. All chiropractic treatment services for recipients under the age of 21 shall be prior authorized.

#### B. Service Limits

1. One diagnostic evaluation per 180 days per recipient not to exceed two diagnostic evaluations per calendar year per recipient will be allowed.

2. Radiology services are limited to \$50 per recipient per 180 days not to exceed \$100 per calendar year per recipient.

3. Recipients 21 years of age and older are allowed 18 chiropractic encounters or treatment services per calendar year. No extension of this number shall be granted.

#### C. Reimbursement

1. Reimbursement is provided to chiropractors who are licensed by the state to provide chiropractic care and services and who are enrolled in the Medicaid Program as an enrolled provider.

2. Reimbursement is made in accordance with the following designated CPT codes under a maximum fee schedule for billable codes established by the Professional Services Program for each chiropractic service rendered to a Medicaid eligible individual.

Procedure Code	Proposed Rate
97010	\$ 7.41
97012	\$ 5.31
97014	\$ 7.41
97020	\$ 4.88
97022	\$ 6.65
97024	\$ 4.88
97026	\$ 4.88
97028	\$ 1.66
97039	\$ 6.65
97110	\$ 8.08
97112	\$ 8.08
97118	\$ 8.08
97122	\$ 3.85
97124	\$ 5.05
97126	\$ 6.65
97128	\$ 3.85
97139	\$ 6.65
97220	\$ 11.09
97221	\$ 2.22
97240	\$ 7.91
97241	\$ 3.95
97250	\$ 12.94
97260	\$ 8.00
97261	\$ 3.54

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#044

## DECLARATION OF EMERGENCY

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

#### Disproportionate Share - Hospital Payment Methodology (FY 1994-95)

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This 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.

The Medicaid Program previously reimbursed hospitals serving a disproportionate share of low income patients via twelve pools with payments based on Medicaid days. This payment methodology was implemented effective February 1, 1994 by means of emergency rulemaking to comply with the Health Care Financing Administration's policy on Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4). In addition, disproportionate share payments for indigent care based on free care days were made by establishment of a payment methodology which reimbursed providers for indigent care days based on a Medicaid per diem equivalent amount.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 of the Social Security Act by establishing individual hospital disproportionate share payment limits. To comply with these new provisions, the bureau implemented the following changes to its methodologies, for qualification and calculation of, disproportionate share payments: require that each qualifying disproportionate share hospital has a Medicaid inpatient utilization rate of not less than one percent, limit publicly owned or operated hospitals to 100 percent of uncompensated cost, and establish a transition year (State Fiscal Year 1994-95) in which public hospitals meeting specified criteria may not exceed 200 percent of uncompensated cost. These changes were implemented effective July 1, 1994 and published in the *Louisiana Register*, Volume 20, Number 7. It has been continued in force through subsequent emergency rulemaking which was published in the *Louisiana Register*, Volume 20 Number 11, and Volume 21 Number 3. Re-adoption of this emergency rule is necessary to avoid federal penalties or sanctions.

Implementation of this rule will not decrease or increase expenditures as disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

#### Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends its

methodologies for qualification and calculation of disproportionate share payments for inpatient hospital services for Medicaid days and indigent care days effective for dates of service on or after July 1, 1994. Below are the following revised methodologies as modified in the State Plan, Attachment 4.19-A Items 1, 14 and 16 - Methodology for Disproportionate Share Adjustments.

#### Disproportionate Share Payments - Qualifying Criteria for a Disproportionate Share Hospital

Effective on July 1, 1994, the qualifying disproportionate share hospital must have a Medicaid inpatient utilization rate of at least one percent, in addition to the qualification criteria outlined in Item 1, D.1. a-d.

#### Disproportionate Share Payments Methodology

DSH payments to individual publicly owned or operated hospitals (except for those hospitals qualifying for payments in the transition period as described below) will be equal to 100 percent of the hospital's uncompensated costs as defined below and subject to the adjustment provisions described below. A transition period is established for high disproportionate share public hospitals for services furnished from July 1, 1994 through June 30, 1995. A high disproportionate share hospital is defined below. During this transition period public "high disproportionate share hospitals" shall receive disproportionate share payments equal to 200 percent of the hospital's uncompensated costs subject to the adjustment provision described below.

The governor must certify to the secretary of the Department of Health and Human Services that the hospitals' DSH payments in excess of 100 percent of the uncompensated costs are used for health services.

The department will issue instructions to affected providers with regard to procedures for payments made pursuant to this rule.

#### Definitions

*Public Hospital*—a hospital that is owned or operated by a state (or by an instrumentality or a unit of government within a state). "Owned or operated" refers to the provider of inpatient hospital services.

*High Disproportionate Share Hospital*—the public hospital's:

1. Medicaid utilization rate is at least one standard deviation above the mean Medicaid utilization rate for hospitals receiving Medicaid payments in the state. The statewide mean Medicaid utilization rate will be calculated based on the latest federal fiscal year in which all cost reports are audited and/or desk reviewed by the audit intermediary. Determination of hospitals qualifying under this provision as a high disproportionate share hospital will be made using the latest filed cost report prior to July 1, 1994. The hospital's applicable minimum amount (AMA) must be used for health services during the state fiscal year. The AMA is the difference between the amount of the DSH adjustment and the amount of the basic limit (i.e., uncompensated costs as defined below); OR

2. number of Medicaid inpatient days is the largest of any hospital in the state for the state fiscal year ending

6/30/94. The hospital's applicable minimum amount (AMA) must be used for health services during the state fiscal year. The AMA is the difference between the amount of the DSH adjustment and the amount of the basic limit (i.e., uncompensated costs as defined below).

*Uncompensated Cost* (i.e., basic limit)—costs incurred during the state fiscal year of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payor payments and all other inpatient and outpatient payments received from patients.

Final payment will be based on uncompensated cost report for the period(s) covering the state fiscal year (SFY).

Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for each federal fiscal year. The department shall make necessary downward adjustments to hospitals' disproportionate share payments to remain within the federal disproportionate share allotment. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment each year, the department shall calculate a pro rata decrease for each public hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment.

If at audit or final settlement the qualifying criteria for disproportionate share adjustment payments are not met, or the actual uncompensated costs are determined to be less than the estimated uncompensated costs appropriate action shall be taken to recover such overpayment.

Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH payments.

This methodology shall remain in effect only for the remainder of state fiscal year 1994-1995.

Rose V. Forrest  
Secretary

9507#015

## **DECLARATION OF EMERGENCY**

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

**Disproportionate Share - Hospital Payment Methodology  
(FY 1995-96)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance

Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 1, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program previously reimbursed private hospitals and publicly-owned or operated hospitals serving a disproportionate share of low income patients via 12 pools with payments based on Medicaid days. This payment methodology was implemented effective February 1, 1994 to comply with the Health Care Financing Administration's policy on Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4). In addition, disproportionate share payments for indigent care based on free care days were made by establishment of a payment methodology which reimbursed providers for indigent care days based on a Medicaid per diem equivalent amount.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 of the Social Security Act by establishing individual hospital disproportionate share payment limits. To comply with these new provisions, the bureau's disproportionate share payment methodology which included provisions governing the qualifications applicable to private and public hospitals and payment methodology applicable to publicly-owned or operated hospitals was amended effective on July 1, 1994 and was published in the *Louisiana Register* Volume 20, Number 7. In addition, the qualification applicable to both public and private hospitals was included in the July 1, 1994 emergency rule which requires a disproportionate share hospital to have a Medicaid inpatient utilization rate of at least 1 percent is incorporated in the following emergency rule. These regulations continued to govern DSH payments through June 30, 1995.

In order to comply with the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) requirements for the upcoming federal fiscal year and in order to avoid a budget deficit in the medical assistance programs, the bureau has determined that the following changes are necessary in the payment methodologies for public state-operated hospitals, private hospitals and public nonstate hospitals. The following emergency rule replaces all prior regulations governing disproportionate share payment methodologies.

It is estimated that implementation of this rule will reduce expenditures for disproportionate share payments in the Medicaid Program by approximately \$136,000,000 for state fiscal year 1995-1996.

## Emergency Rule

Effective for dates of service on or after July 1, 1995 the Department of Health and Hospitals, Bureau of Health Services Financing repeals all prior regulations governing disproportionate share hospital payment methodologies and establishes the following regulations to govern the disproportionate share hospital payment methodologies for public state-operated, private hospitals and public nonstate hospitals.

### Disproportionate Share Hospital Payments Public State-Operated Hospitals

DSH payments to individual public state-owned or operated hospitals as defined below will be equal to 100 percent of the hospital's uncompensated costs as defined below subject to the adjustment provision described below.

#### Definitions:

**Public State Operated Hospital**—a hospital that is owned or operated by the State of Louisiana.

**Uncompensated Cost**—costs incurred during the state fiscal year of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payor payments and all other inpatient and outpatient payments received from patients.

Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

### Private Hospitals and Public Nonstate Hospitals

A. Reimbursement will no longer be provided for indigent care in private hospitals or public nonstate hospitals qualifying for disproportionate share payments.

B. The following pools, public local government acute care hospital and public local government distinct part psychiatric units/freestanding psychiatric hospitals are added to the six pools. These hospitals will no longer receive a DSH payment equal to each hospital's net uncompensated costs. Disproportionate share reimbursement for these qualifying hospitals will be based on methodology described below.

C. Each private or public nonstate hospital qualifying for participation in one of the eight disproportionate share pools with payments based on Medicaid days will receive payments which are the lesser of 100 percent of its net uncompensated costs of providing services to Medicaid recipients and uninsured patients or their disproportionate share payment calculated by the bureau via the pool methodology.

D. Annualization of days for the purposes of the Medicaid days pools is not permitted.

E. Qualification for and payment adjustment for DSH shall be based on the hospital's year end cost report for the year ended during the period July 1 through June 30 of the previous year.

F. Reimbursement will be based on Medicaid days included in one of the following eight pools included in I.

G. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization, but for purposes of disproportionate share hospital payment

adjustments, the distinct part psychiatric units shall be placed in the psychiatric pools while the acute medical/surgical shall be included in the appropriate teaching or nonteaching pool. Hospitals must meet the criteria for the pool classification based on their fiscal year-end cost report as of June 30 of each year.

H. For purposes of the pools defined below, service district hospitals/beds located outside the service district will be classified by the bureau as privately-owned and operated and shall be placed in the appropriate private hospital/unit pool.

I. The eight pools are as follows:

1. **Private Rural Acute Hospitals**—privately-owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are designated as a rural hospital under criteria specified below.

2. **Private Rural Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals**—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in a rural area under criteria specified below.

3. **Private Teaching Hospitals**—privately-owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are recognized as approved teaching hospitals under criteria specified below.

4. **Private Urban Nonteaching Hospitals**—privately-owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are designated as urban hospitals and not recognized as approved teaching hospitals, under criteria specified below.

5. **Private Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals**—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

6. **Private Urban Nonteaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals**—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in an urban area and do not meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

7. **Public Local Government Acute Hospitals**—local government-owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units).

8. **Public Local Government Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals**—local government-owned distinct part psychiatric units/freestanding psychiatric hospitals.

J. The definitions for hospital classifications applicable to the above Medicaid days pools are given below.

1. **Teaching Hospital**—a licensed acute care hospital in compliance with the Medicare regulations regarding such facilities, or a specialty hospital that is excluded from the prospective payment system as defined by Medicare. A teaching hospital must have a written affiliation agreement with an accredited medical school to provide post graduate medical resident training in the hospital for the specialty services provided in the specialty hospital. The affiliation agreement must contain an outline of its program in regard to



staffing, residents at the facility, etc. A distinct part or carve-out unit of a hospital shall not be considered a teaching hospital separate from the hospital as a whole. Teaching hospitals that are not recognized by Medicare as an approved teaching hospital must furnish copies of graduate medical education program assignment schedules and rotation schedules to the department.

2. *Nonteaching Hospital*—an acute care general hospital or specialty hospital not recognized as an approved teaching hospital by the department or under Medicare principles for the fiscal year-end cost report as of June 30 of each year.

3. *Urban Hospital*—a hospital located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification under Medicare.

4. *Rural Hospital*—a hospital that is not located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification for Medicare.

5. *Distinct Part Psychiatric Unit/Free-standing Psychiatric Hospital*—distinct part psychiatric units of acute care general hospitals or psychiatric units in long term care and rehabilitation hospitals meeting the Medicare criteria for PPS exempt units and enrolled under a separate Medicaid provider number and freestanding psychiatric hospitals enrolled as such.

K. Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's total Medicaid inpatient days for the applicable cost report as adjusted for annualization by the total Medicaid inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools, and then multiplying by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days. Pool amounts shall be allocated based on the consideration of the volume of days in each pool or the average cost per day for hospitals in each pool.

L. If at audit or final settlement of the cost reports on which the pools are based, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported, appropriate action shall be taken to recover any over payments resulting from the use of erroneous data. No additional payments shall be made if an increase in days is determined after audit. Recoupment of overpayment from reductions in pool days originally reported shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the state for the year in which the recoupment is applicable.

M. Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments.

#### **General Provisions**

Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not invalidate the one remaining methodology.

Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for each federal fiscal year and the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospitals' disproportionate share payments to remain within the federal disproportionate share allotment. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment each year, the department shall calculate a pro rata decrease for each public (state) hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment. A pro rata decrease for nonstate hospitals will be calculated based on the ratio determined by dividing the hospitals Medicaid days by the days for all qualifying nonstate hospitals and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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

Rose V. Forrest  
Secretary

9506#016

## **DECLARATION OF EMERGENCY**

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

### **Durable Medical Equipment**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect



beginning July 7, 1995, for the maximum period allowed under the Administrative Procedure Act or adoption of the rule whichever occurs first.

The Bureau of Health Services Financing adopted a dual reimbursement methodology for durable medical equipment which includes prosthetic devices, artificial eyes, braces, medical appliances, equipment and supplies on April 20, 1993 (*Louisiana Register* Volume 19, Number 4). Currently flat fees are established for certain DME by utilizing 100 percent of the Medicare DME fee schedule or by analyzing usual and customary fees charged in a community to determine the lowest cost at which an item is widely available. The department has now determined that it is necessary to revise the flat fee component of the reimbursement methodology for Medicaid only recipients. The department is establishing the flat fee at a rate of 80 percent of the Medicare durable medical equipment fee schedule instead of using 100 percent of the fee and by instituting the flat fee for certain durable medical equipment items at a rate of 80 percent of the lowest cost at which the needed item is widely available. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the durable medical equipment program by approximately \$3,800,000 for state fiscal 1995-1996.

#### **Emergency Rule**

Effective for dates of service July 7, 1995 and after, the Department of Health and Hospital, Bureau of Health Services Financing is revising the flat fee component of the reimbursement methodology for durable medical equipment by establishing the flat fee at a rate of 80 percent of the Medicare durable medical equipment fee schedule and by instituting the flat fee for certain durable medical equipment items at a rate of 80 percent of the lowest cost at which the needed item is widely available.

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

Rose V. Forrest  
Secretary

9507#010

### **DECLARATION OF EMERGENCY**

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

**Early Periodic Screening Diagnosis and  
Treatment (EPSDT) Services**

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 1995-96 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 beginning July 7, 1995, 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 reimburses providers a flat fee for service for certain EPSDT-related services provided to recipients under 21 years of age. These related services include the provision for eyeglasses and hearing aids. These services are unlimited.

The bureau has now determined it is necessary to limit coverage for EPSDT eyeglasses to three per year with a provision for extension if medically necessary and to reduce the provider reimbursement fees by 15 percent for the following EPSDT services effective for dates of service July 7, 1995 and after: EPSDT eyeglasses and EPSDT hearing aids.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for EPSDT Services by approximately \$4,468,124 for state fiscal 1995-1996.

#### **Emergency Rule**

Effective for dates of service of July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing limits EPSDT eyeglasses to three per year with provision for extending if medically necessary and reduces reimbursement fees by 15 percent for providers of the following early periodic screening diagnosis and treatment services:

EPSDT Eyeglasses:

Procedure Codes - X6366-X6368; X6370-X6376; X9066-X9068; and X-0089.

EPSDT Hearing Aids:

Procedure Codes - X-0192; V5030; V5040; V5050; V5060; V5070; V5080; V5100; V5120; V5130; V5140; V5150; V5170; V5180; V5190; V5210; V5220; V5230; and V5299

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

Rose V. Forrest  
Secretary

9507#009

## DECLARATION OF EMERGENCY

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

Home and Community Based Waiver—Home Care for the Elderly; Case Management for the Elderly

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 1995-96 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 beginning July 13, 1995, 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 provides Case Management for the Elderly as a service in the Home and Community Based Services waiver called Home Care for the Elderly. Case Management for the Elderly is available only to those persons who have been determined eligible for the Home Care for the Elderly waiver. Case management as a waiver service provides certain functions necessary to the functioning of the waiver: preparation of the required comprehensive plan of care, collection and submission of information necessary to document initial eligibility and annual continued eligibility of waiver participants, and certain monitoring activities. Reimbursement has been comprised of an initial assessment and planning period rate (procedure code Z0064) and ongoing case management (procedure code Z0065) billed in 15-minute units at \$13.26 each.

The bureau is revising its payment methodology to implement a flat monthly payment for Case Management for the Elderly. The fee for ongoing case management services shall be changed from a service unit rate to a flat rate of \$75 per month (procedure code Z0065). Ongoing case management services shall consist of a minimum of two hours of documented service coordination per month and/or quarterly monitoring of service providers. Payment for initial assessment and planning period (procedure code Z0064) shall be reduced to \$120. Procedure code Z0064 shall only be billed for the first month of waiver eligibility. Procedure code Z0065 shall be billed thereafter for each month in which service coordination for the waiver participant and/or the quarterly monitoring of service providers actually occur. Only one code per month will be paid.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Medicaid Program for Case Management for the Elderly by approximately \$13,616 for state fiscal year 1995-1996.

### Emergency Rule

Effective for date of service July 13, 1995, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for the initial assessment and planning period for case management services for the elderly by 20 percent. Reimbursement for ongoing case management for the elderly is changed from a service unit rate to a flat monthly rate to be billed for the second and subsequent months in which actual service coordination and/or service provider monitoring occurs. Ongoing case management services shall consist of a minimum of two hours of documented service coordination per month and/or quarterly monitoring of service providers.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#039

## DECLARATION OF EMERGENCY

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

Federally Qualified Health Centers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 no limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 13, 1995, for the maximum allowed under the Administrative procedure Act or until adoption of the rule whichever occurs first.

The Bureau of Health Services Financing reimburses federally qualified health centers visits and physician visits under the Medicaid Program. Physician visits are limited to

12 medically necessary visits per calendar year for each eligible recipient who is 21 years of age or older. Recipients under the age of 21 are not subjected to program limitations, other than the limitation of medical necessity. The following services have been counted as one of the 12 allowable visits per calendar year for recipients 21 years of age or older:

- A. physician office visit including visits to optometrists;
- B. physician home visit;
- C. consultation from another physician when such consultation is essential for the treatment of the recipient's illness;
- D. physician visit in an outpatient hospital setting including emergency room visits due to accidental injury or sudden and serious illness;
- E. physician visit in a nursing home: the physician will sign the recipient's chart at the facility on the day of the visit; and
- F. family planning services for the following:
  1. initial visit to include a physical examination with pelvic, pap smear and counseling;
  2. pap smear; and
  3. insertion and/or removal of IUD.

Federally qualified health center visits have not been included in the 12 annual physician visits allowable under the Medicaid Program for recipients 21 or older. The department has now determined it is necessary to include federally qualified health center visits under the 12 allowable visits for Medicaid recipients 21 or older. This action is being taken to avoid a budget deficit in the medical assistance program. It is estimated that this action will reduce expenditures in the Federally Qualified Health Clinic Program by approximately \$125,000 for state fiscal year 1995-1996.

#### **Emergency Rule**

Effective for dates of service July 13, 1995 and after, each federally qualified health center visit, i.e., encounter, is included as one the 12 outpatient physician visits allowable per calendar year for Medicaid eligible who are 21 years of age or older.

Interested persons may submit comments to the following address: 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 inquires regarding this emergency rule.

Rose V. Forrest  
Secretary

9507#028

#### **DECLARATION OF EMERGENCY**

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

Leave of Absence—Intermediate Care Facility Services  
for the Handicapped and/or Mentally Retarded

The Department of Health and Hospitals, Office of the

Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 no limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." 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 beginning July 13, 1995, 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 provides coverage under the Medicaid Program for Intermediate Care Facility Services for the Handicapped and/or Mentally Retarded (ICF/MR) provided by Intermediate Care Facilities. ICF/MR services are optional under Title XIX of the Social Security Act and states may choose the methodology for providing reimbursement for ICF/MR services. The department has now determined that it is necessary to reduce payments to ICF/MR facilities by limiting the number of payable leave of absence days. Before adoption of this rule, the number of payable leave of absence days was limited to 15 days per hospitalization for treatment of an acute condition, and to 45 days per state fiscal year for other leave days and limited to 14-day intervals per temporary absence per recipient. Leave days for the following purposes were limited to 14 days per occurrence and were excluded from the annual 45-day limitation:

- (1) Special Olympics;
- (2) Roadrunner sponsored events;
- (3) Louisiana planned conferences;
- (4) trial discharge leaves.

The department is now lowering these limits as follows: Beds are reserved for up to five days per hospitalization for treatment of an acute condition; and beds are reserved for up to 22 days per state fiscal year for other leave days and limited to 14-day intervals per temporary absence per recipient. The previously indicated limit per occurrence and exclusions from the annual limitation are to continue.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for leave days for ICF/MR recipients by approximately \$12,604,000 for state fiscal year 1995-1996. Therefore, this emergency rule reduces payments to ICF/MR facilities by limiting the number of payable leave of absence days.

#### **Emergency Rule**

Effective for dates of service beginning July 13, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces payments to ICF/MR facilities by limiting the number of payable leave of absence days as follows:

Beds are reserved for up to five days per hospitalization for treatment of an acute condition; and

Beds are reserved for up to 22 days per state fiscal year for other leave days and limited to 14-day intervals per temporary absence per recipient. Leave days for the following purposes shall be limited to 14 days per occurrence and shall be excluded from the annual 22-day limitation:

- (1) Special Olympics;
- (2) Roadrunner sponsored events;
- (3) Louisiana planned conferences;
- (4) trial discharge leaves.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#030

## **DECLARATION OF EMERGENCY**

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

**Home Health Services**

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 1995-96 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 beginning July 7, 1995, 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 reimburses home health services at interim payment rates established for skilled nursing visits, physical therapy, home health aide visits with annual cost settlement. The cost of covered nonroutine supplies is reimbursed at an interim rate assigned by Medicare annually. The annual cost settlement is currently 100 percent of allowable cost for covered nonroutine supplies. The bureau is revising the reimbursement to home health agencies by establishing maximum rates for interim and cost settlement payment

amounts. The maximum interim and cost settlement payment amounts for reimbursable services shall not exceed the following limits: 1) skilled nursing visits (procedure code X9900) - \$64.54; 2) health aide visits (procedure code X9901) - \$22.81; and 3) physical therapy (procedure code X9926) - \$70.46. The bureau shall reimburse the home health agency at an interim rate of 80 percent of allowable billed charges for nonroutine covered supplies (procedure code X9925). Final reimbursement for covered nonroutine supplies shall be adjusted to 80 percent of allowable costs through the cost settlement process except for diapers which will not be reimbursable under the supply cost category for home health services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for home health services by approximately \$12,781,169 for state fiscal 1995-1996.

### **Emergency Rule**

Effective for dates of service of July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing is revising the reimbursement to home health agencies by establishing maximum rates for interim and cost settlement payment amounts. The maximum interim and cost settlement payment amounts for reimbursable services shall not exceed the following limits: 1) skilled nursing visits (procedure code X9900) - \$64.54; 2) health aide visits (procedure code X9901) - \$22.81; and 3) physical therapy (procedure code X9926) - \$70.46. The bureau shall reimburse the home health agency at an interim rate of 80 percent of allowable billed charges for covered nonroutine supplies (procedure code X9925). Final reimbursement for covered nonroutine supplies shall be adjusted to 80 percent of allowable costs through the cost settlement process except for diapers which are not reimbursable items under the supply cost category for home health services.

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

Rose V. Forrest  
Secretary

9507#014

## **DECLARATION OF EMERGENCY**

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

**Hospital Program—Acute Inpatient Hospital  
Services, Outlier**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule under the Medical Assistance

Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 1, 1995, for the maximum time period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program reimburses hospitals for the catastrophic costs associated with medically necessary services provided to children under six years of age received in a disproportionate share hospital and for services to infants one year or under in all acute care general hospitals. An outlier payment was calculated on an individual case basis through which if covered charges for medically necessary services exceeded 200 percent of the prospective payment, payment was made at cost. This payment methodology was implemented effective July 1, 1994 under Prospective Hospital Reimbursement Methodology rule (*Louisiana Register*, June 20, 1994, Volume 20, Number 6). The department has determined that it is now necessary to amend this outlier reimbursement methodology by initiating a policy whereby the covered charges of each qualifying outlier case must exceed \$150,000 in addition to exceeding 200 percent of the prospective payment. Qualifying outlier cases will be reimbursed the marginal cost associated with the excess cost above the prospective payment amount. Marginal cost is considered to be 55 percent. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Medicaid Program by approximately \$14,570,500 for state fiscal year 1995-1996.

#### Emergency Rule

Effective for discharges on or after July 1, 1995, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends its reimbursement methodology for qualification and calculation of outlier payments for catastrophic costs associated with medically necessary services provided to children under six in disproportionate share hospitals and for services to infants one year or under in all general acute care hospitals. To qualify for an outlier payment the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective payment. Outlier cases qualifying under the above criteria will be reimbursed the marginal cost associated with the excess cost above the prospective payment amount. Marginal cost is considered to be 55 percent of cost.

Interested persons may submit comments to the following address: 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. Copies of this rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest  
Secretary

9507#021

## DECLARATION OF EMERGENCY

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

### Hospital Program—Inflation

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program and 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 in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 1, 1995, 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 provides coverage under the Medicaid Program for inpatient services provided by acute inpatient hospitals as defined in 42 CFR Subpart B, hospital services subject to the prospective payment systems for inpatient operating costs and inpatient capital-related costs, Section 412.23(e). Inpatient hospital services are mandatory under Title XIX of the Social Security Act. The department has provided reimbursement for inpatient acute hospital services according to prospective rates established as allowable under the prospective hospital reimbursement methodology rule (*Louisiana Register* June 20, 1994, Volume 20, Number 6). The payment rates are trended to the midpoint of the payment year using the DRI Type Hospital Marketbasket Index. The department has now determined that it is necessary to amend this reimbursement methodology for inpatient acute hospital services by initiating a policy whereby the payment rates will be trended to the midpoint of the payment year using the lowest of DRI Type Hospital Marketbasket Index, the Consumer Price Index - All Urban Consumers or the Medicare PPS Marketbasket Index. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will

reduce expenditures in the Medicaid Program by approximately \$7,200,000 for state fiscal year 1995-1996. Therefore this emergency rule amends the provision in the prospective hospital reimbursement methodology rule which determines how payment rates are trended forward.

#### Emergency Rule

Effective for date of service July 1, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing will trend payment rates to the midpoint of the payment year using the lowest of the DRI Type Hospital Marketbasket index, the Consumer Price Index - All Urban Consumers or the Medicare PPS Marketbasket Index.

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

Rose V. Forrest  
Secretary

9507#022

### DECLARATION OF EMERGENCY

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

#### Hospital Program—Median

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 1, 1995, 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 provides coverage under the Medicaid Program for inpatient services provided by acute inpatient hospitals as defined in 42 CFR Subpart B, hospital services subject to the prospective payment systems for inpatient operating costs and inpatient capital-related costs Section 412.23(e). Inpatient hospital services are mandatory under Title XIX of the Social Security Act. The department has provided reimbursement for inpatient acute hospital services according to prospective rates established as allowable

under the prospective hospital reimbursement methodology rule (*Louisiana Register* June 20, 1994, Volume 20, Number 6). The current methodology contains provisions which established a transition period whereas the Bureau of Health Services Financing blends rates above the weighted median per diem rate using 20 percent of the hospital specific per diem operating cost and 80 percent of the weighted median per diem rate for state fiscal year 1995-1996 and using 10 percent of the hospital specific per diem operating cost and 90 percent of the weighted median per diem rate for state fiscal year 1996-1997. The department has now determined that it is necessary to amend this reimbursement methodology for inpatient acute hospital services by eliminating the transition period whereby the department will reimburse no inpatient acute hospital above the weighted median per diem rate. The department will establish a weighted average per diem rate based on estimated payments under capped weighted medium per diem rates and will reimburse no inpatient acute hospital above the weighted average per diem rate. Specialty hospitals will be reimbursed at the lowest blended per diem rate for each specialty hospital category. For the purpose of this emergency rule, specialty hospitals are designated as long term hospitals, rehabilitation hospitals and Children's Hospital in New Orleans. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for acute inpatient hospital services in the Medicaid Program by approximately \$30,029,780 for state fiscal year 1995-1996. Therefore this emergency rule deletes the provision in the prospective hospital reimbursement methodology rule which established blending for hospitals above peer group weighted median per diem rates.

#### Emergency Rule

Effective for date of service July 1, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing will no longer reimburse acute hospitals for inpatient services above the peer group weighted median per diem rate for inpatient acute hospital services. The department will establish a weighted average per diem rate based on estimated payments under a capped weighted median per diem rate and will reimburse no inpatient acute hospital above the weighted average per diem rate. Medicaid per diem rates for inpatient acute hospitals with per diem rates above the peer group weighted average per diem rate will be reimbursed at the peer group weighted average per diem rate. Specialty hospitals will be reimbursed at the lowest blended per diem rate for each specialty hospital category. For the purpose of this emergency rule, specialty hospitals are designated as long term hospitals, rehabilitation hospitals and Children's Hospital in New Orleans.

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

Rose V. Forrest  
Secretary

9507#023

## DECLARATION OF EMERGENCY

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

Hospital Program—Out-of-State Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 1, 1995, for the maximum allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing provides reimbursement for out-of-state hospital services at the rate of 72 percent of the billed charges. The bureau has determined it is necessary to revise the reimbursement for out-of-state hospital services by reducing the payment for these services. Reimbursement for outpatient hospital services is being reduced to 50 percent of billed charges. The reimbursement for inpatient hospital services is being reduced to the lesser of 50 percent of billed charges or the inpatient Medicaid per diem rate of the state wherein the services are provided. If the state wherein the inpatient services are provided does not use a per diem rate payment methodology, the bureau will reimburse the out-of-state hospital 50 percent of the billed charges. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for out-of-state hospital services by approximately \$3,451,776 for state fiscal year 1995-1996.

### Emergency Rule

Effective with date of service July 1, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reimburses out-of-state outpatient hospital services 50 percent of billed charges and reimburses out-of-state inpatient hospital services the lower of 50 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided. If the state wherein the inpatient services are provided does not use a per diem rate payment methodology, the bureau will reimburse the out-of-state hospital 50 percent of the billed charges.

Interested persons may submit comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#020

## DECLARATION OF EMERGENCY

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

Hospital Program—Outpatient Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 1, 1995, for the maximum allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing provides reimbursement for outpatient hospital services. These services other than those services subject to a fee schedule had been paid at the interim rate of 72 percent of the billed charges and adjusted to allowable cost through the cost report settlement process. The bureau has determined it is necessary to reduce the interim payment for outpatient hospital services by 17 percent. Final reimbursement for outpatient hospital services shall be adjusted to 83 percent of allowable cost through the cost settlement process except those subject to the Medicare fee schedule for laboratory which will be reduced 10 percent and outpatient surgeries subject to the Medicaid outpatient surgery list. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for outpatient hospital services by approximately \$25,057,429 for state fiscal year 1995-1996.

### Emergency Rule

Effective with dates of service July 1, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reimburses outpatient hospital services the interim rate of 60 percent of billed charges except those services subject to the fee schedule for laboratory services which will be reduced 10 percent and outpatient surgeries



subject to the Medicaid outpatient surgery list. Final reimbursement for outpatient services shall be adjusted to 83 percent of allowable cost through the cost report settlement process except those services subject to the Medicare fee schedule for laboratory services and outpatient surgeries.

Interested persons may submit comments to the following address: 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 inquires regarding this emergency rule.

Rose V. Forrest  
Secretary

9507#019

## **DECLARATION OF EMERGENCY**

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

### **Inpatient Psychiatric Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 no limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be effective beginning July 13, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The department adopted comprehensive regulations governing the provision of all inpatient psychiatric services under the Medicaid Program which included pre-certification and length of stay requirements as well as patient criteria governing the admission, extension and discharge of recipients in need of these services on June 20, 1995 (*Louisiana Register* Volume 21, Number 6). The department has now determined that it is also necessary to limit inpatient psychiatric services to a maximum of 30 days per year for Medicaid recipients under 21 years of age and over 65 years of age. This limitation applies to inpatient psychiatric services provided other than in a distinct part psychiatric unit of an acute care hospital. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for inpatient psychiatric services by approximately \$17,841,595.

## **Emergency Rule**

Effective for dates of service July 13, 1995 and after the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits inpatient psychiatric services to a maximum of 30 days per calendar year per recipient. This limitation applies to Medicaid recipients who are under 21 years of age and over 65 years of age and to inpatient psychiatric services provided other than in a distinct part psychiatric unit. The fiscal intermediary shall continue to review each inpatient psychiatric admission to determine the recipient's eligibility for these services in accordance with established regulations for inpatient psychiatric services.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#029

## **DECLARATION OF EMERGENCY**

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

### **KIDMED Medical Screening**

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 1995-96 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 beginning July 7, 1995, 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 reimburses KIDMED providers an all-inclusive fee of \$60 per EPSDT/KIDMED medical screening, whether performed by or under the supervision of a licensed physician, or by a certified physician assistant or registered nurse within their scope of practice permitted by state law, for recipients under 21 years of age in accordance with a periodicity schedule established under federal and state



guidelines. Louisiana's fees have been significantly higher than that in other states.

The bureau is revising the fee for reimbursement of EPSDT/KIDMED medical screening effective for dates of service July 7, 1995 and after. The fee for EPSDT/KIDMED medical screenings performed by or under the supervision of a licensed physician, or by a certified physician assistant or registered nurse shall be reduced to \$51 per EPSDT/KIDMED medical screening.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for EPSDT/KIDMED screening by approximately \$3,383,731 for state fiscal 1995-1996.

**Emergency Rule**

Effective for dates of service of July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reimburses KIDMED providers \$51 under the Early Periodic Screening Diagnosis and Treatment program for medical screenings of Medicaid recipients under 21 years of age, which are performed by or under the supervision of a licensed physician, or by a certified physician assistant or registered nurse within their scope of practice permitted by state law.

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

Rose V. Forrest  
Secretary

9507#008

**DECLARATION OF EMERGENCY**

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

**Lab and X-ray Reimbursement**

The Department of Health and Hospitals, Office of the Secretary has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect

beginning July 7, 1995, 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 provides reimbursement for lab and x-ray services. Payment for lab services is made on the basis of the lower of: billed charges, state maximum amount, or Medicare fee schedule amount. Payment for x-ray services is made on a flat fee basis. The bureau has determined it is necessary to reduce by 15 percent the reimbursement for lab and x-ray services except for those services provided in an outpatient hospital setting. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the laboratory and x-ray services by approximately \$8,250,000 for state fiscal year 1995-1996.

**Emergency Rule**

Effective for dates of service July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services reduces reimbursement by 15 percent lab and x-ray services except for those services provided in an outpatient hospital setting.

Interested persons may submit written comments to the following address: 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 inquires regarding this emergency rule.

Rose V. Forrest  
Secretary

9507#006

**DECLARATION OF EMERGENCY**

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

**Mental Health Clinics**

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 1995-96 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 no 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 beginning July 13, 1995, 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 reimburses mental health clinics for each service performed for a recipient. The bureau is revising the program effective July 5, 1995 to allow reimbursement for a maximum of one service per day per recipient. Additionally, effective July 13, 1995 there will be no reimbursement for the following services: occupational therapy, recreational therapy, music therapy or art therapy. Billing codes for these services are X0081, X0082, X0083 and X0084 respectively.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for mental health clinics by approximately \$500,000 for state fiscal year 1995-1996.

#### **Emergency Rule**

Effective for dates of service July 13, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reimburses mental health clinics for only one procedure per day per recipient. Occupational therapy, recreational therapy, music therapy, and art therapy are not reimbursable services under the Medicaid Program.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#032

### **DECLARATION OF EMERGENCY**

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

#### **Mental Health Rehabilitation Program—Service Limits**

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 1995-96 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 beginning July 13, 1995, for the maximum period allowed under the Administrative Procedure Act.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule to revise certain provisions of the Mental Health Rehabilitation Program in order to incorporate the program guidelines and interpretations of the Health Care Financing Administration. The rule was adopted on April 20, 1993 and published in the *Louisiana Register*, Volume 19, Number 4. A subsequent rule established service limits for certain mental health rehabilitation services and revised the definition of treatment integration to ensure the inclusion of appropriate therapeutic principles and skills for this service component to generate cost savings in the program. This rule was adopted on December 20, 1994 (*Louisiana Register*, Volume 20, Number 12). The Office of Mental Health and the Office of the Secretary for the Department of Health and Hospitals adopted a rule defining adults with serious mental illness and children with emotional/behavioral disorders on September 20, 1994 (*Louisiana Register*, Volume 9, Number 9). In order to avoid a budget deficit in state fiscal year 1996, the department adopted an emergency rule (*Louisiana Register*, Volume 21, Number 6) effective July 15, 1995 in the Mental Health Rehabilitation Program instituting the requirement of prior authorization for both the recipient eligibility and the mental health rehabilitation plan. As a result of the budget reduction, the department will make some temporary reductions in service limits. These service limits will be in effect for dates of service from July 13, 1995 through October 31, 1995. Psychological evaluations, psychosocial evaluations, medical assessments, management plan development and management plan updates will be limited to one unit each. The department will eliminate procedure code X0103, "Other Evaluations." The department will also impose temporary monthly maximum limits on the rest of the services in the mental health rehabilitation program. Service plans for the given dates of service may not be authorized in excess of these limits, but may be authorized at a lower level. Upon expiration of this rule, the department plans to have developed permanent service limits to be implemented in conjunction with the prior authorization process.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Mental Health Rehabilitation Program for Adults with Serious Mental Illness and Children with Emotional/Behavioral Disorders by approximately \$4,626,000 for state fiscal 1995-1996.

#### **Emergency Rule**

Effective for dates of service July 13, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing eliminates procedure code X0103, "Other Evaluations." Effective for dates of service from July 13, 1995 through October 31, 1995, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following service limits in the Mental Health Rehabilitation Program for Adults with Serious Mental Illness and Children with Emotional/Behavioral Disorders.

Procedure Code	Service	Monthly Limit
X0107, X0108, X0109	Individual, Family and Group Counseling and Therapy	2 units total**
X0110	Treatment Integration	22 units for children
X0111	Treatment Integration	26 units for adults
X0111	Psychosocial Skills Training	20 units for children
X0112	Psychosocial Skills Training	55 units for adults
X0112	Medication Administration	1 unit
X0113	Medication Monitoring	3 units
X0114	Crisis Intervention	8 units
X0115	Crisis Support	72 units

\*\* Codes X0107, X0108 and X0109 will pay for 0 units of service for dates of service July 13, 1995 through July 31, 1995.

In addition the following procedure codes are limited to a maximum of one unit of service for the period from July 13, 1995 through October 31, 1995.

Procedure Code	Service	Limit
X0100	Medical Assessment	1 unit
X0101	Psychological Evaluation	1 unit
X0102	Psychosocial Evaluation	1 unit
X0104	Rehabilitation Plan Development	1 unit
X0105	Rehabilitation Plan Update	1 unit

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#034

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 beginning July 13, 1995, 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 adopted a rule to revise certain provisions of the Mental Health Rehabilitation Program in order to incorporate the program guidelines and interpretations of the Health Care Financing Administration. The rule was adopted on April 20, 1993 and published in the *Louisiana Register*, Volume 19, Number 4. A subsequent rule established service limits for certain mental health rehabilitation services and revised the definition of treatment integration to ensure the inclusion of appropriate therapeutic principles and skills for this service component to generate cost savings in the program. This rule was adopted on December 20, 1994 (*Louisiana Register*, Volume 20, Number 12). The Office of Mental Health and the Office of the Secretary for the Department of Health and Hospitals adopted a rule defining adults with serious mental illness and children with emotional/behavioral disorders in September 20, 1994 (*Louisiana Register*, Volume 9, Number 9). The department has determined it is necessary that a nursing facility resident receive mental health rehabilitation services only if the individual has been through the pre-admission screening and annual resident review process and has been identified as needing specialized mental health services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Medicaid Program for the Mental Health Rehabilitation Program for Adults with Serious Mental Illness and Children with Emotional/Behavioral Disorders by approximately \$823,428 for state fiscal year 1995-1996.

## DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Program—Services  
for Nursing Facility Residents

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 1995-96 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,

## Emergency Rule

Effective for dates of service of July 13, 1995, and after the Department of Health and Hospitals Bureau of Health Services Financing requires that a nursing facility resident must be identified as needing specialized mental health services through the pre-admission screening and annual resident review process in order to receive services under the Mental Health Rehabilitation Program.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#033

## DECLARATION OF EMERGENCY

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

Home and Community Based Services Waivers—  
Mentally Retarded/Developmentally Disabled Waiver—  
Habilitation/Supported Employment

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 as directed by the 1995-96 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 beginning July 13, 1995, 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 has provide Habilitation/Supported Employment services to clients who meet the following conditions: 1) deinstitutionalized from a nursing or ICF/MR facility, and 2) not eligible or has been referred and rejected for participation in Section 110 of the Rehabilitation Act of 1973 or programs funded under P.L. 94-142. Services provided under Habilitation/Supported Employment included Intense Training (levels 1-4), Individual Job/Follow-along, and Enclave/Mobile work crew.

The bureau is revising services covered under Habilitation/Supported Employment to eliminate reimbursement for Individual Job/Intense Training.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for Habilitation/Supported Employment by approximately \$120,315 for state fiscal year 1995-1996.

### Emergency Rule

Effective for date of service July 5, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing does not provide reimbursement for Individual Job/Intense Training (levels 1-4) under Habilitation/Supported Employment for participants in the MR/DD Home and Community Based Services waiver.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#040

## DECLARATION OF EMERGENCY

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

Home and Community Based Services Waivers—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 and as directed by the 1995-96 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 beginning July 13, 1995, 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 has provided that approved slots in Home and Community Based Services waivers which are vacated may be filled by allocating the vacated slot to the next available person on the appropriate waiting list. That person, if found eligible, became the next occupant of the slot. This process has been followed because participation in each Home and Community Based Services waiver is limited to a specific number of participants. Filling slots as soon as they were vacated allowed participation by a maximum number of participants. Restriction of number of participants by allocating slots is necessary to remain within the number of participants specified in the waiver approval.

The bureau has revised this policy to provide that vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) waiver shall not be filled except that the eligibility determination process shall be completed in the following circumstances: (1) for those persons whose applications for waiver services were filed in the parish BHSF office prior to July 13, 1995; and (2) for those foster children who have been designated by court order and who are in the custody of the Office of Community Services for whom that agency will

provide the state funds required to match federal financial participation for the waiver.

This action is being taken to avoid a budget deficit in the medical assistance program. It is estimated that this action will reduce expenditures in the Medicaid Program for Home and Community Based Services waivers by approximately \$184,632 for state fiscal year 1995-1996.

**Emergency Rule**

Effective for dates of service July 13, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing will not fill vacated slots in the MR/DD waiver except that the eligibility determination process shall be completed in the following circumstances: (1) for those persons whose applications for waiver services were filed in the parish BHSF office prior to July 13, 1995; and (2) for those foster children who have been designated by court order and who are in the custody of the Office of Community Services for whom that agency will provide the state funds required to match federal financial participation for the waiver.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#043

**DECLARATION OF EMERGENCY**

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

**Home and Community Based Services Waiver  
Program—Mentally Retarded/Developmentally Disabled  
Waiver Program Reimbursement Reductions**

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 1995-96 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 beginning July 7, 1995,

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 provides reimbursement in the MR/DD Waiver Program for certain habilitative services: 1) supported employment follow-along and enclave/mobile crew, 2) prevocational habilitation, and 3) day habilitation using rate structures recommended by the Office for Citizens with Developmental Disabilities. The bureau has determined it is necessary to revise its reimbursement for these services by reducing the rates by 10 percent.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for supported employment follow-along and enclave/mobile crew, prevocational habilitation, and day habilitation services by approximately \$365,073 for state fiscal year 1995-1996.

**Emergency Rule**

Effective for dates of service July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces reimbursement rates by 10 percent for the following habilitation services: 1) habilitation/supported employment follow-along and enclave/mobile crew, 2) prevocational habilitation, and 3) day habilitation.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#012

**DECLARATION OF EMERGENCY**

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

**Mentally Retarded/Developmentally  
Disable Waiver—Respite**

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 as directed by the 1995-96 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 beginning July 13, 1995, 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 has provided reimbursement for respite services in the MR/DD waiver to persons who have been determined in need of the service by the Interdisciplinary Team (IDT) of the Case Management agency. Respite may be provided in the home or in a licensed respite center. Respite provides relief to the parents or other unpaid caregiver of the waiver participant. The quantity of services provided has been determined by the IDT and approved by Health Standards Section of the Bureau of Health Services Financing. Hourly reimbursement rates were set at \$6.50/hours for regular need center-based respite, \$11.36 for high need center-based respite, \$10.05 for regular need in-home respite, and \$11.36 for high need in-home respite.

The bureau has revised provision of respite by implementing the following changes:

1. Reimbursement for respite services shall be in half-hour units. A full half-hour shall be provided in order to bill for the service. Minutes from different occasions of service provision shall not be rolled to accumulate half-hour units.

2. The reimbursement rate for in-home respite shall be \$5 per half-hour unit, except as provided below for care given to multiple waiver participants in the same home by a single respite worker.

3. The reimbursement rate for center-based respite shall be \$3.75 per half-hour for respite services provided to multiple waiver participants by one respite worker and \$5 per half-hour for respite services provided to one waiver participant by one respite worker. Medical necessity must be documented in the plan of care when the needs of the waiver participant require the full-time attention of a respite worker.

4. Annual service limit shall be 720 hours (1,440 half-hour units) per calendar year, with no exceptions.

5. The reimbursement rate for in-home respite provided to multiple waiver participants in the same home by a single respite worker shall be 75 percent of the reimbursement rate for respite services provided to one waiver participant.

6. The reimbursement rate for in-home respite provided to one or more waiver participants in the same home by two respite workers shall be 75 percent of the reimbursement rate for respite services provided to one waiver participant by one respite worker.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Medicaid Program for respite by approximately \$6,488,074 for state fiscal year 1995-1996.

#### **Emergency Rule**

Effective for date of service July 5, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing will implement the following changes for respite services provided through the MR/DD waiver:

1. Reimbursement shall be in half-hour units. A full half-hour of service shall be provided in order to bill for the service. Minutes from different occasions of service provision shall not be rolled to accumulate half-hour units.

2. The reimbursement rate for in-home respite shall be \$5 per half-hour unit, except as provided below for care given to multiple participants by the same respite worker.

3. The reimbursement rate for center-based respite shall be \$2.50 per half-hour for regular need center-based respite, and \$5 for high-need center-based respite. High-need center-based respite rates shall be applicable when the needs of the waiver participant require the full-time attention of an attendant. All other center-based respite shall be payable at the regular need rate.

4. Annual service limit shall be 720 hours (1,440 half-hour units) per calendar year, with no exceptions.

5. The reimbursement rate for in-home respite provided to more than one waiver participant at the same time by a single attendant shall be \$7.50 per half-hour.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#041

### **DECLARATION OF EMERGENCY**

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

**Mentally Retarded/Developmentally Disabled  
Waiver—Supervised Independent Living**

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 1995-96 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 beginning July 13, 1995, 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 has reimbursed Residential Habilitation (licensed as Supervised Independent Living) as a service in the MR/DD waiver. Reimbursement has been at the rate of \$22.76 per day per waiver participant with some additional costs billable when necessary according to the comprehensive plan of care developed by the Interdisciplinary Team of the Case Management agency, and approved by Health Standards Section of the Bureau of Health Services Financing. Additional reimbursable costs when included on the plan of care have been \$10.70 per hour for training in excess of 22 hours per month, \$45 per hour for consultation necessary to train the trainer in specialized areas, \$4 per hour for night companion, \$6 per hour for day companion, and \$10 per hour for behavior management companion. In addition, many waiver participants receive personal care attendant services in the residential habilitation setting.

The bureau has revised its reimbursement methodology to implement a flat daily rate for supervised independent living services. Separate reimbursement for consultation, personal care attendant, extended training, and companion services will no longer be allowed. The rates are based on the average number of hours per day of direct-care staff time necessary to provide care, and the number of persons to whom care is provided. Direct-care staff time includes actual time spent providing personal care services, training, and companion services. Rates have been calculated for clients living alone, in two-participant households, and three-participant households. Base rate includes administrative costs and all direct-care staff time for persons requiring up to an average of three hours of care per day. Additional subdivisions of rates are established for direct-care staff from three to 10 hours per day (intermittent care), and 10 or more hours per day (substantial care). Daily reimbursement shall be as follows:

Single participant in household	
\$20.00	base rate - up to average 3 hours/day
\$53.69	intermittent care - 3 to 10 hours/day
\$108.1	substantial care - 10 or more hours/day
Participant in 2-participant household	
\$20.00	base rate - up to average 3 hours/day
\$40.21	intermittent care - 3 to 10 hours/day
\$72.88	substantial care - 10 or more hours/day
Participant in 3-participant household	
\$20.00	base rate - up to average 3 hours/day
\$30.11	intermittent care - 3 to 10 hours/day
\$55.25	substantial care - 10 or more hours/day

Inclusion of personal care as an integral part of the residential habilitation/supervised independent living service mandates that appropriate standards for provision of personal care services be established. Therefore, residential habilitation/supervised independent living providers shall be required to be licensed as both supervised independent living and personal care attendant agencies.

Additionally, recent policy interpretation from the Health Care Financing Administration forbids paid leave days for facilities providing habilitation services under home and community based services waivers, specifically in residential and day habilitation settings. Therefore, services may be billed only for days in which the waiver participant is present in the residential habilitation setting. Services may not be billed for days when the client is absent from the home. The participant will be considered absent from the home when the participant is absent from the residential habilitation setting for a continuous 24-hour period, and the provider shall not bill for the day.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Medicaid Program for Residential Habilitation (Supervised Independent Living) by approximately \$3,433,052 for state fiscal year 1995-1996.

#### Emergency Rule

Effective for date of service July 7, 1995, the Department of Health and Hospitals, Bureau of Health Services Financing will implement the following changes in Residential Habilitation/Supervised Independent Living:

1. Reimbursement shall consist of flat daily rates for participants in single-participant households, two-participant households, and three-participant households who require less than three hours daily of direct-care staff time, three to 10 hours daily of direct-care staff time, and 10 or more hours daily of direct-care staff time.

2. Each residential habilitation/supervised independent living provider shall be licensed as both a supervised independent living agency and a personal care attendant agency.

3. Services may be billed only for days when the waiver participant is present in the residential habilitation setting.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#042



## DECLARATION OF EMERGENCY

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

### Emergency Medical Transportation Program—Nonemergency Ambulance Service

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and as directed by the 1995-96 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 beginning July 7, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule whichever occurs first.

The bureau provides reimbursement for nonemergency ambulance services. Payment for these services is the amount of the provider rate for the service established by the bureau minus the amount which any third party coverage would pay. The bureau has determined it is necessary to reduce by 20 percent the established provider rate for nonemergency ambulance services. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for nonemergency ambulance services by approximately \$1,149,589 for state fiscal year 1995-1996.

#### Emergency Rule

Effective for dates of service July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces by 20 percent the established provider rate for nonemergency ambulance transportation services.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#013

## DECLARATION OF EMERGENCY

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

### Nonemergency Medical Transportation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following 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 beginning July 20, 1995, for the maximum allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing adopted a rule on October 20, 1994 (*Louisiana Register*, Volume 20, Number 10) which requires that providers of nonemergency medical transportation providers submit a true and correct document of the insurance policy for automobile and general liability. The bureau has determined that the following changes are necessary to ensure the provision of nonemergency medical transportation providers and thereby protect the health and welfare of Medicaid recipients in need of these services. The following emergency rule allows submission of the certificate of the insurance pending receipt of the true and correct policy. Also the requirement for the submittal of documentation to the bureau has been modified by also requiring that the policy is to be submitted to the bureau within 45 days after enrollment or renewal. In addition submission of the reinstatement endorsement is acceptable in certain situations, for example, following cancellation or proposed cancellation when there has been no change in coverages under the policy. The prepayment requirement is also being changed from six to three months. A new provision for a 30-day suspension of scheduling privileges will be instituted for those providers who experience a lapse of coverage more than twice in a calendar year. There is no anticipated increase or decrease in program expenditures due to the implementation of this emergency rule.

#### Emergency Rule

Effective July 20, 1995 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the following provisions in the Nonemergency Medical Transportation Program which revise prior regulations governing insurance regulations for the Nonemergency Medical Transportation Program.

1. Nonemergency medical transportation providers shall have, at minimum, general liability coverage of \$300,000 on the business entity. Providers shall have, at minimum, automobile liability coverage of \$100,000 per person and \$300,000 per accident or a combined single limit of \$300,000. This liability policy shall include "owner" autos, hired autos and nonowned, leased, autos.

2. The agency requires proof of coverage and such proof shall be in the form of a true and correct copy of the insurance policy for automobile and general liability issued by the home



office of the insurance company. The policy must be submitted to the bureau within 45 days of issuance or renewal of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Service Financing. If the true and correct copy of the insurance policy is not received within 45 days then the provider scheduling and transporting privileges shall be suspended effective with the 46th day. A certificate from the insurance agent, including a facsimile, shall be acceptable proof of insurance for up to 45 days to allow time for the issuance of the policy. The certificate must include the dates of coverage and shall stipulate that the policy includes a 30-day cancellation notification clause. If a facsimile copy of a certificate from an insurance agent is submitted the original shall be submitted timely to the bureau.

3. When insurance is cancelled or expires provider scheduling and transporting shall be immediately terminated. Transportation providers must maintain insurance coverage as a condition of participation in the Medicaid program.

4. Proof of renewal and reinstatement must be received by the Bureau of Health Services Financing at least 48 hours prior to the end date of coverage. Reinstatement endorsements will be accepted to verify coverage after cancellation or proposed cancellation only if there has been no change in coverage and if signed and dated by the agent or company representative authorized to reinstate coverage. Any provider whose automobile and or general liability coverage lapses more than twice within a calendar year will have their transporting and scheduling privileges suspended for 30 days effective with the day after the date the agency has knowledge that the coverage has lapsed the second time. Certificates from agents verifying retroactive coverage will not be accepted as a reason to waive this penalty.

5. The agency shall be notified immediately when there are changes in coverage. The required proof and procedures for documenting changes shall follow the procedures used to initially verify coverage. Changes to the 30-day cancellation notification to the agency shall result in immediate termination from participation.

6. Premiums shall be prepaid for a period of three months. Acceptable proof of prepaid insurance shall at a minimum include a statement from the authorized agent (signed and dated) or company representative which includes the dates of coverage and dates through which the premium is paid. This statement is in effect through the end date of payment noted and another statement verifying prepayment for the following three months should be received by the Bureau of Health Services financing 48 hours prior to expiration.

7. Providers who lose the right to participate for failure to prepay insurance may re-enroll in the transportation program and will be subject to all applicable enrollment policies, procedures and fees for new providers.

8. The agency will accept a safe driver training certificate from any school recognized by the National Safety Council or its equivalent.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#059

## DECLARATION OF EMERGENCY

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

### Leave of Absence—Nursing Facility Residents

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and shall be in effect beginning July 13, 1995, 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 provides coverage under the Medical Assistance Program for nursing facility services. Nursing facility services are mandatory under Title XIX of the Social Security Act; however, states may choose the methodology for providing reimbursement for nursing facility services. The number of reimbursable leave of absence days are limited to 10 days per hospitalization for treatment of an acute condition, and to nine days per calendar year for other leave days. The department has now determined that it is necessary to reduce payments to nursing facilities by limiting the number of reimbursable leave of absence days. The department has determined it is necessary to lower these reimbursable limits. Beds are reserved for up to five days per hospitalization for treatment of an acute condition and beds are reserved for up to four days per calendar year for other leave days.

Therefore, the following emergency rule reduces payments to nursing facilities by limiting the number of reimbursable leave of absence days. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures vendor payment for leave days by nursing facility residents by approximately \$10,000 for state fiscal year 1995-1996.

### Emergency Rule

Effective for dates of service beginning July 13, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces payments to nursing facilities by limiting the number of reimbursable leave of absence days as follows.

1. Beds are reserved for up to five days per hospitalization for treatment of an acute condition.
2. Beds are reserved up to four days per calendar year for other leave days.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#031

### DECLARATION OF EMERGENCY

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

Nursing Facility Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 1, 1995, 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 provides coverage under the Medicaid Program for private nursing facility services as defined in 42 CFR Subpart B—Requirements for Long Term Care Facilities Section 483.10. Nursing facility services are mandatory under Title XIX of the Social Security Act. The bureau established the current prospective cost-related reimbursement methodology for private nursing facility services utilizing a base rate related to specific cost categories, determined for each uniform recipient level of care (Skilled Nursing, Intermediate Care-I and Intermediate Care-

II) and specifying the inflationary adjustment mechanism or recalculation period to govern nursing facility services reimbursement under the Medicaid Program effective August 1, 1984 as published in the June 20, 1994 issue of the *Louisiana Register* (Volume 20, Number 6). This payment methodology was revised by changing cost categories and percentiles effective January 1, 1995 by emergency rulemaking published on January 20, 1995 in the *Louisiana Register* (Volume 21, Number 1) and by subsequent readoption on May 1, 1995 published in the *Louisiana Register* on May 20, 1995 (Volume 21 Number 5). The current categories consist of three direct and five indirect resident care costs and the incentive factor. The percentiles currently being utilized for basing rates are direct resident care costs at the 80th percentile and indirect resident care costs at the 60th percentile except housekeeping, linen and laundry which are at the 70th percentile. The bureau has now determined that it is necessary to use the 60th percentile for all direct and indirect resident care costs to base per diem rate. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for nursing facility services by approximately \$38,673,807 for state fiscal year 1995-1996.

### Emergency Rule

Effective for date of service July 1, 1995 and after, the Department of Health and Hospitals, the Bureau of Health Services Financing reimburses private nursing facilities under the methodology established effective January 1, 1995 utilizing all specific direct resident care cost and indirect resident care cost categories at the 60th percentile to base the per diem rates.

Interested persons may submit comments to the following address: 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. Copies of this rule and all Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Rose V. Forrest  
Secretary

9507#017

### DECLARATION OF EMERGENCY

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

Home and Community Based Services Waivers—  
Personal Care Attendant (PCA) Services

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 1995-96 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 beginning July 13, 1995, 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 has provides Personal Care Attendant (PCA) Services for participants in the MR/DD waiver, Personal Care Attendant waiver, and Home Care for the Elderly waiver. PCA services are provided to waiver participants whose disabilities preclude the acquisition of certain independent living skills related to the activities of daily living, such as bathing, dressing, grooming, food preparation and storage. Generally, this means that the PCA performs functions that would be performed by the waiver participant, but the waiver participant is prevented from performing the function because of his/her disability. Service limit for PCA is 1,825 hours per calendar year, with provision to exceed this limit with prior approval in certain circumstances. Hourly reimbursement rates were set at \$9.32 for Personal Care Attendant waiver, \$10.05 for Regular Rate in MR/DD waiver and Home Care for the Elderly waiver, and \$11.36 for High Need in MR/DD waiver.

The bureau has revised the provision of PCA services by implementing the following changes.

1. Reimbursement shall be in half-hour units. A full half-hour of service shall be provided in order to bill for the service. Minutes from different occasions of service provision shall not be rolled to accumulate half-hour units.

2. The reimbursement rate for PCA provided as a waiver service shall be \$5 per half-hour unit, except as provided below for care given to multiple participants by the same PCA.

3. PCA services provided in the Supervised Independent Living (SIL) setting shall not be reimbursed separately, but shall be included in the daily rate paid to the SIL provider.

4. PCA services shall not be available for children under the age of 5 as all young children require assistance with daily care needs.

5. Reimbursement for PCA services shall be limited to 200 hours (400 half-hour units) per calendar month.

6. Annual service limit shall be 1,825 hours (3,650 half-hour units) per calendar year, with no exceptions.

7. The reimbursement rate for PCA services provided to multiple waiver participants in the same home by a single attendant shall be 75 percent of the reimbursement rate for PCA services provided to one waiver participant (\$3.75 per half-hour).

8. The reimbursement rate for PCA services provided to one or more waiver participants in the same home by two attendants shall be 75 percent of the reimbursement rate for PCA services provided to one waiver participant by one attendant (\$3.75 per half-hour).

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for Personal Care Attendant services in Home and Community Based Services waivers by approximately \$6,441,090 for state fiscal year 1995-1996.

#### Emergency Rule

Effective for date of service of July 5, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing will implement the following changes for Personal Care Attendant Services provided through Home and Community Based Services waivers:

1. Reimbursement shall be in half-hour units. A full half-hour of service shall be provided in order to bill for the service. Minutes from different occasions of service provision shall not be rolled to accumulate half-hour units.

2. The reimbursement rate for PCA provided as a waiver service shall be \$5 per half-hour unit, except as provided below for care given to multiple participants by the same PCA.

3. PCA services provided in the Supervised Independent Living (SIL) setting shall not be reimbursed separately, but shall be included in the daily rate paid to the SIL provider.

4. PCA services shall not be available for children under the age of 5.

5. Reimbursement for PCA services shall be limited to 200 hours (400 half-hour units) per calendar month.

6. Annual service limit shall be 1,825 hours (3,650 half-hour units) per calendar year, with no exceptions.

7. The reimbursement rate for PCA services provided to multiple waiver participants in the same home by a single attendant shall be 75 percent of the reimbursement rate for PCA services provided to one waiver participant.

8. The reimbursement rate for PCA services provided to one or more waiver participants by two attendants shall be 75 percent of the reimbursement rate for PCA services provided to one waiver participant by one attendant.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#038

## DECLARATION OF EMERGENCY

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

### Pharmacy Program—Copayment Requirement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This emergency rule shall be in effect beginning July 13, 1995, for the maximum allowed under the Administrative Procedure Act or until adoption of rule, whichever occurs first.

The Department of Health and Hospitals is implementing a copayment on prescription services. The copayment shall be paid by the recipient and collected by the provider at the time the service is rendered. Medicaid reimbursement to the provider shall be adjusted to reflect the copayment amount for which the recipient is liable. In accordance with 42 CFR 447.15, the provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. Under 42 CFR 447.15, this service statement does not apply to an individual who is able to pay nor does an individual's inability to pay eliminate his or her liability for the copayment. States may choose to include a copayment requirement in the pharmacy program under the Medicaid program. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Pharmacy Program by approximately \$5,380,696 for state fiscal year 1995-1996.

#### Emergency Rule

Effective for date of service July 13, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing imposes a copayment requirement in the Pharmacy Program based on the following payment schedule:

Calculated State Payment	Copayment
\$10.00 or less	\$0.50
\$10.01 to \$25.00	\$1.00
\$25.01 to \$50.00	\$2.00
\$50.01 or more	\$3.00

The pharmacy provider shall collect a copayment from the Medicaid recipient for each drug dispensed by the provider and covered by Medicaid. The following pharmacy services

are exempt from the copayment requirement:

- A. services furnished to individuals under 21 years of age;
- B. services furnished to pregnant women if such services are related to the pregnancy, or to any other medical condition which may complicate the pregnancy;
- C. services furnished to any individual who is an inpatient in a hospital, long term care facility, or other medical institution;
- D. emergency services provided in a hospital, clinic, physician office or other facility equipped to furnish emergency care;
- E. family planning services and supplies.

In accordance with Federal regulations the following provisions apply: 1) the provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. However, this service statement does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the copayment. Providers shall not waive the recipient copayment liability. Departmental monitoring and auditing will be conducted to determine provider compliance. Violators of this policy will be subject to a penalty such as suspension from the Medicaid Program.

Interested persons may submit comments to the following address: 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 inquires regarding this emergency rule.

Rose V. Forrest  
Secretary

9507#035

## DECLARATION OF EMERGENCY

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

### Pharmacy Program—Maximum Allowable Overhead Cost

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing 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 1995-96 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 beginning July 7, 1995, 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 has provided a pharmacists' dispensing fee in the Pharmacy Program in accordance with the methodology approved in the State Plan for the Maximum Allowable Overhead Cost, which includes a \$ .10 provider fee collected on all prescriptions dispensed to Louisiana residents from pharmacies. The maximum allowable overhead cost was determined by updating the base rate through the application of various 1993 indices to appropriate cost categories to assure recognition of costs which must be incurred by efficiently and economically operated providers. The bureau has determined that it is necessary to freeze the maximum allowable overhead cost pharmacists' dispensing fee at the 1994-95 level in order to avoid a budget deficit in the medical assistance programs. Also, effective July 1, 1995, the Bureau of Health Services Financing will begin transitioning to a managed pharmacy system in which an on-line point of sale and prospective drug utilization review system will be implemented. To ensure appropriate reimbursement during this transitional period to a managed system for pharmacy services, the maximum allowable overhead cost shall remain at the level established for state fiscal year 1994-1995. It is estimated that this action will reduce expenditures in the Pharmacy Program by approximately \$3,219,304 for state fiscal 1995-1996.

#### **Emergency Rule**

Effective for dates of service of July 7, 1995 and after, the Department of Health and Hospitals Bureau of Health Services Financing adopts the following provisions applicable to the maximum overhead cost under the Pharmacy Program.

#### **Maximum Allowable Overhead Cost**

1. For fiscal year 1995-96, the maximum allowable overhead cost will remain for a one-year period at the level established for fiscal year 1994-95. This maximum allowable overhead cost was established by applying the 1993 indices to appropriate cost categories for a one-year period.

2. No inflation indices or any interim adjustments will be applied to the maximum allowable overhead costs for the time period, July 1, 1995 through June 30, 1996.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#005

## **DECLARATION OF EMERGENCY**

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

### **Private ICF/MR Facility Payment**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 1, 1995, 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 provides coverage under the Medical Assistance Program for Intermediate Care Facility Services for the Handicapped and/or Mentally Retarded (ICF/MR) provided by Private Intermediate Care Facilities. ICF/MR services are optional under Title XIX of the Social Security Act; and states may choose the methodology for providing reimbursement for ICF/MR services. The department provides reimbursement for Private ICF/MR services according to prospective rates established under the Private ICF/MR Reimbursement Methodology rule (*Louisiana Register*, October 20, 1989, Volume 15, Number 10). The department has now determined that it is necessary to change the reimbursement rates by limiting management fees and central office costs to a combined total of 6 percent of allowable costs. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for private ICF/MR facility services by approximately \$11,072,776 for state fiscal year 1995-1996. Therefore the following emergency rule changes the reimbursement rates by limiting management fees and central office costs to a combined total of 6 percent of allowable costs.

#### **Emergency Rule**

Effective for dates of service beginning July 1, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing revises the private ICF/MR reimbursement rates by limiting management fees and central office costs to a combined total of 6 percent of allowable costs.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#018

**DECLARATION OF EMERGENCY**

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

**Professional Service Program—Neonatology Services**

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 1995-96 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 beginning July 7, 1995, 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 reimburses neonatology services according to established per diem rates for applicable Current Procedural Terminology (CPT) codes. Effective July 7, 1995 the bureau is reducing the per diem rates for the following procedure codes:

- CPT code 99295 - \$323.90
- CPT code 99296 - \$190.20
- CPT code 99297 - \$150.10
- CPT code 99297-52 ("step-down" babies) - \$60.04.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Professional Services Program by approximately \$7,062,066 for state fiscal 1995-1996.

**Emergency Rule**

Effective for dates of service of July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the per diem rate for neonatology professional services to the amount listed for the following procedure codes:

- CPT code 99295 - \$323.90
- CPT code 99296 - \$190.20

- CPT code 99297 - \$150.10
- CPT code 99297-52 ("step-down" babies) - \$60.04.

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

Rose V. Forrest  
Secretary

9507#004

**DECLARATION OF EMERGENCY**

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

**Professional Service Program—Physician Services**

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 1995-96 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 beginning July 7, 1995, 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 reimburses professional services according to established rates for Current Procedural Terminology (CPT) codes, locally assigned codes and HCPS codes. Effective for dates of service July 7, 1995 and after, the bureau is reducing the reimbursement by 10 percent for the following codes:

- CPT codes 10040 - 69979 for surgery
- CPT codes 90700 - 99199 for medicine
- CPT codes 99201 - 99499 for evaluation and management.

Also, fees for the following locally assigned codes and HCPCS codes will be reduced by 10 percent:

- Z9001 through Z9006 - Prenatal labs, prenatal visits, postpartum visit
- Z9916 - Brainstem evoked response screening
- Z9919 through Z9920 - Androscopy with and without Biopsy
- 00099 - Anesthesia for Arteriograms, Cardiac Caths, CT

Scans, Angioplasties and MRIs

- Z9918 - Removal of Leaking Breast Implants
- J0170 - Adrenalin Injections
- J7190 - Factor VIII Injections for Hemophilia
- J2910 - Gold Therapy Injections
- J1055 - Depo-Provera C Injections
- L8603 - Collagen Implant

In addition the fees for the following codes will be reduced by 15 percent:

CPT codes:

- 70010 - 79999 Radiology
- 80002 - 89399 Pathology and Laboratory

Locally assigned codes:

- Z0053 - Fructosamine
- Z0054 - Zinc Protoporphin
- Z0055 - Free Erythrocyte Protoporphin

Changes in reimbursement for the neonatal per diem codes 99295, 99296, and 99297 are included in another emergency rule.

The fees being paid to anesthesiologists and CRNAs for procedure codes 62279 and 59515 are not included in this rule.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Professional Services Program by approximately \$21,824,093 for state fiscal 1995-1996.

**Emergency Rule**

Effective for dates of service July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for procedure codes payable under the Professional Services Program in accordance with the following schedule.

I. The fees for the following CPT procedure codes are reduced by 10 percent:

A. CPT Codes:

- CPT codes 10040 - 69979 for surgery
- CPT codes 90700 - 99199 for medicine and management.
- CPT codes 99201 - 99499 for evaluation and management.

B. The following locally assigned codes and HCPCS codes:

- Z9001 through Z9006 - Prenatal labs, prenatal visits, postpartum visit
- Z9916 - Brainstem evoked response screening
- Z9919 through Z9920 - Androscopy with and without Biopsy

- 00099 - Anesthesia for Arteriogram, Cardiac Caths, CT Scans, Angioplasties and MRIs

- Z9918 - Removal of Leaking Breast Implants
- J0170 - Adrenalin Injections
- J7190 - Factor VIII Injections for Hemophilia
- J2910 - Gold Therapy Injections
- J1055 - Depo-Provera C Injections
- L8603 - Collagen Implant

II. The fees for the following procedure codes are reduced by 15 percent:

A. CPT Codes:

- 70010 - 79999 - Radiology
- 80002 - 89399 - Pathology and Laboratory

B. The following locally assigned and HCPCS codes:

- Z0053 - Fructosamine
- Z0054 - Zinc Protoporphin
- Z0055 - Free Erythrocyte Protoporphin

III. The reimbursement rates payable to anesthesiologists and CRNAs for procedure codes 62279 and 59515 and for the neonatal per diem codes 99295, 99296 and 99297 are not subject to this rule.

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

Rose V. Forrest  
Secretary

9507#003

**DECLARATION OF EMERGENCY**

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

**Rehabilitation Clinic Services**

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 1995-96 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 beginning July 7, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program provides coverage and reimbursement for services delivered by rehabilitation clinics which are facilities that are not part of a hospital but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. States may choose to include or exclude



clinic services under their medical assistance programs as these services are optional under Title XIX of the Social Security Act. The department has determined that it is necessary to reduce the reimbursement to these clinics for physical, occupational, speech, hearing and language therapies. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for rehabilitation clinic services by approximately \$543,699 for state fiscal 1995-1996.

The rehabilitative services physical, occupational, speech, hearing and language are still available and recipients may access these services through the hospital, physician, home health, rural health clinic and federally qualified health center programs.

#### **Emergency Rule**

Effective for dates of service of July 7, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement by 10 percent to rehabilitation clinics which are facilities that are not part of a hospital but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies.

Rose V. Forrest  
Secretary

9507#002

### **DECLARATION OF EMERGENCY**

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

#### **Rural Health Clinic Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 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 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 13, 1995, for the maximum allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing reimburses rural health clinic visits and physician visits under the Medicaid Program. Physician visits are limited to 12 medically

necessary visits per calendar year for each eligible recipient who is 21 years of age or older. Recipients under the age of 21 are not subjected to program limitations, other than the limitation of medical necessity. The following services have been counted as one of the 12 allowable visits per calendar year for recipients 21 years of age or older:

- A. physician office visit including visits to optometrists;
- B. physician home visit;
- C. consultation from another physician when such consultation is essential for the treatment of the recipient's illness;
- D. physician visit in an outpatient hospital setting including emergency room visits due to accidental injury or sudden and serious illness;
- E. physician visit in a nursing home: the physician will sign the recipient's chart at the facility on the day of the visit; and
- F. family planning services for the following:
  1. initial visit to include a physical examination with pelvic, pap smear and counseling;
  2. pap smear; and
  3. insertion and/or removal of an intravenous device.

Rural health clinic visits have not been included in the 12 annual physician visits allowable under the Medicaid Program for recipients 21 or older. The department has now determined it is necessary to include rural health clinic visits under the 12 allowable visits for each recipient 21 years of age or older. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Rural Health Clinic Program by approximately \$250,000 for state fiscal year 1995-1996.

#### **Emergency Rule**

Effective with dates of service July 13, 1995 and after, each rural health clinic visit, i.e., encounter, is included as one of the 12 physician outpatient visits allowable per calendar year for Medicaid eligibles who are 21 years of age or older.

Interested persons may submit comments to the following address: 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 inquires regarding this emergency rule.

Rose V. Forrest  
Secretary

9507#036

### **DECLARATION OF EMERGENCY**

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

#### **Substance Abuse Clinics**

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 as directed by the 1995-96 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 beginning July 13, 1995, 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 reimburses substance abuse clinics for each service performed for a recipient. The bureau is revising the program effective July 13, 1995, to allow reimbursement for a maximum of one service per day per recipient. Additionally, effective July 13, 1995, there will be no reimbursement for the following services: occupational therapy, recreational therapy, music therapy or art therapy. Billing codes for these services are X0146, X0147, X0148 and X0149 respectively.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for substance abuse clinics by approximately \$200,000 for state fiscal year 1995-1996.

#### Emergency Rule

Effective for date of service July 13, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reimburses substance abuse clinics for only one procedure per day per recipient. Occupational therapy, recreational therapy, music therapy, and art therapy are not reimbursable services under the Medicaid Program.

Interested persons may submit written comments to the following address: 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.

Rose V. Forrest  
Secretary

9507#037

### DECLARATION OF EMERGENCY

Department of Natural Resources  
Office of Conservation

Statewide Order 29-Q-2

Order establishing and amending application and regulatory fees to be assessed operations and activities within the jurisdiction of the Office of Conservation.

\* \* \*

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes of 1050, Sections 1(D), 3(1)(C), 4(A), 4(B), 4(C), 16(a) and (b), and 4(I) and (I)(II), as amended, and in conformity with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) and (2), 954(B)(2), as amended, the following emergency rule and reasons therefore are now adopted and promulgated by the commissioner of conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by assuring continued operation of statutory functions of the Office of Conservation during State Fiscal Year 1995-96 and beyond, including but not limited to the regulation of oil and gas and other industries through the permitting and monitoring of such operations and activities within the regulatory jurisdiction of the Office of Conservation. The alternative would be to allow the indiscriminate and unregulated production of oil, gas, and other minerals, indiscriminate and unregulated generation and disposal of oilfield waste, and the indiscriminate and unregulated underground injection of oilfield waste, saltwater, and other wastes into the environment.

Confronted with the real, imminent peril of having the Office of Conservation in a posture of being unable to fulfill its statutory obligations, the commissioner of conservation has undertaken a budgetary analysis and method of securing funds necessary to assure continued operation of the Office of Conservation during State Fiscal Year 1995-96 and beyond.

Protection of the public and our environment therefore requires the commissioner of conservation to take immediate steps to assure continued operation of the Office of Conservation during State Fiscal Year 1995-96 and beyond, and in so doing, requires the Office of Conservation to address the existing financial and budgetary problems. This emergency rule, Statewide Order Number 29-Q-2 set forth hereafter is now adopted by the Office of Conservation.

The commissioner of conservation concludes that this emergency rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of this emergency rule meets all requirements provided by Title 49 of the Revised Statutes. The adoption of this emergency rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this emergency rule.

Within five days from date hereof, notice of the adoption of this emergency rule has been given to all parties on the mailing list of the Office of Conservation by posting a copy of this emergency rule with reasons therefore to all such parties. This emergency rule with reasons therefore shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the governor of the State of Louisiana, the attorney general of the State of Louisiana, the speaker of the House of Representatives, the president of the Senate and the Office of the State Register of the adoption of this emergency rule and the reasons for adoption.

## Title 43

### Part XIX. Conservation

#### Subpart 2. Statewide Order 29-Q-2 (Emergency Rule)

Order establishing and amending application and regulatory fees to be assessed operations and activities within the regulatory jurisdiction of the Office of Conservation.

\* \* \*

Pursuant to power delegated under the laws of the State or Louisiana including but not limited to Chapter I of Title 30, which authorizes the commissioner of conservation, among other things, to periodically review the fees collected by his Office; and after the commissioner of conservation pursuant to R.S. 49:953:B(1) has made a determination that an imminent peril to the public health, safety, and welfare required adoption of this rule upon shorter notice than that provided in R.S. 49:953(A) and within five days of adoption stated in writing to the governor of the State of Louisiana, the attorney general of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the Office of the *State Register* of his reasons for such determination, the following Emergency Rule is promulgated by the commissioner of conservation as being reasonably necessary to govern the applications, permitting, monitoring, and maintaining of operations and activities within the regulatory jurisdiction of the Office of Conservation, and to otherwise carry out the laws of the state.

#### Section I. Definitions

*Application for Public Hearing*—an application for a public hearing as authorized by LSA-R.S. 30:6(B).

*Application to Process Form R-4*—an application for authorization to transport oil from a lease as authorized by Statewide Order number 25 or to reinstate such form, if suspended.

*Oil Field Waste Shipping Control Ticket ("Manifest")*—an approved form utilized to document and monitor the proper generation, transportation and disposal of oilfield waste under the jurisdiction of the Office of Conservation.

*Request for Administrative Approval*—any application or request for administrative approval relative to any matter subject to the jurisdiction of the Office of Conservation not covered under existing definitions including but not limited to 29-E exceptions, alternate unit wells, reservoir classification, down hole combination, consolidation of commingling facilities, authority to commence blowdown, requests for severance tax exemption, Form UIC-14 and Form UIC-30.

#### Section II. Fee Schedule

##### Regulatory and Application Fees

1. Operators of permitted commercial nonhazardous oilfield waste disposal facilities are required to pay the following per-manifest fees to the Office of Conservation at the time such operator meets his obligations under LAC 43:XIX.129.M.6.d:

a. Manifests documenting receipt of Waste Codes 01, 04, 08, 09, 10, 11, 12, and 14 are assessed \$3 per manifest.

b. Manifests documenting receipt of Waste Codes 02, 03, 05, 06, 07, 13, 15, 16, and 50 are assessed \$5 per manifest.

2. Application for Public Hearing - \$750
3. Application to Reinstate Suspended Form R-4 - \$100
4. Request for Administrative Approval - \$200

#### Section III. Failure to Comply

Operators of operations and activities defined in Section I are required to timely comply with this Order. Failure to comply within 30-days past the due date of any required regulatory or application fee payment will subject the operator to civil penalties under R.S. 30:18, and will be cause to suspend operations of the particular operations or activities and schedule a public hearing to show cause why the permit for the particular operations or activities should not be revoked.

#### Section IV. Severability and Effective Date

1. The fees set forth in Section II are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order Number 29-Q-2 (Emergency Rule), and if any such individual fee is held to be unacceptable, pursuant to R.S.49:968(H)(2), or held invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this Order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this Order are severable. To the extent the above fees may duplicate existing fees in LAC 43:XIX.201-207, this Emergency Rule shall supersede such existing fees.

2. This Emergency Rule shall be effective on August 1, 1995, and shall remain effective for a period not less than 120 days hereafter, or until the adoption of the final version of Statewide Order Number 29-Q-2, whichever occurs first.

The commissioner of conservation also finds it impractical to provide a public hearing regarding this emergency rule given the extreme urgency of this matter. However, the commissioner of conservation notes again that a copy of the proposed permanent Statewide Order Number 29-Q-2 and a notice of a public hearing necessary for the proposed permanent adoption of Statewide Order Number 29-Q-2 will be published in the near future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The effective date for this emergency rule shall be August 1, 1995.

The emergency rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of Statewide Order Number 29-Q-2 as noted herein, whichever occurs first.

Ernest A. Burguières, III  
Commissioner of Conservation

9507#055

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Zone 1 Shrimp Closure

In accordance with the emergency provisions of R.S. 49:953(B) and 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and pursuant to a resolution adopted by the Wildlife and Fisheries Commission on May 4, 1995 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1995 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary of the Department of Wildlife and Fisheries hereby orders that the 1995 Spring Inshore Shrimp Season shall be closed in most of Zone 1 at 12:01 a.m., Saturday, July 8, 1995 (midnight, Friday, July 7, 1995). Small white shrimp have begun to show up in department samples in portions of Zone 1 and the secretary has determined that a large portion of Zone 1 should be closed to protect these immigrating white shrimp.

Those portions of Zone 1 which shall remain open until further notice are the open waters of:

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

The passes and tributaries of these waterbodies shall be closed.

The open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 67:VII.307.D) shall remain open to shrimping until further notice.

Joe L. Herring  
Secretary

9507#024

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Zone 2 Shrimp Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to

use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 4, 1995 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1995 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary hereby finds:

That the 1995 Spring Inshore Shrimp Season shall be closed in all of Zone 2 of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River west to the western shore of Vermilion Bay and Southwest Pass at Marsh Island at 12:01 a.m., Saturday, July 1, 1995 (midnight Friday, June 30, 1995).

Small white shrimp have begun to show up in shrimp samples taken by department personnel. These small white shrimp are widely distributed throughout Zone 2 and the number of white shrimp is expected to increase substantially over the next few weeks.

Zones 1 and 3 will remain open until further notice.

Joe L. Herring  
Secretary

9507#050

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 4, 1995 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1995 spring inshore shrimp season in any area or zone when biological and technical data indicates the need to do so, the secretary hereby finds:

That the 1995 spring inshore shrimp season shall be closed in all of Zone 1 at 12:01 a.m., Saturday, July 15, 1995 (midnight Friday, July 14, 1995), except the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (Title 76, Part VII, Chapter 3, Section 307.D) which shall remain open to shrimping until further notice. Zone 1 is that portion of Louisiana's inshore waters from the Louisiana/Mississippi state line west to the eastern shore of South Pass of the Mississippi River. Additionally all of Zone 3, that portion of Louisiana's inshore waters from the western shore

of Vermilion Bay and Southwest Pass at Marsh Island west to the Louisiana/Texas state line, shall be closed at 12:01 a.m., Saturday, July 15, 1995 (midnight Friday, July 14, 1995).

Small white shrimp have begun to show up in shrimp samples taken by department personnel in those areas which were previously left open in Zone 1 and throughout Zone 3. The number of white shrimp is expected to increase substantially over the next few weeks.

Joe L. Herring  
Secretary

9507#073

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Wild Alligator Season

In accordance with the emergency provisions of R.S. 49:953(B), and the Administrative Procedure Act, R.S. 49:967(D) which provides that the Wildlife and Fisheries Commission use emergency procedures to set the wild alligator season, the Wildlife and Fisheries Commission at its regular monthly meeting held July 6, 1995 in Baton Rouge, LA does hereby set the 1995 wild alligator season dates as follows:

The annual wild alligator season dates shall be September 2, 1995 through October 1, 1995.

This emergency adoption is necessary to allow department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas based on up to date information.

The secretary of the Department of Wildlife and Fisheries shall have the authority to close, delay, reopen or extend this season as biologically justifiable.

Glynn Carver  
Vice-Chairman

9507#062

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Possession of Potentially Dangerous Wild Quadrupeds  
(LAC 76:V.115)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, 56:171 and 56:1904(F), the Wildlife and Fisheries Commission hereby finds that an imminent peril

to the public welfare exists and accordingly adopts an emergency rule regarding possession of potentially dangerous wild quadrupeds.

The text of this emergency rule may be viewed in its entirety in the Notice of Intent section of this issue of the *Louisiana Register*.

The commission finds that possession of the wild quadrupeds listed pose significant hazards to public safety and health and is detrimental to the welfare of the animals. This declaration of emergency will allow for continued possession of those animals currently licensed and will not prohibit possession by bona fide zoos, educational and scientific institutions. This commission will take the necessary steps to establish a permanent rule governing possession of the animals listed by means of normal rule making process.

Glynn Carver  
Vice-Chairman

9507#063

# RULES

## RULE

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

Pesticide Restriction (LAC 7:XXIII.13139)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, has amended regulations regarding the restrictions on application of certain pesticides. These rules comply with and are enabled by R.S. 3:3203.

### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticides

#### Chapter 131. Advisory Commission on Pesticides

#### Subchapter I. Regulations Governing Application of Pesticides

#### §13139. Restrictions on Application of Certain Pesticides

A. - B. ...

C. The pesticides listed in LAC 7:XXIII.13139.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

- |              |                  |
|--------------|------------------|
| 1. Avoyelles | 14. Madison      |
| 2. Bossier   | 15. Morehouse    |
| 3. Caddo     | 16. Natchitoches |
| 4. Caldwell  | 17. Ouachita     |

- |                               |                               |
|-------------------------------|-------------------------------|
| 5. Catahoula                  | 18. Pointe Coupee, Ward 2     |
| 6. Claiborne, Ward 4          | 19. Rapides                   |
| 7. Concordia                  | 20. Red River                 |
| 8. DeSoto, Ward 7             | 21. Richland                  |
| 9. East Carroll               | 22. St. Landry, Wards 4 and 5 |
| 10. Evangeline, Wards 1 and 5 | 23. Tensas                    |
| 11. Franklin                  | 24. Union                     |
| 12. Grant                     | 25. West Carroll              |
| 13. LaSalle                   | 26. Winn, Ward 7              |

\* \* \*

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

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (June 1993), LR 21: (July 1995).

Bob Odom  
Commissioner

9507#077

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

#### Program Participation, Fee Payment and Penalties (LAC 7:XV.9921)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Boll Weevil Eradication Commission, has amended the following rule regarding program participation, fee payment and penalties in the Boll Weevil Eradication Program. These rules comply with and are enabled by R.S. 3:3613.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

#### Chapter 99. Boll Weevil

#### §9921. Program Participation, Fee Payment and Penalties

Upon passage of the referendum, all cotton producers growing cotton in an eradication zone shall be required to participate in the eradication program as follows:

1. Each year, during the first five years of the program, cotton producers shall submit to the ASCS office the annual

assessment as set by the commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed \$10 per acre the first year and \$30 per acre for each of the remaining years, for each acre of certified cotton acreage on file with ASCS. The assessment shall be paid to the commission by the later of July 1 or final certification of the current growing season. ASCS shall promptly forward all collected assessments to the commission.

a. Any cotton producer planting a fraction of an acre shall be assessed at a prorated assessment rate for that fractional acre.

b. Any cotton producer failing to file a completed Cotton Acreage Reporting Form by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of \$2 per acre.

c. Any cotton producer failing to pay all assessments by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of \$3 per acre.

d. Beginning with the second year of the program and continuing for subsequent years, any cotton producer whose ASCS certified acreage exceeds his reported acreage by more than 10 percent shall, for each ASCS certified acre in excess of that reported, be subject to a penalty fee of \$5 per acre in addition to the assessment fee, payable on or before September 1 of the current growing season.

e. Failure to pay all program costs, including assessments and penalty fees shall be a violation of these regulations. Any cotton growing on a cotton producer's acreage which is subject to the assessment shall be subject to destruction by the commissioner should said cotton producer fail to pay all program costs, including assessments and penalty fees, within 30 days of notification of the default.

2. The commission shall have the right to collect some or all of the program costs, including assessments and penalty fees, by contracting with another entity, public or private, for assessment collection. All cotton producers in an eradication zone shall be notified of such a decision by the commission.

3. Cotton producers shall destroy cotton stalks in every field location planted to cotton, on or before December 31 of each year. Cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks. Failure to destroy stalks by December 31 of each year shall be a violation of these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1609, 1612, 1613.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 21: (July 1995).

Bob Odom  
Commissioner

9507#079

## RULE

### Department of Agriculture and Forestry Office of Forestry

#### Prescribed Burner Certification (LAC 7:XXXIX.Chapter 209)

In accordance with provisions of the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry, has adopted rules setting forth definitions, procedures, and policies required for the administration of the Certified Prescribed Burner program.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXIX. Forestry

#### Chapter 209. Prescribed Burning

##### §20901. Definitions

*Act*—Act 589 of the 1993 Regular Session of the Louisiana Legislature.

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

*Department*—Louisiana Department of Agriculture and Forestry.

*Prescribed Burning Certificate*—document issued by the Department of Agriculture and Forestry certifying that the document holder has completed the requirements of Louisiana R.S. 3:17 and this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21: (July 1995).

##### §20903. Written Authority

Written authority for a prescribed burn shall consist of a prescribed burning certificate issued to the prescribed burner by the department and signed by the Associate State Forester or the chief of the Forest Protection Branch of the Office of Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21: (July 1995).

##### §20905. Completion of Prescribed Burn

Prescribed burns performed pursuant to the authority granted by the act and conducted in accordance with the act and these regulations shall be completed and declared safe when the certified prescribed burn manager who has been present on site from ignition finds:

1. that the ignition process has been safely accomplished;
2. the fire is safely contained within the control lines;

and

3. the smoke is acting in a fashion consistent with the weather forecast and the burning prescription for that tract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21: (July 1995).

##### §20907. Certification Prerequisites and Training

The Department of Agriculture and Forestry shall offer workshops for the certification of prescribed burners. The application for attendance to a certification workshop shall include an affidavit from the applicant stating that:

1. the applicant has participated in a minimum of five prescribed burns as the person in charge of the execution of the burns; and

2. the applicant has completed a university sponsored continuing education prescribed burning course or other program approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21: (July 1995).

##### §20909. Certification Procedures

The department shall issue a prescribed burning certificate when the applicant has:

1. met all of the prerequisites on training and experience required by this rule; and

2. completed an application on a form approved by the department; and

3. attended a certification workshop conducted or approved by the department; and

4. scored a passing grade on a certification test administered or approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21: (July 1995).

##### §20911. Voluntary Smoke Management Guidelines

The official guidelines for management of smoke from prescribed burns shall be as contained in *Louisiana Smoke Management Guidelines*, published by the Louisiana Department of Agriculture and Forestry. Revisions to the guidelines shall take effect upon their publication by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21: (July 1995).

##### §20913. Suspension and Revocation of Prescribed Burning Certificate

In the event that any certified prescribed burn manager demonstrates that his practices and procedures during one or more of prescribed burns substantially deviates from accepted practices and procedures for prescribed burning in effect at the time of certification or at the time of the aforesaid prescribed burn or burns then, in that event, and upon such finding determined after an adjudicatory hearing conducted in accordance with the Administrative Procedure Act, the commissioner may suspend or revoke the certification of any such certified prescribed burn manager.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:17.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21: (July 1995).

This rule complies with and is enabled by the Louisiana Prescribed Burning Law, R.S. 3:17.

Bob Odom  
Commissioner

9507#080

**RULE**

**Department of Agriculture and Forestry  
Office of Forestry  
Forestry Commission**

**Forest Tree Seedling Prices (LAC 7:XXXIX.20301)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission has amended LAC 7:XXXIX.20301, Seedling Prices. The rule creates the category of advanced generation pine seedlings, and establishes a price of \$40 per thousand for that product. The rule also increases the prices for hardwood seedlings and Baldcypress seedlings to \$175 per thousand. These price changes are designed to allow the Office of Forestry to recover production costs for these seedlings. These rules comply with and are enabled by R.S. 3:4303.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXXIX. Forestry**

**Chapter 203. Tree Seedlings**

**§20301. Seedling Prices**

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings:

- |                                       |                   |
|---------------------------------------|-------------------|
| 1. Improved Pine Seedlings            | \$30 per thousand |
| 2. Advanced Generation Pine Seedlings | 40 per thousand   |
| 3. Special Pine Seedlings             | 50 per thousand   |
| 4. Hardwood Seedlings                 | 175 per thousand  |
| 5. Baldcypress Seedlings              | 175 per thousand  |

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:1503, redesignated R.S. 3:4303.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:458 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21: (July 1995).

Bob Odom  
Commissioner

9507#078

**RULE**

**Department of Agriculture and Forestry  
Structural Pest Control Commission**

**Approved Termiticides (LAC 7:XXV.14153)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, has amended regulations regarding the list of approved termiticides. These rules comply with and are enabled by R.S. 3:3366.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXV. Structural Pest Control**

**Chapter 141. Structural Pest Control Commission**

**§14153. List of Approved Termiticides**

Termiticide	Percentage	Termiticide	Percentage
Biflex TC	.06% - .12%	Prevail	.30% - .60%
Demon	.25% - .50%	Pryfon	.75%
Dragnet FT	.50% - 1.0%	Tenure	.75% - 1.0%
Dursban TC	1.0%	Torpedo	.50% - 1.0%
Equity	.75% - 1.0%	Tribute	5.0% - 1.0%
Chlorpyrifos TC	1.0%		

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3306.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 20:644 (June 1994), LR 21: (July 1995).

Bob Odom  
Commissioner

9507#076

**RULE**

**Department of Economic Development  
Economic Development Corporation**

**Contract Loan Assistance Program  
(LAC 19:VII.Subpart 5)**

The Louisiana Economic Development Corporation (LEDC) adopts new rules, LAC 19:XV.Chapter 1, relative to the small business loan guaranty/loan participation program to provide contract financing. Such contracts may be for goods or services to local, state or federal agencies.



Title 19  
CORPORATIONS AND BUSINESS  
Part VII. Louisiana Economic Development Corporation  
Subpart 5. Contract Loans  
Chapter 1. Contract Loan Program  
§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. This program will be a pilot program for a period of one year upon which the board of directors of the Louisiana Economic Development Corporation will consider extending the program. 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(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

§103. Definitions

*Contract*—a contract for goods and or services to any federal, state, or local government entity.

*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.

*Minority- or Woman-owned Business Enterprise*—must be owned or controlled by a socially or economically disadvantaged person which is defined by the SBA as a person(s), regardless of sex or marital status, who is a member of groups whose disadvantage may arise from cultural, racial, chronic economic circumstances or background as stated in R.S. 51:2347 et seq., and must be certified as a minority business enterprise or woman's business enterprise as defined in R.S. 51:2347(B)(1-6).

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

AUTHORITY NOTE: R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

§105. Application Process

A. Applicant is required to first contact a financial lending institution that is willing to entertain such a loan with the prospect of additional credit support provided by a LEDC guaranty/participation and complete the application process.

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, along with the information identified in Attachment A must be submitted with a \$100 application fee. Applications will be processed with decisions confirmed promptly.

2. Minority- and women-owned businesses applying for assistance under that provision will have to submit certification from the Minority and Women's Business Enterprise Office of the Department of Economic Development, along with the request for financial assistance.

3. Businesses applying for consideration under the "disabled persons" provision shall submit adequate information to support the disabled status.

4. LEDC staff will review the applications for completeness and submit only complete packages for analysis. Any applications not receiving approval in the initial analysis process shall be individually reviewed and exceptions to underwriting criteria noted. The LEDC staff will report to the screening committee monthly those applications approved, and those not recommended for approval with reasons.

5. Loans guaranteed/participated in by LEDC must qualify under LEDC pre-approved underwriting criteria using standardized LEDC documentation. The originating bank is responsible for all loan closing documentation. Closing will occur only after a site visit by a LEDC staff member or designated representative.

6. Only those applicants and/or their designated representatives asked to be present by the LEDC staff need to be present for the screening committee.

7. The board of directors will review the results of all applications processed and screened. Loans recommended for approval by the LEDC staff as exceptions to standard underwriting criteria will be presented to the screening committee of the board for approval. Loans for \$100,000 or less approved under standard underwriting procedures requiring a LEDC guarantee/participation shall be approved jointly by the LEDC executive director and deputy director. In the absence of one of those persons, the president of LEDC, or the secretary/treasurer, could additionally approve the loan. All completed applications recommended by staff on loans in excess of \$100,000 will be approved by the screening committee and the board.

8. The applicant will be notified promptly from date accepted for processing by mail of the outcome of the application.

9. A LEDC commitment letter and standard guaranty or participation agreement will be mailed to the bank promptly after approval by the LEDC staff applying standardized evaluation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).



**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

### §107. Eligibility

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

B. Small businesses whose owner(s) or principal stockholder(s) shall be a resident of Louisiana and the business is domiciled in Louisiana with preference given to certified minority businesses, women-owned businesses, or businesses owned by disabled persons.

C. An assignable contract for goods or services with a federal, state, or local entity.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

### §109. General Loan Provisions

A. Only one contract loan will be allowed for any one borrower at any one time. A borrower may apply for additional contract loans only after the full repayment of any previous contract loan is complete.

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

1. Funding requests will only be considered for supporting contracts for goods and services provided to federal, state, or local entities;

2. Proceeds of the loan shall not be used for any of the following purposes:

a. repayment of debt to or the cashing out of any stockholder or principal of the business;

b. repayment of any personal debt;

c. funding for the principal purpose of refinancing existing debt in excess of 10 percent of the total requested loan amount.

3. The corporation shall not knowingly approve any loan guaranty/participation 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 guaranty/participation 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.

4. The terms or conditions imposed and made part of any loan guaranty/participation 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.

5. The corporation shall not subordinate its position.

C. Interest Rates. On all loan participations/guarantees the interest rate is to be negotiated between the borrower and the bank but may not exceed four percentage points above New York prime as published in the *Wall Street Journal* at either a fixed or variable rate.

### D. Collateral

1. Collateral to loan ratio will be no less than one to one (1:1).

2. Collateral position shall 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;

c. the percentage of value considered shall be consistent with the underwriting criteria established by the LEDC Board from time to time.

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

a. fixed assets: real estate, buildings, fixtures;

b. equipment, machinery: used in support of the contract at cost supported by invoice or no more than 75 percent of cost for existing equipment or machinery;

c. inventory: used in support of the contract at cost supported by invoice or no more than 50 percent of cost for existing inventory.

d. personal guarantees are required, however, no value will be assessed towards collateral value. A signed and dated personal financial statement is also required.

e. 85 percent of Accounts Receivable considered collectable with supporting aging schedule.

f. contract with federal, state, or local entity shall be assigned to lender, however, no value will be assessed towards collateral value.

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

a. stock in applicant company and/or related companies;

b. personal items.

### E. Equity

1. Will be no less than 10 percent of the loan amount for a start-up operation, an acquisition, or 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;

e. unfunded portion of inventory and receivables.

3. No research, development expense, nor intangibles or contributed assets other than cash of any kind, will be considered equity.

### F. Amount

1. For small businesses the corporation's participation shall be no greater than 50 percent of a loan, but in no case shall it exceed \$500,000.

2. For certified minority-owned, women-owned, or owned by disabled persons, the corporation's participation shall be no greater than 60 percent of a loan, but in no case shall it exceed \$500,000.

3. For either a small business or a certified minority-owned, woman-owned, or disabled owned business the corporation's guarantee shall be no greater than 50 percent of

the lending institution's portion of the amount of the first draw of the contract. The first draw cannot exceed 50 percent of the total loan amount.

G. Terms. The term may be no longer than 180 days past the completion date of the contract but in no case any greater than one and one half years.

H. Use of Funds. To support a contract for goods and services for a federal, state, or local entity. All proceeds of the contract will be assigned and collected by the lending institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

### §111. General Agreement Provisions

#### A. Participation Agreement

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

2. The lead lender may not sell any additional participations in the loan.

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

4. The bank interest rate may not exceed four percentage points above New York prime as published in the *Wall Street Journal* at either a fixed or variable rate.

5. 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.

#### B. Guaranty Agreement

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

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

3. The guarantee will commence upon the first draw on the line of credit and will end upon the advance of the second draw on the line of credit.

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

5. 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.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

### §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. 51:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

### §115. Conflict of Interest

No member of the corporation, employee thereof, employee of the Department of Economic Development, nor 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. 51:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

#### ATTACHMENT "A"

The application for financial assistance should consist of a completed LEDC application form and a comprehensive business plan/loan proposal which contains but is not limited to the following guidelines:

A. A LEDC Contract Loan Application Form;

B. Executive Summary:

1. business description:

a. name;

b. location and business facility description;

c. product or service;

d. market and competition;

e. management expertise.

2. business goals, including number of employee jobs to be saved or created as a result of this loan;

3. uses of loan proceeds;

4. copy of contract: provide name, address and telephone number of awarding agency;

5. projected financial results demonstrating payback capability.

C. Operations

1. board of directors composition;

2. officers: organization chart and responsibilities;

3. list of stockholders with more than 15 percent ownership;

4. resumes of key personnel;

5. staffing plan/number of employees;

6. facilities plan/planned capital improvements;

7. operating plan/schedule of upcoming work for next one to two years;

8. list of work backlog, if any.

D. The originating bank may be asked by LEDC to share additional information on which they based a favorable decision.

E.1. For Sole Proprietorships:

a. last three years personal, federal and state income tax returns complete with all schedules (as available based upon age of business);

b. interim business income statement for the current year;

c. complete personal financial statement.

2. For Partnerships or Corporations:

a. last three years' business financial statements including balance sheets and income statements;

b. interim business financial statements;

c. last three years business income tax returns complete with all schedules;

d. most recent personal income tax returns including all schedules with K1s for each owner, general partner, and/or guarantor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 21: (July 1995).

Michael Williams  
Executive Director

9507#045

## RULE

### Department of Economic Development Office of Financial Institutions

#### Exchange of Other Real Estate (LAC 10:III.545)

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:243(B)(5), the commissioner amends the following rule, originally promulgated in LR 19:35 (January 1993), to implement the provisions of Act 789 of 1992, to provide for changes to the rule in order to clarify a number of its provisions. A new Subsection has been added which will allow exchanges of other real estate for property to be used for future expansion of bank premises.

#### Title 10

### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES and UCC

#### Part III. Banks

#### Chapter 5. Powers of Banks

#### Subchapter C. Exchange of Other Real Estate

#### §545. Regulation

A. - A.1. ...

2. The exchange must be supported by current appraisals of both the exchanged property and the property acquired in

the exchange. The appraisals must be performed by an independent appraiser and contain sufficient documentation to support the value derived.

3. The bank must maintain on file for examiner review, supporting documentation of any exchange made since the previous examination, including the bank's marketing efforts to dispose of the previously held and exchanged parcel of real estate.

4. - 5. ...

B. In an attempt to achieve its strategic plan, a bank may exchange property held in an other real estate account for property to be used as premises or for future expansion. However, the approval of the commissioner must be obtained prior to the exchange of the properties. Also, the exchange must comply with the provisions of §545.A.1 and 2.

C. All requests for prior written approval of the commissioner must contain sufficient documentation to support the bank's request. Transactions requiring prior written approval of the commissioner include:

1. Transactions which directly or indirectly involve insiders, affiliates, or their related interests, as defined by Federal Reserve Board's Regulation O and Section 23 A of the Federal Reserve Act. A request for approval must include documentation to show the transaction is an arms-length transaction and will not violate state or federal laws, rules or regulations.

2. Transactions which include any additional cash investment made by the bank to facilitate the exchange.

3. Transactions which include the exchange of other real estate for property which is not in the bank's normal trade area, as defined by the bank's board of directors policy.

D. Property exchanged in violation of this rule, in addition to any other actions authorized by law or regulation, may result in the following:

1. a requirement that the bank remove the exchanged real estate from its books and the citation of violation of R.S. 6:243 until such time as the bank disposes of the exchanged real estate;

2. a requirement that the directors directly responsible for the exchange in violation of this rule be required to purchase or otherwise dispose of the property and be responsible for any loss sustained by the bank.

E. The commissioner has the authority to either waive or grant an exception to any provision of this rule provided a request is first made in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:243(B)(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:35 (January 1993), amended LR 21: (July 1995).

Larry L. Murray  
Commissioner

9507#049

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1943—Teacher Assessment (LAC 28:I.917)

The State Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted Bulletin 1943, the Louisiana Teacher Assessment Program, Policies and Procedures for Louisiana Teacher Assessment, which is part of the Louisiana Teacher Appraisal Instrument Panel Report (Panel IV).

This document may be viewed in its entirety in the Office of the State Register, 1051 North Third Street, Fifth Floor, Baton Rouge, LA 70802; in the Office of Research and Development, State Department of Education; or in the Office of the Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, LA. Bulletin 1943, the Policies and Procedures for Louisiana Teacher Assessment will be referenced in the Administrative Code, Title 28 as noted below.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§917. Personnel Evaluation Standards and Regulations**

\* \* \*

**B. Teacher Assessment and Evaluation**

\* \* \*

2. Bulletin 1943, Policies and Procedures for Louisiana Teacher Assessment (June, 1994) are adopted.

The Louisiana Teacher Assessment Program, which provides for the support and assessment of new teachers, was mandated by the Louisiana Legislature in the Third Extraordinary Session of 1994. The Policies and Procedures for the Louisiana Teacher Assessment are the guidelines by which a teacher teaching in Louisiana public schools for the first time will be assessed. The policies and procedures set forth the philosophy and purposes of the Louisiana Teacher Assessment Program as well as the timelines for conducting the assessments.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3881-3884, R.S. 17:3891-3896 and R.S. 17:3901-3904.

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 21: (July 1995).

Carole Wallin  
Executive Director

9507#089

**RULE**

**Board of Elementary and Secondary Education**

Administration of Funds Raised by Student Organizations in Technical Institutes (LAC 28:I.1521)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted a policy on administration of funds raised by student organizations in technical institutes. This policy will be included in the Administrative Code, Title 28, Section 1521 and stated below:

**Title 28  
EDUCATION**

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

**§1521. Operations**

\* \* \*

**D. Administration of Funds - Student Organizations**

1. Administration of Funds Raised by Student Organizations in Technical Institutes. A student organization, as recognized in Policy of the United States Department of Education for vocational student organizations, is an integral part of the curriculum. "A student organization is a group of students organized (functioning constitution and bylaws) for a stated purpose related to the vocational school's purposes and approved by the school's administrator."

2. It shall be the policy of the Board of Elementary and Secondary Education that all funds raised by vocational student organizations in the technical institutes shall be deposited in a single bank account titled as Vocational Student Organization (VSO) account for each school and shall be administered by vote of the club, approval of club president, treasurer and club advisor(s) and or technical institute director. These funds shall be administered according to the following procedures:

a. Each technical institute having vocational student organizations, shall have a general school account for vocational student organization funds maintained in a cash journal and have a general ledger to record the monthly total of the cash journal. Example: VICA, PBL, etc. If there is only one campus organization, the official national, state, and/or local organization name may be used as the account name.

b. The general account shall have two sections: (a) receipt section, and (b) disbursement section.

c. The receipt section shall provide all information concerning money received and deposited.

d. The disbursement section shall show the date paid, to whom paid, check number, purpose of disbursement, amount of check, for all disbursements. No checks will be issued for cash.

e. Each vocational student organization having money in the general account shall have a subsidiary account set up in the general ledger under their subsidiary organization name.

f. Each vocational student organization turning in money for deposit shall receive a numbered receipt for all

money turned in. The receipt shall indicate how the money was raised, for example, sale of candy, bake sale, raffle, dues, etc. If the receipt is for dues paid by a student, the student's name shall be listed on the receipt.

g. Each vocational student organization account shall be posted monthly from the cash journal.

h. Disbursements for bills shall be made in accordance with normal business procedures.

i. The institute shall receive invoices for all student organization accounts.

j. The faculty sponsor(s) and club officers shall be responsible to the director for all transactions pertaining to his/her organization.

k. All disbursements shall have prior approval by vote of the club, club president, club officers and club advisor(s) and or technical institute director before any transaction is made.

l. Once disbursement has been approved, a check request shall be completed by the faculty sponsors and club officers and shall be signed by dual signature on checks by the director and the faculty sponsor(s) and/or club officer(s).

m. The check request, properly executed, along with an invoice and a receiving report that the goods have been received, shall authorize the issuance of a check. To facilitate overnight activities, receipts and invoices shall be submitted upon return.

n. All bills shall be paid by check, prepared by the technical institute accountant, and shall be signed by dual signature by the director and the faculty sponsor(s) and or club officer(s).

o. At the end of the month, a financial statement of cash receipts and disbursements shall be made and signed by the director and the faculty sponsor(s) of each organization.

p. At the end of each fiscal year, the faculty sponsor(s) shall initial the financial statement balance for his/her club or organization. These initials indicate that the balance is correct and agrees with the organization treasury report.

q. These accounts shall be available for audit and included in the technical institute annual report.

3. The school shall accept no gifts from school organizations unless the full ownership, operation, and/or control of the donation is vested entirely with the school.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 21: (July 1995).

Carole Wallin  
Executive Director

9507#091

## RULE

### Board of Elementary and Secondary Education

#### Cooperative Programs for Technical Institutes (LAC 28:I.1527)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted an amendment to the guidelines for cooperative programs in the Technical Institute System. This is an amendment to LAC 28:I.1527.D as stated below.

#### Title 28 EDUCATION

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

#### §1527. Courses; Classes; Programs; Visits

\*\*\*

D. Cooperative Programs. General guidelines to be followed for cooperative programs are:

1. A written training plan shall be developed cooperatively by the instructor and employer for both the classroom and on-the-job training. It shall include length of training: skills to be learned through on-the-job training and work experience: and skills and knowledge to be taught in the classroom. A completed training plan must be maintained in each cooperative student's folder.

2. After satisfactorily completing 50 percent of program training hours, students will be permitted to participate in cooperative education programs for no more than 50 percent of the remaining training time (no more than one-fourth of total training hours).

3. Students must receive appropriate compensation for student-learners, i.e., at least minimum wage.

4. The instructor shall be required to visit students where employed, to observe the students at work and to confer with the employers.

5. There should be a written evaluation of each student's on-the-job training completed by the instructor. The responsibility for determining grades lies with the instructor.

6. The student must be covered by the applicable work permit and/or student learner permit as required by state and federal labor laws. The instructor should make every effort to assist the employer in complying with labor laws as they apply to minors in cooperative programs as well as all other state and federal regulations pertaining to vocational education.

7. The student must complete the necessary prerequisite courses and have completed a minimum of 50 percent of the course requirements in the program which he/she is enrolled. The student must also meet other institute requirements.

8. Cooperative agreements between employers and technical institutes for on-the-job training of students shall be handled administratively by the State Department of Education, Office of the Technical Institute System.

9. In cooperative education programs, the vocational-technical institute and the employer must comply with civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex and handicapping conditions. It is the school's/institute's responsibility to obtain written assurance from each employer that work assignments, selection of students, and employment practices shall be free from discrimination.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10); R.S. 17:7(5).

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 21: (July 1995).

Carole Wallin  
Executive Director

9507#090

## RULE

### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

#### Acid Rain Permitting Requirements (LAC 33:III.505)(AQ112)

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.505 (AQ112).

The amendments to the acid rain rule (LAC 33:III.505) improves the clarity of the rule and makes it more consistent with the federal acid rain rule (40 CFR Part 72).

This regulation is to become effective upon publication in the *Louisiana Register*.

### Title 33 ENVIRONMENTAL QUALITY Part III. Air

#### Chapter 5. Permit Procedures

##### §505. Acid Rain Program Permitting Requirements

A. Applicability. The provisions of this Section apply to any affected source subject to any acid rain emissions reduction requirement or acid rain emissions limitation pursuant to title IV of the Clean Air Act. A certifying official of any unit may petition the administrator for a determination of applicability under 40 CFR 72.6(c). The administrator's determination of applicability shall be binding upon the permitting authority unless the petition is found to have contained significant errors or omissions.

\* \* \*

[See Prior Text in A.1-A.1.c.i]

ii. did not serve a generator with a nameplate capacity greater than 25 MWe on November 15, 1990, but serves such a generator after November 15, 1990;

\* \* \*

[See Prior Text in A.1.c.iii-B.3]

a. The permitting authority shall issue, to any unit meeting the requirements of Subsection B.1 and 2 of this Section, a written exemption from the requirements of the Acid Rain Program except for the requirements specified in this Subsection or 40 CFR 72.1-6 and 72.10-13; provided that no unit shall be exempted unless the designated representative of the unit surrenders, and the administrator deducts from the unit's Allowances Tracking System account, allowances pursuant to 40 CFR 72.7(c)(1)(i) and (d)(1). The exemption shall take effect on January 1 of the year immediately following the date on which the written exemption is issued as a final agency action subject to judicial review, in accordance with Subsection B.3.b of this Section; provided that the owners and operators and, to the extent applicable, the designated representative shall comply with the requirements of the Acid Rain Program concerning all years for which the unit was not exempted, even if such requirements arise, or must be complied with, after the exemption takes effect. The exemption shall not be a defense against any violation of such requirements of the Acid Rain Program whether the violation occurs before or after the exemption takes effect.

b. In considering and issuing or denying a written exemption under Subsection B.3.a of this Section, the permitting authority shall apply the permitting procedures of LAC 33:III.519 and shall:

\* \* \*

[See Prior Text in B.3.b.i-B.4]

a. The owners and operators of each unit exempted under this Section shall determine the sulfur content by weight of its fuel using the methods specified in 40 CFR 72.7(d)(2).

b. The owners and operators of each unit exempted under this Section shall retain, at the source that includes the unit, the records of the results of the tests performed under Subsection B.4.a of this Section and a copy of the purchase agreements stating the sulfur content of all such fuel. Such records and documents shall be retained for five years from the date they are created.

\* \* \*

[See Prior Text in B.4.c-C.2]

a. The designated representative, authorized in accordance with 40 CFR part 72, subpart B, of a source that includes a unit under Subsection C.1 of this Section may petition the permitting authority for a written exemption or to renew a written exemption for the unit from certain requirements of this Section.

b. A petition under this Subsection shall be submitted on or before:

\* \* \*

[See Prior Text in C.2.b.i-C.3]

a. The permitting authority shall issue, for any unit meeting the requirements of Subsection C.1 and 2 of this Section, a written exemption from the requirements of this Section except for the requirements specified in this Subsection and 40 CFR 72.1-6, 72.8, and 72.10-13. The exemption shall take effect on January 1 of the year following the date on which the written exemption is issued in accordance with

Subsection C.3.b of this Section, provided that the owners and operators and, to the extent applicable, the designated representative shall comply with the requirements of this Section and 40 CFR part 72 concerning all years for which the unit was not exempted, even if such requirements arise or must be complied with after the exemption takes effect. The exemption shall not be a defense against any violation of the requirements of the Acid Rain Program that occurs prior to such issuance.

\* \* \*

[See Prior Text in C.3.b-C.4.a]

b. The owners and operators of a unit exempted under this Subsection shall comply with monitoring requirements in accordance with 40 CFR part 75 and will be allocated allowances in accordance with 40 CFR part 73.

c. A unit exempted under this Subsection shall not resume operation unless the designated representative of the source that includes the unit submits an acid rain permit application for the unit not less than 24 months prior to the later of January 1, 2000, or the date the unit is to resume operation. On the earlier of the date the written exemption expires or the date an acid rain permit application is submitted or is required to be submitted under this Paragraph, the unit shall no longer be exempted under this Subsection and shall be subject to all requirements of this Section and 40 CFR part 72.

\* \* \*

[See Prior Text in D-D.5]

a.i. On or before December 31, 1997, the permitting authority shall issue an acid rain permit to each affected source whose designated representative submitted a timely and complete acid rain permit application by January 1, 1996, in accordance with Subsection R of this Section and meets the requirements of this Section.

ii. Each acid rain permit issued in accordance with this Section shall have a term of five years commencing on its effective date. Each acid rain permit issued in accordance with Subsection D.5.a.i of this Section shall take effect by the later of January 1, 2000, or where the permit governs a unit under Subsection A.1.c of this Section, the deadline for monitor certification under 40 CFR part 75.

\* \* \*

[See Prior Text in D.5.b-F.1]

2. Prior to the date on which an acid rain permit is issued, an affected unit governed by and operated in accordance with the terms and requirements of a timely and complete acid rain permit application shall be deemed to be operating in compliance with the Acid Rain Program.

3. A complete acid rain permit application shall be binding on the owners and operators and the designated representative of the affected source and the affected units covered by the permit application and shall be enforceable as an acid rain permit from the date of submission of the permit application until the issuance or denial of an acid rain permit as a final agency action subject to judicial review.

\* \* \*

[See Prior Text in G-H.5.b]

c. the unit's 1995 actual annual sulfur dioxide emissions rate, or best estimate of the actual emissions rate; provided that the actual emissions rate is submitted to the permitting authority by January 30, 1996;

\* \* \*

[See Prior Text in H.5.d-H.7.a]

i. Sulfur Dioxide. Allowances allocated during the repowering extension under 40 CFR 72.44(f)(3) and 72.44(g) to a unit governed by an approved repowering extension plan shall not be transferred to any allowance tracking system account other than the unit accounts of other units at the same source as that unit.

\* \* \*

[See Prior Text in H.7.a.ii-J.7.a.iv]

b. The designated representative of an affected source and each affected unit at the source shall submit the reports and compliance certifications required under the Acid Rain Program, including those under 40 CFR part 72, subpart I and 40 CFR part 75.

\* \* \*

[See Prior Text in J.8-J.8.a]

b. Any person who knowingly makes a false, material statement in any record, submission, or report under the Acid Rain Program shall be subject to criminal enforcement by the administrator, pursuant to section 113(c) of the Clean Air Act and 18 U.S.C. 1001, and by the permitting authority.

\* \* \*

[See Prior Text in J.8.c-J.8.d]

e. Any provision of the Acid Rain Program that applies to an affected source (including a provision applicable to the designated representative of an affected source) shall also apply to the owners and operators of such source and of the affected units at the source.

f. Any provision of the Acid Rain Program that applies to an affected unit (including a provision applicable to the designated representative of an affected unit) shall also apply to the owners and operators of such unit. Except as provided under Subsection H of this Section (Phase II repowering extension plans) and section 407 of the Clean Air Act and regulations implementing section 407 of the Clean Air Act, and except with regard to the requirements applicable to units with a common stack under 40 CFR part 75 (including 40 CFR 75.16, 75.17, and 75.18), the owners and operators and the designated representative of one affected unit shall not be liable for any violation by any other affected unit of which they are not owners or operators or the designated representative and that is located at a source of which they are not owners or operators or the designated representative.

g. Each violation of a provision of 40 CFR parts 72, 73, 75, 77, and 78 and regulations implementing sections 407 and 410 of the Clean Air Act by an affected unit, or by an owner or operator or designated representative of such unit, shall be a separate violation of the Clean Air Act.



\* \* \*

[See Prior Text in J.9-L.5]

6. Any permit revision involving incorporation of a compliance option that was not submitted for approval and comment during the permit issuance process, or involving a change in a compliance option that was previously submitted, shall meet the requirements for applying for such compliance option under 40 CFR part 72, subpart D and section 407 of the Clean Air Act and regulations implementing section 407 of the Clean Air Act.

\* \* \*

[See Prior Text in L.7-M.1.c]

2. The following permit revisions shall follow at the option of the designated representative submitting the permit revision and shall follow either the permit modification procedures under this Subsection or the fast-track modification procedures under Subsection N of this Section:

a. incorporation of a compliance option that the designated representative did not submit for approval and comment during the permit issuance process;

b. addition of a nitrogen oxides averaging plan to a permit; and

c. changes in repowering plan, nitrogen oxides averaging plan, or nitrogen oxides compliance deadline extension.

\* \* \*

[See Prior Text in M.3-N]

1. the designated representative shall serve a copy of the fast-track modification on the administrator, the permitting authority, and any person entitled to a written notice under the requirements of this Chapter for permit issuance, treating a fast-track modification as a proposed permit prior to public comment. Within five business days of serving such copies, the designated representative shall also give public notice by publication in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice;

\* \* \*

[See Prior Text in N.2-O]

1. The following acid rain permit revisions are acid rain administrative amendments:

a. activation of a compliance option conditionally approved by the permitting authority, provided that all requirements for activation under Subsections G.3 and H of this Section are met;

\* \* \*

[See Prior Text in O.1.b-O.1.f]

g. addition of or change in a nitrogen oxides alternative emissions limitation demonstration period, provided that the requirements of regulations implementing section 407 of the Clean Air Act are met.

\* \* \*

[See Prior Text in O.2 - R.1.d]

e.i. The designated representative of a source shall serve notice on each owner and operator of the source and of an affected unit at the source:

\* \* \*

[See Prior Text in R.1.e.i.(a)-R.1.e.i.(c)]

ii. The designated representative of a source shall provide each owner and operator of an affected unit at the source a copy of any submission or determination under Subsection R.1.e.i of this Section, unless the owner or operator expressly waives the right to receive such a copy.

\* \* \*

[See Prior Text in R.2-R.2.b]

S. Acid Rain Permit Appeal Procedures

\* \* \*

[See Prior Text in S.1-S.4.b]

c. the emissions monitoring and reporting requirements applicable to the affected units at an affected source under 40 CFR part 75;

\* \* \*

[See Prior Text in S.4.d-S.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21: (July 1995).

James B. Thompson, III  
Assistant Secretary

9507#085

## RULE

### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

#### Emissions of Nitrogen Oxides (LAC 33:III.Chapter 22)(AQ115)

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 22, (AQ115).

This rule relates to the repeal of LAC 33:III.Chapter 22, Control of Emissions of Nitrogen Oxides by Reasonably Available Control Technology (RACT) which applies to specific sources of nitrogen oxides (NO<sub>x</sub>) at any major stationary sources within a moderate or higher ozone nonattainment area.

Computer modeling has shown that the projected NO<sub>x</sub> reductions of 20,000 tons per year would have caused an increase in the ozone level in the Baton Rouge area. The Clean Air Act Amendments of 1990 allow an exemption from such NO<sub>x</sub> controls if computer modeling shows that they would be detrimental to air quality. The department has applied to EPA for such an exemption.



Chapter 22 was required by the Clean Air Act Amendments of 1990, Section 182(f), and directives of the U.S. Environmental Protection Agency.

These regulations are to become effective upon publication in the *Louisiana Register*.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 22. Control of Emissions of Nitrogen Oxides**  
**§2201. General Provisions**

Repealed.

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 20:162 (February 1994), repealed LR 21: (July 1995).

**§2203. Large Combustion Sources**

Repealed.

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 20:162 (February 1994), repromulgated LR 20:288 (March 1994), repealed LR 21: (July 1995).

**§2205. Nitric Acid Manufacturing**

Repealed.

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 20:162 (February 1994), repealed LR 21: (July 1995).

James B. Thompson, III  
Assistant Secretary

9507#082

**RULE**

**Department of Environmental Quality**  
**Office of Air Quality and Radiation Protection**  
**Air Quality Division**

Volatile Organic Compounds List (LAC 33:III.2117);  
Schedule for Submitting Applications—Emissions Reduction  
Credit Banking (LAC 33:III.615); Monitoring Requirements  
for New Stationary Sources (LAC 33:III.3125); Standards  
of Performance for Volatile Organic Liquid Storage Vessels  
(LAC 33:III.3301) (AQ113)

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.2117 and corrections to typographical errors in §§615, 3125 and 3301 (AQ113).

This submittal was made in order to promulgate two additions to the volatile organic compound exemption list (LAC 33:III.2117) namely: parachlorobenzotrifluoride (PCBTF) and volatile methyl siloxanes. In addition, correction of some typographical errors in other chapters is proposed.

This action was required by federal regulation.

These regulations are to become effective upon publication in the *Louisiana Register*.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 6. Regulations on Control of Emissions**  
**Through the Use of Emission Reduction**  
**Credits Banking**

**§615. Schedule for Submitting Applications**

A. All bank balance sheets for banking emission reductions where the emission reductions occurred after adoption of the final rule shall be submitted by March 1 following the year in which the reductions occurred. Thereafter, the bank balance and the applicant's certification should be submitted annually on March 1.

\* \* \*

[See Prior Text in B-D]

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 20:878 (August 1994), amended LR 21: (July 1995).

**Chapter 21. Control of Emission of Organic Compounds**  
**Subchapter A. General**

**§2117. Exemptions**

The following compounds are considered exempt from the control requirements of LAC 33:III.2101-2145: methane, ethane, 1, 1, 1 trichloroethane (methyl chloroform), methylene chloride (dichloromethane), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113), trifluoromethane (FC-23), 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123), 1,1,1,2-tetrafluoroethane (HFC-134a), 1,1-dichloro 1-fluoroethane (HCFC-141b), 1-chloro 1,1-difluoroethane (HCFC-142b), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2,2-tetrafluoroethane (HFC-134), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), parachlorobenzotrifluoride (PCBTF), and cyclic, branched, or linear completely methylated siloxanes. The following classes of perfluorocarbons are also considered exempt from the control requirements of LAC 33:III.2101-2145: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21: (July 1995).

### **Chapter 31. Standards of Performance for New Stationary Sources**

#### **Subchapter A. General Provisions and Modifications**

##### **§3125. Monitoring Requirements**

A. For the purposes of this Section, all continuous monitoring systems required under applicable Subchapters shall be subject to the provisions of this Section upon promulgation of performance specifications for continuous monitoring systems in the Division's Source Test Manual (LAC 33.III.Chapters 60, 61, 63 and 64), unless otherwise specified in an applicable Subchapter or by the administrative authority\*.

\* \* \*

[See Prior Text in B-J.2]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:657 (July 1991), LR 21: (July 1995).

#### **Subchapter K. Standards of Performance for Storage Vessels for Petroleum Liquids (Subpart K, Ka, and Kb)**

##### **§3301. Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984 (Subpart Kb)**

\* \* \*

[See Prior Text in A-A.4.g]

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 or LAC 33:III.3103, except those terms specifically defined in this Section as follows:

\* \* \*

[See Prior Text]

*Maximum True Vapor Pressure*—the equilibrium partial pressure exerted by the stored volatile organic liquid (VOL) at the temperature equal to the highest calendar-month average of the VOL storage temperature for VOLs stored above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for liquids stored at the ambient temperature, as determined:

1. in accordance with methods described in American Petroleum Institute Bulletin 2517, Evaporation Loss From External Floating Roof Tanks; or

2. as obtained from standard reference texts; or

3. as determined by American Society for Testing and Materials (ASTM) Method D2879-83; or

4. any other method approved by the administrative authority.

\* \* \*

[See Prior Text in B.Petroleum-G.1]

2. The owner or operator of each storage vessel as specified in Subsection A.1 and 2 of this Section shall keep readily accessible records showing the dimensions of the storage vessel and an analysis showing the capacity of the storage vessel. Each storage vessel with a design capacity less than 75 m<sup>3</sup> (2,648 ft<sup>3</sup>) is subject to no provision of this Section other than those required by this Paragraph.

\* \* \*

[See Prior Text in G.3-7]

**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 17:263 (March 1991), LR 21: (July 1995).

James B. Thompson, III  
Assistant Secretary

9507#084

## **RULE**

### **Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division**

#### **Use of Incidental VOC Reductions to Demonstrate Reasonable Further Progress (LAC 33:III.2120)(AQ109)**

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.2120 (AQ109).

The purpose of repealing this rule is to remove a redundant requirement for a permit application submitted to the department. Section 182 (b) (1) of the 1990 Clean Air Act amendments (CAAA) requires all ozone nonattainment areas classified as moderate and above to submit a Reasonable Further Progress Plan by November 15, 1993 which describes how the area will achieve an actual volatile organic compound (VOC) emission reduction of at least 15 percent during the first six years after enactment of the CAAA. The 1996 target level of emissions is the maximum amount of ozone season VOC emissions that can be emitted by an ozone nonattainment area in 1996 for that nonattainment area to be in compliance with the 15 percent Reasonable Further Progress Plan requirements. The use of incidental VOC reductions is part of the Contingency Measures for the 15 percent VOC Reduction RFP. Since affected sources will be developing

permit applications to comply with newly revised permit rules under Chapter 5 of the Air Quality rules, a requirement for submittal of a permit application under Chapter 21 is not needed.

These regulations are to become effective upon publication in the *Louisiana Register*.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 21. Control of Emission of Organic Compounds**  
**Subchapter A. General**

**§2120. Use of Incidental VOC Reductions to**  
**Demonstrate Reasonable Further Progress**

Repealed.

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 20:537 (May 1994), amended LR 21:22 (January 1995), repealed LR 21: (July 1995).

James B. Thompson, III  
Assistant Secretary

9507#075

**RULE**

**Department of Environmental Quality**  
**Office of Water Resources**

**Water Bodies Use Designations (LAC 33:IX.1123)(WP18)**

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 Water Quality Management Division Regulations, LAC 33:IX.1123 (WP18).

Current designated uses and numerical criteria have been evaluated for the following five water bodies: Bayou Cocodrie, Deer Creek, Red Chute Bayou, Tisdale Brake/Staulkinghead Creek and Mahlin Bayou/McCain Creek. Use attainability analyses (UAA) were conducted on portions of each water body to assess past and current chemical, physical and biological conditions. This rule modifies the standards so that appropriate uses and criteria, determined by the UAAs are applied. Federal law requires the states to meet the goals of the Clean Water Act. The federal water quality standards regulation §131.10 requires the states to "specify appropriate water uses to be achieved and protected."

These regulations are to become effective upon publication in the *Louisiana Register*.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality Regulations**  
**Chapter 11. Surface Water Quality Standards**  
**§1123. Numerical Criteria and Designated Uses**

\* \* \*

[See Prior Text in A - C.2]

3. Designated Uses. The following are the category definitions of designated uses that are used in Table 3 under the subheading "DESIGNATED USES."

- A - Primary Contact Recreation
- B - Secondary Contact Recreation
- C - Propagation of Fish and Wildlife
- L - Limited Aquatic Life and Wildlife Use
- D - Drinking Water Supply
- E - Oyster Propagation
- F - Agriculture
- G - Outstanding Natural Resource Waters

Numbers in brackets (e.g. [1]) refer to endnotes listed at the end of the table.

**Table 3. Numerical Criteria and Designated Uses**

A - primary contact recreation; B - secondary contact recreation; C - propagation of fish and wildlife; D - drinking water supply; E - oyster propagation; F - agriculture; G - outstanding natural resource waters; L - limited aquatic life and wildlife use

Code	Stream Description	Designated Uses	Criteria									
			CL	SO4	DO	pH	B A C	°C	TDS			
	ATCHAFALAYA RIVER BASIN [01]											
*** [See Prior Text in 010101 - 080911]												
080912	Tisdale Brake/Staulkinghead Creek - from origin to Little Bayou Boeuf	B L	500	200	(13)	6.0 - 8.5	2	32	1500			
*** [See Prior Text in 081001 - 081002]												
081003	Deer Creek - Headwaters to confluence with Boeuf River	B L	105	45	(13)	6.0 - 8.5	2	32	430			
*** [See Prior Text in 081101 - 100304]												
100305	Mahlin Bayou/McCain Creek - origin to confluence with Twelve Mile Bayou	B L	175	75	(14)	6.0 - 8.5	2	32	500			
*** [See Prior Text in 100306 - 100401]												
100402	Red Chute Bayou - from Cypress Bayou junction to Flat River	A B C	250	75	(14)	6.0 - 8.5	1	32	800			
*** [See Prior Text in 100403 - 101506]												
101601	Bayou Cocodrie - from Little Cross Bayou to Wild Cow Bayou (Scenic)	A B C F G	250	75	5.0	6.0 - 8.5	1	32	500			
*** [See Prior Text in 101602 - 101604]												
101605	Bayou Cocodrie - Lake Concordia to Highway 15	A B C	250	75	5.0	6.0 - 8.5	1	32	500			
*** [See Prior Text in 101606]												
101607	Bayou Cocodrie - Highway 15 to Little Cross Bayou	B L	250	75	(13)	6.0 - 8.5	2	32	500			
*** [See Prior Text in 110101 - 120806]												

ENDNOTES:

\*\*\*

[See Prior Text in [11]-[12]]

[13] Site-specific Seasonal DO Criteria: 3 mg/L November-April, 2 mg/L May-October.

[14] Site-specific Seasonal DO Criteria: 5 mg/L November-April, 3 mg/L May-October.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 21: (July 1995).

James B. Thompson, III  
Assistant Secretary

9507#081

**RULE**

**Department of Health and Hospitals  
Board of Practical Nurse Examiners**

Regular Admissions (LAC 46:XLVII.937)

The Board of Practical Nurse Examiners, under the authority vested in R.S. 37:961-979, amended LAC 46:XLVII.937, Regular Admissions, at its meeting on June 16, 1995 as follows:

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 1. Practical Nurses**

**Chapter 9. Program Projection**

**Subchapter F. Admissions**

**§937. Regular Admissions**

Regular admissions shall:

1. receive a grade placement of at least 10.5 in mathematics and 11.0 in reading and language on an achievement test approved by the board;
2. provide certification of high school graduation or satisfactory completion of the State Department of Education equivalency examination;
3. provide health certification from a licensed physician;
4. be fingerprinted;
5. meet all admission requirements as set by the board, faculty and administration;
6. be admitted with the regularly scheduled class;
7. provide certified copy of birth certificate or possess a valid United States passport;
8. not be currently serving under any court imposed order of supervised probation, work-release, school release or parole in conjunction with any felony conviction(s), plea agreement or any agreement pursuant to the Louisiana Code of Criminal Procedure, Article 893.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 6:657 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 21: (July 1995).

Terry L. DeMarcay, R.N.  
Executive Director

9507#046

## RULE

### Department of Health and Hospitals Office for Citizens with Developmental Disabilities

#### Contracted Vocational and Habilitative Services (LAC 48:IX.Chapter 1)

In accordance with R.S. 49:950 et seq., the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) has amended the following rule which provides for programmatic standards for the operation of Vocational and Habilitative Services contracted under the auspices of the office. R.S. 28:380-444 authorizes the OCDD to establish a mental retardation and developmental disabilities services system which includes the provision of adult day services and vocational services. This rule is submitted in response to program changes which have evolved over the past years. The standards set both minimum and quality standards which provide recognition for provider agencies dedicated to excellence.

The rule obsoletes in its entirety and replaces the Adult Day standards published in LAC Title 48 Public Health—General, Part IX. Mental Retardation/Developmental Disabilities Services, Chapter 1, Adult Day Services. Chapter 1 will now be entitled "Contracted Vocational and Habilitative Services."

#### Title 48

### PUBLIC HEALTH—GENERAL

#### Part IX. Mental Retardation/Developmental Disabilities Services

#### Chapter 1. Contracted Vocational and Habilitative Services

#### §101. General Provisions

##### A. Definitions. For the purposes of this Chapter:

*Contracted Vocational and Habilitative Services*—those services which are purchased by the Office for Citizens with Developmental Disabilities through contractual arrangements with private providers. The services include, but are not limited to, supported employment and other vocational services provided in conjunction with Louisiana Rehabilitation Services (LRS), group models of community-based work, facility-based work and habilitative services as they relate to

the acquisition of vocationally-related skills, community-based skills, daily life skills and behavior management.

*Corrective Action Plan*—a set of plans developed by a provider of vocational and habilitative services in response to findings of noncompliance with minimum standards. The plans indicate how the provider will come into compliance with minimum standards, the staff responsible for implementing such plans and the time by which the corrective actions will be in place.

*Minimum Standards*—those standards contained in this Chapter which are identified by the acronym "MS" and which define minimally acceptable standards of care for private providers of contracted vocational and habilitative services.

*Monitor/Monitoring Team*—staff employed by the Office for Citizens with Developmental Disabilities who are assigned to evaluate the practices of providers of contracted vocational and habilitative services.

*Quality Indicators*—those standards contained in this Chapter which are identified by the acronym "QI" and which reflect best practices in the area of vocational and habilitative services. When a contracted provider adopts the practices demanded by these standards, the Office for Citizens with Developmental Disabilities recognizes such a provider for excellence in programming.

##### B. Introduction

1. The present standards were developed by a committee composed of a parent representative, provider agencies, and employees of the Office for Citizens with Developmental Disabilities (OCDD). Prior to publication they were distributed for statewide input from provider agencies, OCDD employees, and legally-established OCDD State and Regional Advisory Committees.

2. The purpose of these standards is to establish and maintain high quality, individualized, vocational and habilitative services for persons with developmental disabilities and to offer these individuals choice in the types of services and supports to be rendered.

a. In order to insure the development of an instrument that addressed quality, the committee developed a set of principles on which the standards were to be based and measured against.

b. In addition, the structure of the standards and the procedures for monitoring them have been designed to recognize excellence in program practices, to provide direction for growth and a basis for the provision of technical assistance and training. Both minimum standards and quality indicators are included in the standards document. Agencies pursuing excellence will seek to achieve success on some or all of the quality indicators. The OCDD in turn will recognize such achievement by awarding a higher class certification.

##### C. Monitoring Procedures

1. Application. The standards and monitoring procedures will be applied to all entities contracting with the Office for Citizens with Developmental Disabilities to provide Vocational and Habilitative Services.

2. Minimum Standards and Quality Indicators. Each standard or in some cases portions of standards are preceded

by the letters "MS" for Minimum Standard or "QI" for Quality Indicator. Contractors are expected to comply with all Minimum Standards (MS) and compliance with them will be measured at every formal monitoring visit. Agencies that wish to demonstrate excellence will identify the Quality Indicators (QI) they are pursuing and be prepared to provide evidence of compliance.

### 3. Frequency of Monitoring

a. In general, each contractor will be formally monitored by OCDD Regional staff for compliance with these standards on an annual basis. When a contractor has demonstrated a high degree of excellence during a monitoring visit (see "Rating System," §101.C.5.b.i.), the annual monitoring requirement will be waived for a one-year period.

b. Regional staff may make aperiodic, informal visits to the program site where the need for technical assistance may be assessed. Such informal visits will not be considered part of a formal monitoring procedure and consequently, will not result in a request for a corrective action plan. However, observations which are made on such visits may be documented as evidence to be cited at the time of the formal, annual monitoring visit. If in the course of an informal visit, a serious condition which endangers the health and/or safety of a consumer is detected, proper authorities, including the Department of Social Services, Bureau of Licensing and Certification, will be notified and action taken to remove the threat.

### 4. Procedures

a. The OCDD monitor(s) will evaluate compliance with Minimum Standards based on their reviews of agency policies and procedures, observation of the overall program, staff and consumer interviews, review of a predetermined sample of records based on the number of people served and other review techniques identified by the OCDD.

b. Quality Indicators will be monitored only upon the request of the contracted agency. The agency must identify specific indicators to be measured and provide documentation of success. The monitor will consider such evidence and make independent observations of program practices to verify compliance.

c. Immediately following completion of a monitoring survey the monitor/monitoring team will conduct an exit interview with the provider agency. At the exit interview an exit report will be issued which identifies deficiencies noted. Should the provider agency and the monitor disagree about particular findings, every attempt should be made to resolve the issues prior to the issuance of a confirmation report. The confirmation report will describe overall impressions of the program, particularly positive aspects, and will have the exit report attached. It will be issued within five working days of the exit interview. The agency monitored is responsible for submitting a Corrective Action Plan to the OCDD Regional Office within 10 working days after the postmarked date of the confirmation report.

5. Criteria for Certification. Upon publication of the final rule establishing these standards (July 20, 1995), provider agencies will be given one full year to modify current

practices or implement the new practices the minimum standards demand. One monitoring visit will occur during this period, the purpose of which will be to identify areas in need of change. Beginning on July 20, 1996, provider agencies will be expected to comply with all minimum standards.

a. In order to achieve full certification there must be evidence of compliance with all minimum standards. Where a standard demands review of individual consumer records, 85 per cent compliance must be demonstrated within each standard.

b. Contractors who achieve full certification and who adopt practices consonant with the Quality Indicators will be awarded full certification with "Stars of Excellence." The greater the number of Quality Indicators which have been adopted, the greater the rating of the program:

#### i. Rating System

NUMBER OF QUALITY INDICATORS ADOPTED	DESCRIPTION	RATING
15 +	Three Star Program	Superior
14 - 6	Two Star Program	Outstanding
5 - 1	One Star Program	Exceeds Expectations

ii. When an agency receives one of the above ratings, a certificate will be issued noting such and monitoring against program standards will be waived for a one-year period.

c. Provisional Certification. Provisional certification will be awarded to programs achieving 72 - 84 percent compliance. Such programs will be expected to correct deficiencies within a specified time period (no longer than three months) and achieve full certification.

#### d. Termination Notice

i. Programs that do not meet the criteria for provisional certification or that have failed to achieve full certification three months after receiving a provisional certificate will be issued a notice of intent to terminate the contractual agreement between the provider agency and the OCDD.

ii. The OCDD may withdraw a termination notice, if within the 30 calendar days following receipt of the notice the provider agency complies with or has taken significant steps towards complying with the requirements.

iii. Payment for services provided will continue during the 30 day period, except that they may be prorated depending on the number of individuals receiving services.

iv. In the event that a violation poses an immediate and serious threat to the health or safety of the consumers, the OCDD will notify the Department of Social Services, Bureau of Licensing and Certification and notify the Contractor of the intent to temporarily terminate service provision and payments. The provider agency receiving such notice shall not accept additional consumers for services during such a period.

e. Other conditions under which certification may be denied, are as follows:

i. failure of an agency or an authorized agent of the agency to comply with requests for information regarding these standards;

ii. a knowing provision of false or misleading information to the OCDD;

iii. refusal by on-premise personnel to admit any duly authorized employee of the DHH for the purpose of inspection of the program or its records; or,

iv. any reported abuse or neglect of consumers involving program personnel which has been substantiated by appropriate authorities, the circumstances of which have not been corrected as determined by DHH.

#### 6. Administrative Hearings

a. Findings may be grieved under two circumstances:

i. when a provisional certification has been issued and the monitor/monitoring team and provider agency disagree as to whether the corrective actions taken are sufficient or complete, and

ii. when a notice of intent to terminate a contract has been issued and the provider disagrees with the findings leading to such action.

b. All grievances must be submitted by the provider agency in writing to the Community Services Regional Administrator (CSRM) in the contracting region within 30 calendar days of receipt of the written certification report.

c. When a corrective action plan or its implementation is found to be inadequate, the provider agency may grieve specific findings on specific standards to the CSRM, who is ultimately responsible for resolving such issues. Such a grievance must demonstrate that specific findings were made in error or provide positive evidence that the deficiency was, in fact, corrected. The CSRM will issue her/his decision within 20 working days of receipt of the written request for an administrative hearing.

d. When a provider agency receives a notice of intent to terminate a contract, and wishes to grieve such, three levels within the grievance process are available.

i. The first level grievance must be made to the CSRM. The CSRM will issue her/his decision within 20 working days of receipt of the written request for an administrative hearing.

ii. Should the CSRM uphold the findings of the monitoring team, a second level request for an administrative hearing may be made to the Assistant Secretary of the OCDD. A hearing will be held within 20 working days of receipt of the request and a written ruling issued within 15 working days of the hearing. The contractor is responsible for providing evidence to the Assistant Secretary that demonstrates the decision to terminate was made in error.

iii. A final request for an administrative hearing may be made to the Secretary of the DHH. The same process used at the Assistant Secretary level applies in this case, however, the Secretary's ruling is not due until 20 working days have elapsed, and it is final.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28.380 through 444.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Mental Retardation/Developmental Disabilities, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

## §103. Guiding Principles

### A. Introduction

1. The OCDD holds that the provision of services should be based on the principles of sharing ordinary places, developing meaningful relationships, learning things that are useful, making choices, as well as increasing the status and enhancing the reputation of people served.

2. It is critical that these guiding principles be incorporated into the provision of work and work-related services.

### B. Sharing Ordinary Places

1. Sharing ordinary places recognizes that when individuals with developmental disabilities participate in the daily life of their local community there are reciprocal gains for both parties. One goal, then, of Vocational and Habilitative Services is to provide opportunities and needed supports for learning and working in the community, side-by-side with people from all walks of life.

2. In expanding the principle of sharing ordinary places, it is also desirable that new skills be taught in those ordinary places that follow the usual pattern, duration and rhythm of life in the community. This means that skills are taught at the time of day at which they would ordinarily occur and for about as long as usual and as frequently. For example, if teaching the use of a telephone, an operating telephone would be used to call for a taxi when transportation is actually needed, or perhaps, to call out to order lunch or request a bus schedule.

C. Developing meaningful relationships. As a basic human trait, we rely on relationships with other people throughout our lives for friendship and support. These relationships are formed within our families, with neighbors, at work and church, where we shop and in many other places. In the delivery of services it is important that these relationships be supported and that, if desired, opportunities be created to form other relationships. These supports should be provided in sensitive, unobtrusive ways. The community offers a broad array of opportunities to meet and choose new friends.

### D. Learning Useful Things

1. The utility of what we learn is broadly defined by the demands of life in our communities. But within this context, we make many choices, i.e., who to live with, the kind of work we want to do, what we do for fun, etc. The usefulness of what we learn, then, is defined not only by our ability to do certain, expected things, but also by our own choices. It is critical that individuals with developmental disabilities be given a voice in determining what they wish to learn.

2. Vocational and Habilitative Programs should teach skills that allow for full participation in the work/activities a person has chosen. The methods selected for training should reflect the chronological age of the consumer and be outcome oriented, rather than focused on a process.

### E. Making Choices

1. When decisions are made that affect the lives of people, the choices of those people must be of predominate concern. Individual program design and implementation must reflect the choices and preferences of the consumer in the decision-making process.



2. To insure that choices made are relevant and workable, the Vocational and Habilitative agency must provide individuals with the information they need and opportunities to learn and use decision-making skills. A committed agency will support the development of communication skills and modes of self-advocacy skills.

#### F. Increasing Status and Enhancing Reputation

1. Webster defines status and reputation in terms of the esteem in which a person is held by a community. Status and reputation are important, not only in how we are seen by the community, but also in the how we view ourselves within that community. It is critical then, that the activities undertaken in Vocational and Habilitative programs promote dignity, respect and a sense of self-worth. This is particularly true in the case of individuals with developmental disabilities as, traditionally, they have been segregated from the general population and thus, viewed as less valued members of the community.

2. To promote a sense of self-worth, activities in which consumers are involved should be ones that are valued by the community at large. Consideration should be given to the values of the community in terms of the types of work made available to consumers. It is imperative that respectful language be used when communicating with consumers and "people first" language when referring to them. In the same vein, activities, materials, training methods should enhance the value of the individual, reflecting his/her chronological age and should in no circumstances be child-like.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28.380 through 444.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Mental Retardation/Developmental Disabilities, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

### §105. Administrative Standards

#### A. Governing Body

1. (MS) The agency shall adopt and implement a policy stating that no member of the immediate family of the governing body of the agency shall be an employee of, consultant to, independent contractor with or perform paid work for the agency. "Immediate family" means children, the spouses of his/her children, brothers, sister, parents, spouse and the parents of the spouse.

2. (MS) Members of the governing body are responsible for accessing orientation training regarding the guiding principles enumerated in §103 of this Chapter, services to persons with developmental disabilities, information about the programs being offered, and available funding sources.

3. (QI) The membership of the governing body should reflect the community in which the agency operates ethnically and geographically.

4. (QI) The membership of the governing body should be representative of the community and include persons with disabilities and/or families of persons with disabilities.

5. (QI) The governing body should include consumers of services.

6. (QI) Supports shall be offered and provided to consumers and family members on the governing body to

insure their active participation during the meeting.

7. (MS) The governing body or its executive committee shall meet at least quarterly, and more often as needed.

8. (QI) The governing body is comprised of people who have been elected by the general membership and/or nominated by families of consumers or a nominating committee composed of consumers, other board members, and families of consumers.

9. (MS) The governing body shall ensure that the program has developed and implemented long-range goals consonant with the Guiding Principles enumerated in §103 of this Chapter.

10. (MS) The long-range goals and the plans for implementation shall be reviewed at least annually by the governing body.

11. (MS) The governing body shall review the outcome of the annual self-evaluation required by Department of Social Services, Bureau of Licensing and Certification, any resulting recommendations, and note such in its minutes.

12. (MS) The governing body shall consist of at least five members.

#### B. Community Relations

1. (MS) Each agency shall develop cooperative agreements and working relationships with vocational programs offering similar services and operating in or near the agency's service delivery area. Agreements shall identify a mutual referral process, shall address access to employment and alternatives to employment for the persons served.

2. (MS) Provider agencies shall use a variety of community-based generic resources to meet the needs of the individuals served and to avoid duplication of services.

3. (QI) In an effort to become an integral part of the local business community, provider agencies and/or staff should belong to and participate in civic organizations.

4. (MS) The agency shall develop and use resources for technical assistance and training.

5. (QI) The agency and/or key staff should belong to professional organizations related to the provision of services.

6. (QI) Agencies shall cooperate with existing consumer, family support, and advocacy organizations.

7. (MS) The agency may make use of volunteers in any area where such utilization will directly or indirectly enhance opportunities for the personal development of consumers. All volunteers shall receive appropriate training and be supervised by qualified mental retardation professionals. Interns and students assigned for formal work experience, and other volunteers, who are registered and have formal duty assignments, are encouraged to participate in the program but are not to be used as substitutes for staff.

#### C. Fiscal

1. (MS) The agency shall use of a variety of fiscal resources: Louisiana Rehabilitation Services (LRS) and Home and Community-Based Waiver funds shall be used for activities which can appropriately be funded by those sources.

2. (QI) The agency shall access work incentives offered through Social and/or Supplemental Security. Plan for Achieving Self-Support (PASS) and Impairment Related Work



Expenses (IRWE) should be used for activities which can be funded by those sources, unless such use is not in the best financial interest of an individual consumer.

3. (QI) The agency shall apply for competitive funding, such as, public and private grants, and foundation funding.

#### D. Rights

1. (MS) The agency shall have policies and procedures which include statements that a participant has all rights afforded to citizens of the United States, the rights enumerated in R.S. 28:380 through 444, the MR/DD Law, as they apply, and in particular, the following rights:

a. receive services without regard to race, color, religion, sex, marital status, national origin, sexual orientation, age, or disability; (Restrictions based on OCDD's eligibility requirements are not prohibited.)

b. a program orientation;

c. privacy;

d. freely communicate choices, preferences, satisfaction;

e. protection from exploitation when engaged in training and productive work;

f. legal representative through referral to an advocacy organization or at their own expense; and

g. freedom from neglect and abuse.

2. (MS) The agency shall comply with the requirements of the Americans with Disabilities Act as they apply to the organization. (A lack of findings on the part of the OCDD with regard to this standard in no way implies that the OCDD has made a legal determination that the agency is in compliance with the provisions of the ADA.)

3. (MS) The majority of the members of the Human Rights Committee is external to the agency.

#### E. Confidentiality

1. (MS) The agency shall implement and have written policies and procedures regarding release of information. The policies and procedures shall require that the release form shall:

a. specify the name of the person or agency to whom the information is released;

b. describe the information to be released;

c. specify the purpose for the release of information;

d. specify the length of time for which the release is valid, not to exceed one year; and

e. include the date and signature of the consumer or his/her representative. The signature of a witness must be obtained, when such signature is required.

2. (MS) The agency shall have a policy which defines who has access to consumer records.

3. (MS) The agency shall maintain a record of all persons, including staff, who have accessed information from consumers records.

#### F. Informed Consent

1. (MS) The agency's policies and procedures and/or employee handbook shall include provisions pertaining to informed consent. Informed consent is the knowing consent of an individual or his/her legally authorized representative, so situated to be able to exercise free power of choice without

undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion. The basic elements of information necessary for informed consent include the following:

a. a fair explanation of the services to be provided and their purposes;

b. a description of any risks which may possibly exist;

c. a description of any benefits reasonably to be expected;

d. a disclosure of any appropriate alternative services that might be advantageous for the consumer; and

e. an offer to answer any inquiries concerning services.

2. (MS) The conditions under which a consumer must be provided informed consent must be described in the Policy Manual and must include, at a minimum, admission, discharge, Interdisciplinary Team meetings, and any other time that a significant change to the Individualized Program Plan is made.

#### G. Legal Status

1. (MS) The agency shall make reasonable efforts to determine the legal status of applicants as well as any changes in such status of applicants or current consumers (i.e., full interdiction, partial interdiction, continuing tutorship, competent major).

2. (MS) In the event that a restrictive legal action has been filed on behalf of an applicant or current consumer, the responsible individual shall be informed of the need to provide a copy of the legal document or an affidavit to that effect to the agency.

#### H. Personnel

1. (MS) The organization does not discriminate with regard to employment, promotion, pay or place of work because of race, sex, creed, national origin, disability or age.

2. (MS) The agency has an authorized procedure for suspension or dismissal of an employee for cause. This policy assures firm disciplinary action for employee behaviors which include, but are not necessarily limited to, abuse and neglect.

3. (MS) The immediate director of the employment/work program shall hold a bachelor's degree and have at least one year's experience in accessing employment opportunities for persons with developmental disabilities. This standard applies to employees hired on or after July 20, 1995.

4. (MS) Where certification or licensing standards exist for professional staff or consultants, these individuals shall possess up-to-date certifications and/or licenses.

#### I. Admissions

1. (MS) Within 30 days of admission, the agency will submit written information to the OCDD about each consumer to receive funding under the OCDD contract, including:

a. the OCDD Client Registration Form;

b. the proposed type of service to be delivered, i.e., mobile crew, individual job, enclave or facility-based services;

c. a statement that there is a vacancy and that with this admission the number of consumers to be served does not exceed the maximum number under the contractual agreement.

2. (MS) the agency must insure that the following criteria

are met prior to admitting any consumer whose services will be funded by the OCDD:

- a. the consumer must be 22 years old or older; and
- b. there must be a diagnosis of mental retardation or some other developmental disability made in accordance with the MR/DD State Law.

#### J. Discharge

1. (QI) Involuntary discharges shall be reviewed by the human rights committee within 30 days after discharge. The agency shall respond to the recommendations of the committee by either following such recommendations or providing reason why not.

2. (MS) The provider shall inform the OCDD of any plans to discharge consumers at least 15 calendar days prior to the planned discharge.

#### K. Grievances

1. (MS) The agency shall develop policies and procedures which are consonant with the grievance requirements contained or referenced in the contract between the agency and the OCDD and include time lines for each step.

2. (MS) The agency shall inform consumers in writing of the reasons for actions taken and provide the opportunity to meet with staff to resolve any issues.

3. (QI) Prior to appeal to the governing body, the grievance procedure shall include a review of the issues incorporating input from an independent, nonpartisan person(s). Recommendations resulting from the review will be submitted to the governing body.

L. Behavior Modification. There is a need to differentiate between the normal, day to day consequences to behavior and the consequences dictated in behavior management programs. In the course of a day, positive, effective approaches which respect the dignity and reputation of individuals are used to address mild departures from expected behaviors. No formal behavior management plan is needed to use these approaches. Behavior management programs are necessary when the frequency and intensity of a behavior demands a more formal, systematic approach to insure that all relevant staff understand the program and are able to apply it appropriately.

1. (MS) The agency has written policies and procedures for behavior management which:

- a. prohibit corporal punishment, chemical restraints, psychological abuse, verbal abuse, seclusion, forced exercise, mechanical restraints, and any procedure which denies food, drink, or use of rest room facilities. The exception is that per Department of Social Services, Bureau of Licensing and Certification mechanical restraints may be used on a temporary basis to safeguard against self-injurious behaviors when the agency's policy allows for such;

- b. define the use of behavior modification programs, define mechanisms which authorize their use, and provide for the monitoring and control of their use;

- c. define the use of restraint, define mechanisms which authorize their use, and provide for the monitoring and controlling of their use;

- d. indicate that passive/physical restraint may be used

only after other, less restrictive interventions/strategies have failed;

- e. cover any behavioral emergency and provide documentation of the event in incident report format.

2. (MS) The agency shall inform the individual (and his/her legally-appointed guardian) of behavior management policy and procedures prior to the time that a behavior management plan is developed so that the individual can participate fully in the development of the plan.

3. (MS) The decision to implement a behavior management plan shall be made by an interdisciplinary team.

4. (MS) Behavior management plans must be:

- a. reviewed by the agency administrator, (or her/his qualified designee); and

- b. if the plan includes any form of punishment, it must be reviewed and approved by a specifically constituted Human Rights Committee.

5. (QI) To insure that individual's rights are not abridged, the Human Rights Committee shall review each behavior management plan prior to implementation and at least semi-annually.

6. (MS) The behavior management plan shall:

- a. be developed by the Individualized Program Plan Committee in conjunction with a qualified professional (A "qualified professional" must have at least a bachelor's degree in psychology or a master's degree in counseling, social work, rehabilitation, special education or human relations and specific training in learning theory/techniques of behavior management.); and

- b. be based on a written functional analysis of the behavior which is defined as:

- i. a clear, measurable description of the behavior to include frequency, duration, intensity and severity of the behavior;
- ii. a clear description of the need to alter behavior;
- iii. an assessment of the meaning of the behavior, which includes the possibility that the behavior is:

- (a). an effort to communicate;
- (b). the result of medical conditions;
- (c). the result of environmental causes; or
- (d). the result of other factors; and

- c. be written to address specific targeted behaviors, be time-limited, and clearly state the responses to be used by staff; and

- d. emphasize the development of the functional alternative behavior and positive approaches and positive behavior intervention; and

- e. use the least intervention possible; and

- f. be evaluated by the service provider through review of specific data on the progress and effectiveness of the procedures on a periodic basis; and

- g. be incorporated into the Individual Habilitation Plan.

7. (MS) Information regarding the behavior program shall be maintained in the Client Record and shall include the following:

- a. documentation that the individual (and her/his legally-appointed guardian) and the Interdisciplinary team are informed of and consent to the program; and

b. documentation that all staff engaged in the implementation of the plan have received training pertinent to the plan; and

c. documentation that any prior behavior management plans used since admission or in the last five years, whichever is least, to develop an alternative behavior were taken into consideration in the development of a new plan (A file of these plans must be maintained in the consumer record.); and

d. a description of the conditions which precede the behavior in question; and

e. a description of what appears to reinforce and maintain the behavior; and

f. a clear, measurable and positive procedure which will be used to alter the behavior and develop the functional alternative behavior.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28.380 through 444.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Mental Retardation/Developmental Disabilities, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

### **§107. Programmatic Standards**

#### **A. Programming Guidelines**

1. (MS) In its planning processes, service provision and daily routines, the agency shall:

a. provide on-going opportunities for each consumer to exercise self-determination and freedom of choice to the fullest of his/her ability in his/her work environment along with the training and supports needed to do so.

b. provide the opportunity for each consumer to work in the least restrictive and most normal setting possible.

c. address the opportunity to engage in activities which encourage and maintain the inclusion of the consumer in the community through:

i. promoting social interactions which maximize contact with other citizens in culturally typical settings;

ii. presenting a physical appearance which is appropriate to the chronological ages of the people served and the practices of the surrounding community;

iii. engaging in activities and routines which are appropriate to the consumer's chronological age, occur at appropriate times of the day and follow the practices of the surrounding community;

iv. being addressed in a manner appropriate to the chronological age of the consumer and the practices of the surrounding community;

v. freedom from program practices which produce negative impressions of the individual, i.e., use of techniques or materials which draw undue attention to the consumer.

2. (MS) If/When nonvocational group activities occur in the community, the agency should consider the preferences of the individual served, and promote natural proportions through consideration of the number of people with disabilities who will be in the setting, and the opportunities for interaction with other community members.

3. (QI) Exchanges between consumers and the management, and, when appropriate, representatives of

consumers, should occur at least annually for the purpose of discussing matters of mutual concern. Purposes of such communication should, at the least, include:

a. to solicit input from persons served regarding methods, activities, service delivery and design, etc.

b. to receive suggestions from the persons served and to answer their questions.

c. to inform the persons served concerning relevant aspects of program operations and plans.

d. to enlist the informed cooperation of the persons served to achieve efficient use of resources of the program in the best interests of these persons.

4. (MS) The agency serves consumers with severe and profound disabilities.

#### **B. Assessments**

1. (MS) At a minimum the following persons shall be involved in the vocational assessment and its annual update:

a. the consumer and any representative he/she may authorize;

b. the family or residential provider, unless the consumer objects;

c. the staff person most involved with the consumer.

2. (MS) A work evaluation/assessment is conducted or up-dated annually for each consumer. It includes, but is not limited to:

a. the work interests, preferences and goals of the consumer;

b. the consumer's general and specific work abilities based on reports, screenings, checklists, etc.;

c. a work history;

d. work habits such as punctuality, attendance, etc.

e. the learning style, preferred modalities of the individual;

f. physical and/or medical issues that might limit employment;

g. adaptive equipment or modifications that might increase the likelihood of success;

h. consumer and family attitudes about work;

i. an analysis of family, residential or other supports which might be available for employment;

j. determination of transportation needs;

k. actual benefits the consumer is receiving and potential benefits available to meet the consumer's work needs.

1. (MS) recommendations for work/vocational training are contained in the Individualized Program Plan (IPP) and are based on the outcome of the assessment.

#### **C. Individual Program Plans**

1. (MS) Prior to the IPP meeting the agency must:

a. seek information from the consumer about his/her interests and preferences;

b. solicit the consumer's input about persons he/she would like to attend the meeting;

c. prepare consumers for the meeting by describing the IPP process; and

d. provide information about the choices the consumer will need to make at the meeting.

2. (MS) At a minimum the interdisciplinary team shall be composed of:

- a. the consumer;
- b. member(s) of his/her family, unless the consumer objects;
- c. the staff person most involved with the consumer;
- d. the residential service provider, unless the consumer objects; and
- e. any other representative (friend/advocate) the consumer may select, if that representative agrees.

3. (QI) considering the minimum team members, the number of agency staff attending the IPP may not exceed the number of representatives (family/friends/advocates) selected by the consumer (including the consumer). Paid employees of the service provider are not considered to be "representatives" of the consumer for the purpose of this standard. Other consumers served by the agency may serve in this capacity, if confidentiality is preserved.

4. (QI) in the development of the IPP, the program uses or participates in a person-centered planning process surrounding the vocational needs of the consumer. The process is designed around providing individualized supports and incorporates natural supports.

5. (MS) an individual program plan shall be developed for each consumer with the full participation of that person and shall include the following:

- a. the personal preferences, desires and wants of the consumer;
- b. consideration of the results of the vocational assessment/update, including a description of progress over the past year, and any recommendations;
- c. consideration of the results of any other pertinent assessments/updates, including a statement of the current functioning level as found on the OCDD complexity scale;
- d. a statement of the individual's strengths and preferences;
- e. a review, and, if appropriate, an update of the OCDD complexity scale and the legal status of the consumer.
- f. measurable objectives for acquiring vocationally-related skills which are oriented toward promoting maximum independence and the maximum number of vocational options for the consumer;
- g. measurable objectives regarding placement in supported or competitive employment, or a statement explaining why such employment is not an objective at this time;
- h. measurable objectives for acquiring functional, work-related skills;
- i. a description of community-based activities in which the consumer is or will be involved, whether these activities are the responsibility of the family, the program or some other individual/group;
- j. a statement outlining how the transportation needs of the consumer will be met, whether this is the responsibility of the family, the consumer or the agency;
- k. a description of the generic, community resources which may be used to meet the needs of the consumer, if any;
- l. a statement regarding expected monthly earnings; and (This is provided simply as another descriptor, and is not to be used to measure against actual wages for compliance purposes.)

- m. for each objective:
  - i. training methodologies;
  - ii. persons responsible;
  - iii. projected time frame for completion; and
  - iv. procedures for evaluation of progress toward completion.

#### D. Program Content

1. (MS) The program should provide, arrange or refer the consumer for support and training in employment and when appropriate, in related areas such as:

- a. functional communication skills--e.g. oral, written and nonverbal--needed on the job and in the community;
- b. making choices, contingency planning, problem solving, and decision making regarding their employment, including decisions regarding the development and modification of their program plans;
- c. functional skills as they relate to the workplace;
- d. social skills necessary to maintain employment and function in the community;
- e. mobility and transportation skills necessary to participate fully in the vocational/habilitative program;
- f. safety practices as they relate to life in the community and on the job, for example, dealing with injuries, evacuating during fire drills, and handling emergencies, etc.
- g. self-advocacy training needed to enable consumers to assert their human and civil rights in effective ways;
- h. utilization of community services and resources, as related to work, e.g., restaurants, suppliers, etc.;
- i. interactions in the community with citizens who are not paid care givers or staff.

2. (MS) The agency shall provide or assist in arranging for the transportation of consumers served by the agency to and from service sites when the family is unable to provide it or when other forms of transportation are unavailable or inaccessible.

3. (MS) If the agency restricts the provision of transportation or charges consumers for transportation, the agency has a detailed, written policy describing all restrictions and any conditions under which transportation charges may apply.

E. Work. Standards contained in this part apply as follows: Standards 1 - 3 apply to all providers of contracted vocational and habilitative services; standards 4 - 16 apply in any case where the contracted provider is responsible for generating payments to consumers (They do not apply where a consumer is paid by an external company where he/she is employed.); standards 17- 21 apply if the agency provides supported employment services.

1. (QI) The agency has identified goals with regard to transitioning from facility-based services to community-based employment and there is an annual review of progress in achieving these goals.

2. (MS) The individual who is responsible for the consumer's functioning at the work site (work supervisor, job coach, trainer, crew chiefs, instructors, etc.) is knowledgeable in the adaptations, and training and support techniques needed to insure the continued, successful employment of the consumer.

3. (MS) When the demands of work or other activities are known to affect a consumer's health, the work or activities are changed or modified to reasonably accommodate health concerns. This information is documented in the case record.

4. (MS) Unless an agency pays all working consumers minimum wage, it shall be certified annually by the United States Department of Labor, Wage and Hour Division. (This requirement applies to all agencies with Vocational and Habilitative contracts with the Office for Citizens with Developmental Disabilities and holds whether or not the work performed is covered by the Department of Labor regulations.)

5. (MS) Consumers shall be paid commensurate wages for any work performed. Commensurate wages are determined in accord with the United States Department of Labor's Fair Labor Standards Act. (This requirement holds whether or not the work performed is covered by the Department of Labor regulations.)

6. (MS) The agency prepares a handbook, which is reviewed annually, updated as needed and distributed to all consumers, stating:

- a. the conditions, benefits and responsibilities of the organization and the persons served;
- b. fringe benefits;
- c. wage payment practices;
- d. work rules;
- e. nondiscrimination provisions;
- f. grievance and appeal procedures for consumers;
- g. an explanation of the means used by the organization to preserve human rights and the mechanism by which the person has access to that system;
- h. the availability of community-based job training and placement services.

7. (MS) Wage rates and production norms are reviewed and adjusted whenever the methods of performing a work task are changed. Wage rates are reviewed at least every six months.

8. (MS) Wage payments are based on a system of individual performance rather than pooled and/or group wage payments.

9. (MS) Wage payments are monetary in nature, paid by check in the individual's name and not payments in-kind.

10. (MS) The pay period does not exceed 31 calendar days.

11. (MS) Each person receives a written statement for each pay period indicating gross pay, hours worked, deductions, and net pay.

12. (MS) Wages may not be withheld or delayed for disciplinary reasons or because they are contingent upon subsequent sales or payments to the organization.

13. (MS) All consumers receiving wages are provided with Worker's Compensation Insurance or its equivalent.

14. (QI) All consumers have equal opportunity to use equipment within the provisions of safety standards, production schedules and the physical abilities of the individual. (This applies to facility-based services only.)

15. (MS) Provisions for meeting safety standards apply

uniformly to all persons employed by the agency.

16. (QI) As a part of reasonable accommodation, modified equipment, fixtures, and other techniques are used as necessary to increase the individual's productivity rate.

17. (MS) The agency accesses funding from Louisiana Rehabilitation Services for job development, placement, intensive training, and job modifications and adaptations at the job site.

18. (MS) The resources/supports available from parents, friends, co-workers, guardians, advocates, case managers, residential providers (i.e. supported living, SFC parents) and others, as determined by the consumer are considered in the coordination of supported employment services.

19. (MS) There are provisions for extended services which include:

- a. a minimum of two visits per month at the job site to assess the individual's job performance both by direct observation and discussion with the consumer's co-workers and supervisors. In the case where the consumer and/or the job coach believes it is more appropriate to meet the consumer off the job site to assess the employment situation, the job coach must still contact the employment site to assess job performance;
- b. periodic retraining;
- c. job modifications needed to maintain employment, when not available through LRS; and
- d. provision or identification of other supports needed to maintain employment.

20. (MS) When an Interdisciplinary Team determines that formal (agency-provided) extended services are not necessary for the continued maintenance of a consumer's employment, the agency shall:

- a. initiate separation from OCDD services per the discharge policy;
- b. provide a written description of the employer and/or generic supports that are available to the individual.

21. (MS) A separation report is completed when a person receiving agency provided extended services leaves any community job. The report documents:

- a. date of separation;
- b. reason(s) for separation; and
- c. recommendations for future employment or other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28.380 through 444.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Mental Retardation/Developmental Disabilities, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

Rose V. Forrest  
Secretary

9507#069

## RULE

### Department of Health and Hospitals Office for Citizens with Developmental Disabilities

#### Medication Attendant Certification (LAC 48:IX.Chapter 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopts the rules pursuant to R.S. 37:1021-1025, as amended, for the purpose of training and certifying unlicensed personnel to administer certain medications to residents of intermediate care facilities for the mentally retarded and community homes for the mentally retarded funded through the Department of Health and Hospitals and individuals in programs/agencies contracting for services with DHH except as prohibited in LAC 48:IX.911.B.5.

#### Title 48

#### PUBLIC HEALTH - GENERAL

#### Part IX. Mental Retardation/Developmental Disabilities Services

#### Chapter 9. Guidelines for Certification of Medication Attendant

#### §901. Overview

A. R.S. 37:1021-1025 authorizes the establishment of a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for the mentally retarded (ICFs/MR) and community homes for the mentally retarded either operated by the Office for Citizens with Developmental Disabilities (OCCD) or funded through the Department of Health and Hospitals (DHH); and to individuals in programs/agencies contracting for services with DHH except as prohibited in §911.B.5. Persons who successfully complete the medication administration course and demonstrate an acceptable level of competency on a written test and a practical examination are eligible for certification as medication attendants. Use of certified medication attendants (CMAs) on the part of private providers that contract with DHH is strictly voluntary.

B. The guidelines establish:

1. qualifications for instructors and CMA applicants;
2. authorized functions and prohibitions of certified medication attendants;
3. certified medication attendant 60-hour course curriculum;
4. requirements for initial certification and ongoing recertification of medication attendants and reciprocity;
5. decertification and appeal process;
6. provider responsibilities;
7. role and responsibilities of the Office for Citizens with Developmental Disabilities;
8. composition and role of Certified Medication Administration Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

#### §903. Definitions

For the purpose of these CMA guidelines, the following definitions shall apply:

#### *Abuse*—

a. the infliction of physical or mental injury; or  
b. causing deterioration to such an extent that the consumer's health, morale, and/or emotional well-being is endangered. Cause of such deterioration may include but is not limited to the following:

- i. sexual abuse;
- ii. exploitation;
- iii. extortion of funds or other things of value.

*CMA Applicant*—an employee of a provider agency who is enrolled in the 60-hour course curriculum.

*Certified Instructor*—a registered nurse (RN), with a minimum of one year experience working with the developmentally disabled, who has completed the training for instructors, and has been certified by the office to teach the 60-hour medication administration course.

*Certified Medication Attendant (CMA)*—the designation given an employee who has successfully completed the 60-hour course and passed the OCDD initial certification exam and has been issued a certificate by the office.

*Community Home*—a small community based intermediate care facility for the mentally retarded.

*Cruelty to the Infirm*—the intentional or criminally negligent mistreatment or neglect whereby unjustifiable pain or suffering is caused to the infirmed, disabled adult who is a resident of a mental retardation facility.

*Department*—the Department of Health and Hospitals (DHH).

*Developmental Center*—a state ICF/MR operated by the Office for Citizens with Developmental Disabilities.

*Falsification of Consumer Medical Records*—includes, but is not limited to, falsification of time, dosage, date, amount, and documentation of prescribed treatment that did not occur.

*Falsification or Alteration of CMA Certificate*—includes, but is not limited to, altering expiration date, CMA name, OCDD coordinator's signature, or attempting to use another person's certificate.

*ICF/MR-Intermediate Care Facility for the Mentally Retarded*—a 24-hour residential facility funded through the Department of Health and Hospitals and is either state or privately operated. An ICF/MR can either be a small facility with 15 or less beds or a large facility with 16 or more beds.

*Misappropriation of Resident's Property*—to take possession, without permission, of resident's personal belongings. Misappropriation includes but is not limited to taking the following:

- a. clothing;
- b. jewelry;
- c. money;
- d. electronic equipment such as radios, stereos, video cassette recorders, and televisions.

**Neglect**—the CMA's failure to provide the proper or required medical care, nutrition or other care necessary for a consumer's well-being.

**Office**—the Office for Citizens with Developmental Disabilities (OCDD).

**Regional Office**—the regional office for the Office for Citizens with Developmental Disabilities.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

### **§905. Applicability**

These guidelines shall apply only for certification of medication attendants who are:

1. employed in facilities operated by the Office for Citizens with Developmental Disabilities;
2. employed in community homes for the mentally retarded and/or small or large intermediate care facilities for the mentally retarded funded through the Department of Health and Hospitals;
3. employed in program/agencies, except as prohibited by §911.B.5, contracting with the Department of Health and Hospitals for services to the developmentally disabled.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

### **§907. Qualifications of Applicants to be Medication Attendants**

A. Each person accepted to participate in the medication attendant course shall be:

1. a citizen of the United States and a resident of Louisiana;
2. an employee of a facility operated by the OCDD, an ICF/MR, community home for mentally retarded, program or agency, except as prohibited by §911.B.5, funded through the Department of Health and Hospitals;
3. at least 18 years of age;
4. able to read, write, and comprehend the English language;
5. free of communicable diseases as documented by a current physician's statement;
6. have no known record or history of:
  - a. alcohol or drug abuse *NOTE: Must be in compliance with Americans with Disabilities Act;*
  - b. mental or physical abuse/neglect;
  - c. molestation; or
  - d. conviction of a felony.

B. There will be no discrimination in selection of medication attendants for reason of race, color, creed, religion, disabilities, or national origin.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

### **§909. Qualifications of Instructors for Certified Medication Administration Courses**

A. A registered nurse (RN) with a minimum of one year of clinical experience in a mental retardation setting qualifies as an instructor to teach the 60-hour course consisting of 40 hours classroom theory and 20 hours of clinical practical. The RN may delegate the 20 hours of practical training to a licensed practical nurse (LPN) with a minimum of one year of clinical experience in a mental retardation setting and knowledge of the course.

B. The RN instructor must complete training offered by the office in the curriculum and implementation of the medication attendant administration module prior to teaching the course.

C. The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, may offer the medication administration instructor course on at least an annual basis, or as determined by the Certified Medication Attendant Committee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

### **§911. Authorized and Prohibited Functions of Certified Medication Attendants**

A. Authorized Functions of the Certified Medication Attendant

1. Deliver medications ordered by a physician or dentist to residents for self administration;
2. Deliver and administer medications ordered by a physician or dentist to residents with the supervision of a registered nurse as defined in LAC 46:XLVII.3703.10;
3. Administer oral medications, enemas, douches, ointments, and suppositories unless otherwise indicated;
4. Record in the resident's chart:
  - a. doses delivered to and/or administered to the resident;
  - b. effectiveness of the drug;
  - c. any adverse effect of the drug;
  - d. appropriate vital signs as indicated by the physician order and/or knowledge of the drug;
  - e. may transfer prescribed medication information to Medication Administration Record (MAR). Pharmacy transfer label may be used;
5. Administer pro re nata "PRN", as needed, medications when authorized by a licensed physician, dentist, or registered nurse. This authorization must be documented in writing within 24 hours.

B. Prohibited Functions of the Certified Medication Attendant

1. May not give medications by intramuscular, intravenous, subcutaneous or tube (gastro/NG) routes;
2. May not administer medications by the oral inhalant aerosol route unless administering a premeasured dosage unit provided by the manufacturer;
3. May not receive or assume responsibility for reducing to writing oral or telephone orders from a physician;



4. May not alter medication dosages as delivered from the pharmacy unless authorized by a physician or dentist;

5. May not administer medications in an acute care unit funded by DHH and/or operated by the OCDD;

6. May not administer any medications when there is indication that the medication has been inappropriately dispensed by the pharmacist or mishandled by other individuals.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

### §913. Certified Medication Attendant Course Curriculum

Each applicant must complete a 60-hour course to become a certified medication attendant. The course curriculum is:

1. 40 hours of classroom theory to include at a minimum, instruction in the following topics:

- a. legal aspects;
- b. roles and responsibilities of drug administration;
- c. definitions;
- d. terminology;
- e. classification of drugs;
- f. measurement;
- g. identification;
- h. effects and side effects;
- i. distribution and route;
- j. care and handling of drugs;
- k. skills-tasks to be completed for competency;
- l. documentation.

2. Twenty hours practical which may consist of 10 hours of classroom demonstration and 10 hours on the unit for hands on experience. The applicant must attain proficiency in the following 25 skill areas, either by actual demonstration, or by verbally demonstrating to the satisfaction of the licensed nurse:

- a. hand washing;
- b. oral medications;
- c. liquid medications;
- d. topical medications;
- e. eye medications;
- f. ear drops;
- g. nose drops;
- h. rectal suppositories;
- i. vaginal suppositories/cream;
- j. disposable enemas;
- k. disposable douches;
- l. counting pulse;
- m. counting respirations;
- n. taking blood pressure;
- o. taking oral temperature;
- p. taking rectal temperature;
- q. taking axillary temperature
- r. premeasured transdermal patches;
- s. nasal atomizer;
- t. oral powdered medications;
- u. charting;
- v. crushing tablets;
- w. rectal creams;

x. premeasured dosage unit provided by the manufacturer of an oral aerosol inhalant;

y. limited sublingual medications.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

### §915. Certification Requirements and Process

CMA certification is valid for one year. Annual recertification requirements must be met to maintain certification.

1. The agency administrator/representative must complete Form CMA - 1, Profile Sheet, for each employee CMA applicant, acknowledging that all the qualifications outlined in §907 are met prior to the applicant attending the course.

2. The CMA applicant must complete the 60-hour course; 40 hours of classroom theory, and 20 hours of practical with 10 hours conducted in the work place.

3. The CMA applicant must demonstrate proficiency in the 25 skill areas to pass the practical portion of the course. A RN or LPN must administer the practical. Proficiency may be either verbal or physical demonstration. A pass/fail grade shall apply.

4. After completion of the 60-hour course, the CMA instructor completes Form CMA - 2, Initial Exam and Certification Request, and sends it to the regional office or the developmental center coordinator to request applicant(s) be scheduled for the written OCDD CMA certification exam. Form CMA - 2, must be attached to the Form CMA - 1, Profile Sheet for each applicant.

5. The regional office or the developmental center coordinator will:

- a. establish a test date;
- b. notify the central office coordinator to mail the exam to the regional office/developmental center coordinator. The exam consists of 50 questions at two points each for a total possible score of 100 points;
- c. administer the test;
- d. return test(s) to the central office coordinator for grading and scoring;
- e. notify CMA instructors as to applicants' scores;
- f. assist CMA instructors regarding any questions.

6. The central office coordinator will:

- a. grade each test and determine test score:
  - i. a test score of 80 is required to pass the exam;
  - ii. a test score between 70 and 78 allows the test to be retaken once without repeating the course;
  - iii. a test score below 70 requires a repeat of the entire 60-hour course.
- b. send the regional office/developmental center coordinator the exam scores.

7. Upon passing the OCDD CMA certification exam, the applicant is designated as a CMA.

8. The central office coordinator will issue two certificates; one for the CMA, and one for the requesting provider agency.



9. The certificate shall include at least the following:

- a. name of CMA;
- b. expiration date;
- c. signature of central office coordinator.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

#### **§917. Re-certification Requirements and Process**

A. Annual Requirements. On an annual basis each CMA must be recertified. The requirements for re-certification are:

1. completion of a total of nine hours of inservice training, two of which directly relate to the agency's medication administration policy and procedure. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two hours training on medication administration policy and procedure IS REQUIRED PER AGENCY EMPLOYED AS A CMA. Each agency must have documentation of each CMA(s) required nine hours of inservice training.

2. pass with proficiency, either by physical or verbal demonstration, the 25 skills on the practical checklist.

B. Upon successful completion of these requirements the CMA instructor sends Form CMA 3a. and Form CMA 3b. to the regional office/ developmental center coordinator requesting re-certification of each CMA. The regional office/ developmental center coordinator forwards information to the central office coordinator.

C. The central office coordinator issues two certificates to the regional office/developmental center coordinator for dissemination. One certificate is for the CMA and the other is for the requesting provider agency.

D. This process must be repeated annually, prior to the month of expiration of the CMA's certification.

E. A CMA who has not worked directly with medication administration in a facility, program, or agency for the mentally retarded for 12 months or more must repeat the 60-hour course and pass the OCDD CMA certification exam prior to being re-certified.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

#### **§919. Decertification of Medication Attendants**

A. Decertification shall occur under the following conditions:

1. falsification of consumer medical records as defined in these regulations;
2. found guilty of abuse, neglect or cruelty to the affirmed as defined in these regulations;
3. found guilty of misappropriation of a resident's property as defined in these regulations;
4. falsification or alteration of CMA certificate issued by the office as defined in these regulations;
5. falsification of CMA qualifications;
6. failure to meet CMA qualifications;

B. Decertification may occur under the following conditions:

1. failure of CMA to obtain annual re-certification requirements. The CMA may be reinstated if the recertification requirements are met within six months of expiration of the certificate. During this six month period the CMA's authorized functions shall be suspended;

2. unsatisfactory performance of CMA reported by a licensed nurse, either RN or LPN, can result in either a temporary suspension of the CMA's medication administration privileges or decertification. The RN may choose to suspend CMA medication administration privileges not to exceed three months and provide training during which time the CMA may administer medications only under RN or LPN direct observation. After completion of designated suspension and training, the RN reserves the right to re-instate medication administration privileges or decertify the CMA. If decertified, the CMA must repeat the 60-hour course and retake the OCDD CMA certification exam. The suspension of CMA medication administration privileges DOES NOT EFFECT THE EXPIRATION DATE OF THE CERTIFICATION.

C. Based on the aforementioned criteria, the RN in consultation with the agency administrator makes the decision to decertify the CMA.

D. The RN/CMA instructor sends a confidential letter and Form CMA 4 - Decertification Form to both the CMA and the central office coordinator identifying the reasons for decertification of the individual.

E. A copy of the decertification letter and Form CMA 4 along with pertinent documentation is maintained in the provider's records.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1021-1025.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

#### **§921. Appeal Process**

A. A CMA who has had privileges suspended or has been decertified has the right of appeal.

B. Notice of Violations. When there are substantiated charges against the CMA, either through oral or written evidence, the OCDD will notify the individual(s) implicated in the investigation of the following information by certified mail:

1. the nature of the violations, and the time and date of each occurrence;
2. the state's intent to report these violations to the CMA registry; and
3. The right to request an informal discussion and/or the right to an administrative hearing.

C. Right To An Informal Discussion. When a CMA feels that he/she has been wrongly accused, the following procedure should be followed:

1. Within 15 calendar days of the receipt of the office's notice of violation, the CMA may request an informal discussion.

2. Such request must be made to the office in writing. A meeting will be arranged within 20 days of such a

request. The informal discussion is designed to provide an opportunity for:

- a. the CMA to informally review the situation;
- b. the agency to offer alternatives based on corrections or clarifications, if any; and
- c. the CMA to evaluate the necessity for seeking an administrative hearing;

3. During this informal discussion, the CMA will be afforded the opportunity to talk with office personnel involved in the situation, to review pertinent documents on which the alleged violation is based, to ask questions, to seek clarifications, and to provide additional information.

#### D. Right To Request Administrative Hearing

1. Within 30 calendar days after the receipt of notice of the office's notice of violation or the notice of results of informal discussion, the CMA may request an administrative hearing. Such request must be in writing to the Office of the Secretary, Attention: Bureau of Appeals. The request must contain a statement setting forth the specific charges with which he/she disagrees, and the reasons for this disagreement.

2. Unless a timely and proper request is received by the appeals section, the findings of the OCDD shall be considered a final and binding administrative determination. Notification will then be entered to the CMA registry.

E. Basic Provisions. The administrative hearing shall be conducted in accordance with the Louisiana Administrative Procedure Act, R.S. 49:965 et seq., and the provisions set forth in the procedures described therein.

F. Right To Counsel. Any party may appear and be heard at any appeals proceeding through an attorney at law or through a designated representative.

#### G. Appearance In Representative Capacity

1. A person appearing in a representative capacity shall file a written notice of appearance on behalf of a provider:

- a. identifying himself by name, address and telephone number; and
- b. identifying the party represented; and

2. Such person shall have a written authorization to appear on behalf of the provider.

#### H. Preliminary Conference

1. Although not specifically required, the appeals bureau may schedule a preliminary conference. The purposes of the preliminary conference include but are not limited to the following:

- a. clarification, formulations and simplification of issues;
- b. resolution of matters in controversy;
- c. exchange of documents and information;
- d. stipulations of fact so as to avoid unnecessary introduction of evidence at the formal review;
- e. the identification of witnesses; and
- f. such other matters as may aid disposition of the issues.

2. When the appeals bureau schedules a preliminary conference, it shall notify all parties in writing. The notice shall direct any parties and their attorneys to appear at a specified date, time, and place.

#### I. Results of Preliminary Conference

1. Where the preliminary conference resolves all or some matters in controversy, a summary of the findings agreed to at the conference shall be provided by the administrative law judge.

2. Where the preliminary conference does not resolve all matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference, or at a time mutually convenient to all parties.

J. Notice of Administrative Hearing. When an administrative hearing is scheduled, the appeals bureau shall notify the CMA and/or his representative and the office representative, in writing of the date, time and place of the hearing. Notice shall be mailed not less than 10 calendar days before the scheduled date of the hearing.

#### K. Conduct of Hearing

1. The hearing shall be conducted by the administrative law judge from the appeals bureau.

2. Testimony shall be taken only on oath, affirmation, or penalty of perjury.

3. Each party shall have the right to call and examine parties and witnesses; to introduce exhibits; to question opposing witnesses and parties on any matter relevant to the issue even though the matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.

4. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil or criminal actions. Documentary evidence may be received in the form of copies or excerpts.

5. The administrative law judge may question any party or witness and may admit any relevant and material evidence.

6. The administrative law judge shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the administrative law judge shall explain the issues and the order in which evidence will be received.

7. A party has the burden of proving whatever facts it must establish to sustain its position.

8. The burden of producing evidence to substantiate the written charge(s) will be on the provider of services. Once the burden of producing evidence to substantiate the charges has been met, the CMA and/or his representative shall have the burden of producing evidence answering the charges.

#### L. Witnesses and Subpoena

1. Each party shall arrange for the presence of their witnesses at the hearing.

2. A subpoena to compel the attendance of a witness may be issued by the administrative law judge upon written request by a party and a showing of the need therefor.

3. A subpoena may be issued by the administrative law judge on his own motion.

4. An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda, or other records shall be made in writing to the administrative law judge, giving the name and address of the person or entity upon whom the subpoena is to be served. The application shall precisely describe the material that is desired to be produced and shall state the materiality thereof to the issue involved in the proceeding. It shall also include a statement that, to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

#### M. Continuance of Further Hearings

1. The administrative law judge may continue a hearing to another time or place, or order a further hearing on his own motion of upon showing of good cause, at the request of any party.

2. Where the administrative law judge determines that additional evidence is necessary for the proper determination of the case, he may at his discretion:

a. continue the hearing to a later date and order the party to produce additional evidence; or

b. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

3. Written notice of the time and place of a continued or further hearing shall be given except that when a continuance of further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to each party present at the hearing.

N. Record of Hearing. A sound recording of the hearing shall be made. A transcript will be prepared and reproduced at the request of a party to the hearing provided he bears the cost of the copy of the transcript.

#### O. Decision

1. At the conclusion of the hearing, the administrative law judge shall take the matter under submission.

2. The administrative law judge shall prepare a written proposed decision which will contain findings of fact, a determination of the issues presented, a citation of applicable policy and regulations, and an order.

3. The appeals bureau, on behalf of the secretary of the DHH, may adopt the proposed decision or may reject it based upon the record, or it may be remanded to the administrative law judge to take additional evidence. In the latter case, the administrative law judge thereafter shall submit a new proposed decision.

4. The decision shall be final and binding upon adoption on behalf of the secretary, subject only to judicial review by the courts. Copies of the decision shall be mailed to the CMA at his last known address and to any representative thereof.

#### P. Failure to Appear

1. If a CMA fails to appear at a hearing, a decision may be issued by the appeals bureau dismissing the hearing. A copy of the decision shall be mailed to each party.

2. Any dismissal may be rescinded upon order of the appeals bureau if the CMA makes written application within 10 calendar days after the mailing of the dismissal, and provides evidence of good cause for his failure to appear at the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

#### §923. Reciprocity

A provider whose employee furnishes documentation as to successful completion of an equivalent medication administration course conducted in another state and meets other criteria stated in these guidelines and successfully passes the CMA initial certification exam, may on a case by case basis be granted reciprocity. The provider agency would complete Form CMA - 5, Reciprocity Request, and mail to the central office OCDD coordinator. The Certified Medication Attendant Committee will review the documentation and determine if the individual will be certified as a CMA in Louisiana. If reciprocity is granted, the provider is notified and the central office OCDD coordinator would issue the certificates to the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

#### §925. Provider Responsibility

A. Each provider shall maintain records on each CMA. The records must include:

1. the current monitoring skills checklist required for certification and re-certification;

2. a copy of the current certificate issued to the CMA by the central office coordinator;

3. documentation of annual continuing education necessary for re-certification of CMA.

B. The provider is legally responsible for the level of competency of its personnel and for ensuring that unlicensed staff administering medications have successfully completed the medication administration course curriculum. Additionally, the provider is responsible for maintaining annual re-certification requirements of their CMA's and that their CMA's perform their functions in a safe manner.

C. The provider shall conduct thorough employment checks including verification of CMA certification.

D. The provider is responsible for contacting the central office to verify that a CMA is in good standing prior to employing a CMA certified by another provider. The central office coordinator will send the provider Form CMA - 6 verifying that the CMA is in good standing. Form CMA - 6 must be maintained on file in the providers records. The CMA would be responsible for providing a copy of their certificate to the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

**§927. Office for Citizens with Developmental Disabilities Responsibilities**

The OCDD shall ensure the integrity of the medication administration course by:

1. implementing the CMA Law, R.S. 37:1021-1025;
2. revising guidelines;
3. issuing tests for initial certification of CMAs;
4. maintaining the originals of written examinations with

scoring;

5. maintaining a roster of certified instructors;
6. issuing certificates;
7. offering an instructor's course;
8. chairing the Certified Medication Administration

Committee;

9. verifying CMA's in good standing;
10. maintaining a CMA registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

**§929. The Certified Medication Administration Committee**

A. Composition of Committee as Determined by the Assistant Secretary of OCDD

1. designated CMA instructors;
2. central office coordinator;
3. two OCDD regional managers;
4. two office CMA instructors from the developmental centers;
5. a consumer;
6. other representatives as determined by the office.

B. Responsibilities of the Committee

1. Provide input regarding CMA program aspects such as guidelines, course curriculum, instructor training;
2. Review requests for reciprocity status;
3. Offer assistance to CMA instructors upon request.

**§931. Forms to be Used**

Forms to be used are as follows:

1. *Form CMA - 1* is the profile sheet completed by the provider agency's administrator/representative to attest that all qualifications are met for the CMA applicant to attend the 60-hour medication administration course. This form is given to the CMA instructor.

2. *Form CMA - 2* is the exam request and initial certification request form completed by the CMA instructor and sent to either the regional office or developmental center coordinator to request the office schedule CMA applicant(s) for the OCDD CMA certification exam. Form CMA - 1 must be attached to the CMA - 2 for each CMA applicant to be scheduled for the test. For those applicants that pass the test, the office will send the certificates to the CMA instructors.

3. *Form CMA - 3a. and 3b.* are the re-certification requests completed by the CMA instructor acknowledging that all recertification requirements are met. The CMA instructor sends these forms to the central office coordinator for issuance of certificates.

4. *Form CMA - 4* is the decertification form completed by the CMA instructor identifying the reasons for decertifying the CMA and sent to the central office coordinator. Form CMA - 4 is also sent to the CMA along with a confidential letter. A copy of Form CMA - 4 must be maintained in provider agency records.

5. *Form CMA - 5* is the reciprocity request form the provider agency would complete for employees that furnish documentation of successful completion of an equivalent medication administration course from another state. This form is sent to the central office coordinator for review and determination.

6. *Form CMA - 6* is the form completed by the central office coordinator verifying a CMA is in good standing. This form is sent to provider agencies who employ a CMA in good standing certified by another agency. Form CMA - 6 must be kept on file in the provider records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21: (July 1995).

Rose V. Forrest  
Secretary

9507#068

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
Medical Disclosure Panel**

**Informed Consent—Cervical, Thoracic or Lumbar  
Manipulation/Adjustment; Plastic Surgery  
(LAC 48:I.2347, 2440, 2442)**

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991, and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Louisiana Medical Disclosure Panel, is amending 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. These rules amend and add to those promulgated in December 1992, December 1993, June 1994, August 1994, October 1994, and May 1995.

**Title 48**

**PUBLIC HEALTH**

**Part I. General Administration**

**Chapter 23. Informed Consent**

**§2347. Plastic Surgery**

\* \* \*

D. Augmentation Mammoplasty with Implant Use or Breast Reconstruction following Mastectomy with Implant Use

*Note:* When silicone gel implants are used, FDA consent is required. Risks specific to this product have, therefore, been excluded from this list.

1. Capsule formation (scar formation around implant resulting in hard breasts and/or pain).
2. Deflation of implant.
3. Loss of sensation to the nipple and breast.
4. Persistent pain in breast.
5. Distortion of breast mound at rest and with activities.
6. Palpable implant.
7. Infection possibly requiring removal of implants.
8. Leakage of implant contents.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E) et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21: (July 1995).

#### **§2440. Cervical Manipulation/Adjustment**

*Note:* Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

- A. Stroke.
- B. Disc herniation.
- C. Soft tissue injury.
- D. Rib fracture.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E) et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Medical Disclosure Panel, LR 21: (July 1995).

#### **§2442. Thoracic or Lumbar Manipulation/Adjustment**

*Note:* Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

- A. Disc herniation.
- B. Soft tissue injury.
- C. Rib fractures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E) et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Medical Disclosure Panel, LR 21: (July 1995).

Rose V. Forrest  
Secretary

### **RULE**

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

Classes of Permits (LAC 55:IX.113)  
(Repeal of LAC 55:IX.1549-1611)

In accordance with the provisions of R.S. 49:950, the Administrative Procedure Act, and R.S. 40:1846 relative to

the authority of the Liquefied Petroleum Gas Commission to make and enforce rules and regulations, the commission hereby amends its rules and regulations. The rule is necessary to repeal certain sections of the rules which are in direct conflict to the adoption of the national standards. The amendments include repeal of §113.A.7.d, which pertained to storage of portable containers awaiting use or resale, and Subparagraphs e-h are not being revised, rather these are being relettered in alphabetical order. Also §1549 through §1611 are being repealed in their entirety.

### **Title 55**

### **PUBLIC SAFETY**

#### **Part IX. Liquefied Petroleum Gas**

#### **Chapter 1. General Requirements**

#### **Subchapter A. New Dealers**

#### **§113. Classes of Permits**

A.1. - 7.c. ...

d. Must pay permit fee for first year's operations in the amount of \$75 to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be one-fourth of 1 percent of the gross annual sales of liquefied petroleum gases, with a minimum of \$75.

Pursuant to Louisiana R.S. 47:1508, each dealer shall authorize the secretary of the Department of Revenue and Taxation to provide to the director of the Liquefied Petroleum Gas Commission or his designee upon the request of the director of the Liquefied Petroleum Gas Commission or his designee, the records and files of the dealer, including but not limited to any return, any report, or any other paper filed by the dealer, maintained by the secretary of the Department of Revenue and Taxation. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his designee.

e. Any current Class VI permit holder may convert to a Class VI-X permit by filing formal application with the Liquefied Petroleum Gas Commission and submitting a \$25 filing fee. Presence of the applicant at the commission meeting will be waived. Upon receipt of the application and filing fee, permit will be issued. No dealer can hold a Class VI and a Class VI-X permit at the same location.

f. Person in charge of operations must be satisfactory to the commission and the director of the Liquefied Petroleum Gas Commission.

g. Compliance with all other applicable rules and regulations will be required.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1846.

**HISTORICAL NOTE:** Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 3:315 (July 1977), LR 7:633 (December 1981), LR 8:53 (January 1982), LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993); LR 20:1400 (December 1994); LR 21: (July 1995).

#### **§1549. Aboveground Installations**

Repealed.

#### **§1551. Underground Containers**

Repealed.

- §1553. Refrigerated Aboveground Storage  
Repealed.
- §1555. Relief Valves Vent Requirements  
Repealed.
- §1557. Storage Areas  
Repealed.
- §1559. Emergency Plan of Operation  
Repealed.
- §1561. Accessories  
Repealed.
- §1563. First Aid Equipment  
Repealed.
- §1565. Farm Wagon or Farm Trailer Equipment  
Repealed.
- §1567. Mounting of Tanks on Farm Wagons or Farm Trailers  
Repealed.
- §1569. Protecting Fittings  
Repealed.
- §1571. Valves  
Repealed.
- §1573. Filling Containers  
Repealed.
- §1575. Tractor Equipment  
Repealed.
- §1577. Filling Tractor Tanks  
Repealed.
- §1579. Road Transports  
Repealed.
- §1581. Approval of Containers and Installations  
Repealed.
- §1583. Construction of Containers  
Repealed.
- §1585. Valves and Accessories  
Repealed.
- §1587. Piping, Tubing and Fittings  
Repealed.
- §1589. Safety Devices  
Repealed.
- §1591. Transfer of Liquids  
Repealed.
- §1593. Mounting of Containers  
Repealed.
- §1595. Electrical Equipment  
Repealed.
- §1597. Trailers and Semi-trailers  
Repealed.
- §1599. Protection Against Collision  
Repealed.
- §1601. Markings on Container  
Repealed.
- §1603. First Aid Equipment  
Repealed.
- §1605. Delivery Sites  
Repealed.
- §1607. ICC Regulations  
Repealed.

§1609. Unloading Tank Cars  
Repealed.

§1611. Reports  
Repealed.

Editor's Note: The authority and historical notes are identical for the above repealed Sections and are as follows:

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission, January 1967, repealed by the Department of Public Safety & Corrections, Liquefied Petroleum Gas Commission, LR 21: (July 1995).

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

9507#060

**RULE**

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

License, Permit, Compliance,  
Inspections, and Investigations  
(LAC 42:XIII. Chapters 17-45)

The Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, in accordance with R.S. 49:950 et seq., and R.S. 4:501 et seq., revises its rules and regulations pertaining to the operating standards of riverboat gaming. The following amends the rules contained in Chapters 17-23, published in the September, 1993 *Louisiana Register*, page 1176 and adopts as rules, Chapters 25-45.

An identical emergency rule was referenced in the April 20, 1995 issue of the *Louisiana Register*.

Copies of the full text of these proposed rules and regulations may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Paul W. Fontenot  
Deputy Secretary

9507#095

**RULE**

**Department of Public Safety and Corrections  
Riverboat Gaming Commission**

Request for Items on Agenda  
(LAC 42:XIII.109)

Under the authority of the Louisiana Riverboat Economic Development and Gaming Control Act, particularly R.S. 4:501 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., LAC 42:XIII.109.E is adopted.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Subpart 1. Riverboat Gaming Commission

Chapter 1. Issuing and Construction of Regulations and Administrative Matters

§109. Delegation to Chairman

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E. Any person desiring to have a matter heard or decided upon by the commission at a regularly scheduled meeting shall submit a written request to the chairman no less than 10 days prior to the scheduled date of the meeting. These requests shall be sent to the chairman's business address with a copy mailed to the commission's office. Facsimile transmittal shall not be accepted. Such requests shall state in detail the matter submitted and shall include all supporting documentation to be presented at the meeting. In the event the matter is placed on the meeting agenda, copies of the supporting documentation shall be submitted to each commission member's address no less than 72 hours prior to the date and time of the meeting at which the matter is scheduled to be heard.

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 Commission, LR 21: (July 1995).

Georgia P. Kosmitis  
Chairwoman

9507#074

RULE

Port Commissions

Board of River Port Pilot Commissioners

Qualification, Training,  
and Conduct of River Port Pilots

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 34:991(B)(3), the Board of River Port Pilot Commissioners hereby amends and reenacts its rules as follows:

Section 1. Terms

The following terms have the following meaning as used in these rules:

1. *Board*—the Board of River Port Pilot Commissioners as defined in R.S. 34:991.
2. *Pilot*—river port pilots as defined in R.S. 34:992.
3. *Commission*—the appointment by the governor authorizing one to perform the duties of a river port pilot.
4. *Commissioner*—a member of the Board of River Port Pilots Commissioners for the Port of New Orleans as appointed and serving in accordance with state law.
5. *Drug*—all controlled dangerous substances as defined in R.S. 40:961(7).

6. *Prescription Medication*—medication which can only be distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).

7. *Petitioner*—one who submits a petition to become a river port pilot.

8. *Candidate*—one whose petition has been certified by the board.

9. *Apprentice*—one who has been selected to become a river port pilot pending successful completion of the apprenticeship program.

Section 2. Drug Use

Rule 1

A pilot shall be free of use of any "drug" as defined in Section 1, but excluding "prescription medication" as defined in Section 1 so long as use of such "prescription medication" does not impair the physical competence of the pilot to discharge his duties.

Rule 2

The board shall designate a testing agency to perform scientific test or tests to screen for the presence of drugs. These tests shall be conducted at random at the discretion of the board.

Rule 3

All pilots shall submit to reasonable scientific testing and screening for drugs when directed by the board.

Rule 4

The results of drug testing and screening shall be confidential and disclosed only to the board and the pilot tested, except that:

1. the board may report the results to the governor and the Board of Directors of the Crescent River Port Pilot Association; and
2. in the event that the board determines that a hearing is required pursuant to R.S. 34:991 and/or 1001 there shall be no requirement of confidentiality in connection with the hearing.

Rule 5

Any pilot testing positive for drugs or any residual thereof, shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:991 and 1001.

Rule 6

Any pilot who refuses to submit to reasonable scientific testing or screening for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:991 and 1001.

Rule 7

Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated, and/or treated for drug use and/or have his commission suspended and revoked.

Rule 8

Any pilot who is required to undergo evaluation and/or treatment for drug use shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the board.



### Section 3. Alcohol Use

#### Rule 1

No pilot shall consume any alcohol of any nature whatsoever within six hours before, or during, the performance of his pilotage duties.

#### Rule 2

No pilot shall perform his duties as a river port pilot if his blood alcohol content is .04 or greater.

#### Rule 3

Any pilot who believes he would be in violation of any of these rules if he were to perform his duties as a river port pilot is obligated to remove himself from duty.

#### Rule 4

The board may request a pilot to submit himself to a blood alcohol test upon complaint or reasonable suspicion that a pilot is performing his duties as a river port pilot while under the influence of alcohol.

#### Rule 5

Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated and/or treated for alcoholism and/or have his commission suspended or revoked.

#### Rule 6

Any pilot who is required to undergo evaluation and/or treatment for alcoholism shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility must be approved by the board.

### Section 4. Apprenticeship

#### Rule 1

All petitions for commissions to act as river port pilots must be in writing, must be signed by the petitioner, and presented to the secretary of the board. All petitions must be accompanied by satisfactory evidence of compliance with the following prerequisites:

1. Petitioner must be of good moral character. Evidence of a clear police record will be considered, but the board reserves the right to examine other sources of information as to the applicant's character.
2. Petitioner has been a voter of the state of Louisiana continuously for at least two years before submitting an application to become a river port pilot.
3. The petitioner must not have reached his fortieth birthday prior to the first day of balloting on apprentices by the river port pilots.
4. The petitioner must possess a high school diploma, or equivalent.

#### Rule 2

Before being accepted as a candidate to become a river port pilot, each petitioner must meet the below listed requirements.

1. Each petitioner must hold a United States Coast Guard First Class Pilot License of steam or motor vessel of any gross tons for the Mississippi River from Southport Mile 104.7 to the Head of Passes Mile 0.0 and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain, and for the Intracoastal Waterway (ICW) from the intersection of the Industrial Canal and the ICW to and including Michoud Canal, and for the Mississippi River Gulf Outlet, from the intersection of the ICW to Mile 28.3, the present location of Beacon #78.

#### 2. Each petitioner must hold:

- a. A United States Coast Guard Masters' License of steam or motor vessels of any gross tons upon inland waters, rivers or western rivers; or
- b. a United States Coast Guard Second Mate's License (or any upgrade thereof) of steam or motor vessels of any gross tons upon oceans; or
- c. a United States Coast Guard Third Mate's License (or any upgrade thereof) of steam or motor vessels of any gross tons upon oceans, and effective January 1, 1997, the petitioner must hold a Master's License of steam or motor vessels of 1600 gross tons upon inland waters, rivers or western rivers. The petitioner, as a condition of the apprenticeship, must upgrade the Master's License of steam or motor vessels of 1600 gross tons upon inland waters, rivers or western rivers to a Masters' License of steam or motor vessels of any gross tons upon inland waters, rivers or western rivers prior to being commissioned as a river port pilot; or
- d. a bachelor's degree or diploma granted by a college or university accredited by the American Association of Colleges and Secondary Schools, and effective January 1, 1997, the petitioner must hold a Master's License of steam or motor vessels of 1600 gross tons upon inland waters, rivers or western rivers. The petitioner, as a condition of the apprenticeship, must upgrade the Master's License of steam or motor vessels of 1600 gross tons upon inland waters, rivers or western rivers to a Masters' License of steam or motor vessels of any gross tons upon inland waters, rivers or western rivers prior to being commissioned as a river port pilot.

3. In addition to the requirements identified in Paragraphs 1 and 2 described above, the petitioner must complete the following educational requirements. To successfully complete the educational requirements the petitioner must attend a college of university accredited by the American Association of Colleges and Secondary Schools, and the petitioner must have a minimum grade point average of "2.0" on a "4.0" system, in nonremedial courses.

- a. Petitioners graduating from high school or receiving a high school equivalent after May 1, 1995 will be required to successfully complete 30 credit hours.
- b. Petitioners graduating from high school or receiving a high school equivalent after January 1, 1996 will be required to successfully complete 60 credit hours.
- c. Petitioners graduating from high school or receiving a high school equivalent after January 1, 1997 will be required to successfully complete 90 credit hours.
- d. Petitioners graduating from high school or receiving a high school equivalent after January 1, 1998 will be required to acquire a bachelor's degree or diploma.
- e. Petitioners shall document the aforementioned requirements by providing the board with a transcript of the mandatory educational requirements.

#### Rule 3

1. The petitioner must be examined by a physician, clinic or group of physicians of the board's choosing to determine the petitioner's physical condition. The examination report must reflect to the board's satisfaction that the petitioner's physical condition is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will

enable him to safely perform the duties of pilotage. The board shall have no responsibilities for the examinations or their results. The petitioner submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

2. The petitioner shall submit to an examination by a mental health professional or group composed of such mental health professionals of the board's choosing. The report of this examination must reflect, to the board's satisfaction, that the petitioner's mental condition and aptitude is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The petitioner submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

3. The petitioners shall submit to drug screening in the same manner as pilots and apprentices.

#### Rule 4

The apprentice must serve a minimum of 12 months of apprenticeship in his proposed calling, handling deep draft vessel over the operating territory of the river port pilots under the tutelage of not less than 40 commissioned river port pilots. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising commissioned river port pilots. No apprentice shall be permitted to be examined for commissioning who has not made at least 18 trips on the operating territory of the river port pilots between Pilottown and Southport during each of the 12 months of his apprenticeship and serve at least one week of each month of the apprenticeship engaged in harbor shifting, docking, undocking and piloting on the Mississippi River Gulf Outlet. The apprenticeship work must be certified by the board during the apprenticeship program. The commissioners reserve the right to require satisfactory completion of additional or extended apprenticeship, or terminate the apprenticeship when deemed necessary.

#### Rule 5

Open

#### Rule 6

The board of commissioners shall examine those apprentices who have complied with all the requirements. The apprentices will be examined as to their knowledge of pilotage and their proficiency and capability to serve as commissioned river port pilots. This examination shall be given in such manner and shall take such form as the board may, in its discretion from time to time, elect.

#### Rule 7

The board of commissioners shall certify to the governor for his consideration for appointments to commissions as river port pilots those apprentices who satisfactorily completed all

requirements established by state law and these rules and who complete and pass the examination given by the board. Should the apprentice fail the examination, the board, at its discretion, may terminate the apprenticeship, or may designate additional apprenticeship requirements to be satisfied by the apprentice before he may again petition the board for examination.

#### Rule 8

The commission has established the following guidelines, which shall be adhered to whenever possible.

After being commissioned a river port pilot by the governor of Louisiana, the newly commissioned pilot shall be allowed to pilot the following vessels in the first four months subsequent to the issuance of the Pilots Commission:

- a) vessels up to 35.00 feet in draft,
- b) vessel up to 50,000.00 deadweight tons,
- c) vessels up to 700.00 feet in length.

After the newly commissioned pilot has served the first four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this Section before being reexamined.

The newly commissioned pilot shall be allowed to pilot the following vessels in the second four months subsequent to the issuance of the Pilots Commission:

- a) vessels up to 40.00 feet in draft,
- b) vessels up to 75,000.00 deadweight tons,
- c) vessels up to 800.00 feet in length.

After the newly commissioned pilot has served the second four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this Section before being reexamined.

The newly commissioned pilot shall be allowed to pilot the following vessels in the third four months subsequent to the issuance of the Pilots Commission:

- a) vessels up to 45.00 feet in draft,
- b) vessels up to 100,000.00 deadweight tons,
- c) vessels up to 900.00 feet in length.

The newly commissioned river port pilot shall be prohibited from piloting the following vessel during the first 12 months he holds a commission as a river port pilot:

- 1) passenger vessels regardless of draft, tonnage or length,
- 2) tank vessels with explosive or combustible cargo aboard, regardless of the draft, tonnage or length. Gas-free tank vessels are not subject to this prohibition.

After the newly commissioned pilot has served the third four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine

whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the prohibitions of this Section before being reexamined.

Jack Anderson  
President

9507#098

## RULE

### Department of Transportation and Development Utility and Permit Section

#### Utility Notification Subscription Requirement (LAC 70:III.1701-1705)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Transportation and Development has adopted a rule entitled "Requirement for Utility Companies to Subscribe to Louisiana Regional Notification Center" in accordance with R.S. 48:381.

## Title 70

### TRANSPORTATION AND DEVELOPMENT

#### Part III. Highways

#### Chapter 17. Requirement for Utility Companies to Subscribe to Louisiana Regional Notification Center

##### §1701. General

No underground facility shall be permitted within highway right-of-way under the jurisdiction of the Louisiana Department of Transportation and Development unless and until the facility owner subscribes to the services of the Louisiana Regional Notification Center as provided for in R.S. 40:1749 et seq. This subscription must be continued throughout the duration of the permit.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:381.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 21: (July 1995).

##### §1703. Exceptions

A. Owners of utility distribution facilities serving less than 100 customers shall be exempt from the requirement of subscription to the Regional Notification Center for purposes of installation in rights-of-way controlled by the Department of Transportation and Development.

B. The Department of Transportation and Development headquarters utility and permit engineer may exempt owners of utility distribution facilities within highway project limits when said owners are required to relocate their facilities in

order to accommodate highway construction. This exemption shall be determined on a project-by-project basis.

C. Municipalities or parish governments which adopted ordinances exercising their options not to participate in the regional notification program, in accordance with the provisions of R.S. 40:1749.19, shall be exempt from the requirement of subscription to the Regional Notification Center for purposes of installation in rights-of-way controlled by the Department of Transportation and Development.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:381.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 21: (July 1995).

##### §1705. Sanctions

Unless specifically exempted, each owner of utility distribution facilities who does not comply with the requirements set forth herein shall be unable to obtain a permit for activity within highway rights-of-way under the jurisdiction and control of the Department of Transportation and Development. This suspension of the permitting process may be lifted if the owner comes into compliance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:381.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 21: (July 1995).

Jude W.P. Patin  
Secretary

9507#071

## RULE

### Department of Transportation and Development Weights and Measures

#### Lab Manuals—Fee Schedule (LAC 73:III.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Transportation and Development has amended the fee schedule originally adopted on January 20, 1989, that will apply to manuals produced by the Department of Transportation and Development Materials and Testing Section, all in accordance with the provisions of R.S. 36:504 (A)(3), (B)(5) and R.S. 48:265.

## Title 73

### WEIGHTS, MEASURES AND STANDARDS

#### Part III. Weights and Measures

#### Chapter 3. Materials and Testing

##### §301. Manuals

The department shall publish the following manuals and make them available to the public for the following prices:

1. Testing Procedure Manual (2-volume set) \$50 set
2. Field Testing Procedures Manual \$25 each
3. Materials Sampling Manual \$25 each
4. Qualified Products List \$25 each
5. MATT System Field Handbook \$25 each

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:504(A)(3), (B)(5) and R.S. 48:265.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 15:15 (January 1989), amended LR 21: (July 1995).

Jude W. P. Patin  
Secretary

9507#072

**RULE**

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

**Hunting Season Dates (1995-1996)**

In accordance with the notice of intent published in the March 1995 *Louisiana Register*, the Wildlife and Fisheries Commission, at its regular monthly meeting in July hereby ratifies regulation on open hunting season dates, bag limit, methods of taking, and rules and regulations on department operated wildlife management areas for the period September 1, 1995 through August 31, 1996. Authority to establish regulation is vested in the commission by §115 of Title 56 of the Louisiana Revised Statutes of 1950.

A synopsis of season dates follows and is made a part of this rule. For those interested, a more detailed copy of the rules and regulations may be viewed at the Office of the State Register, 1051 North Third Street, Capitol Annex, Suite 512, Baton Rouge, LA 70802; and at Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA 70808.

**Resident Game Birds and Animals**

Shooting hours: one-half hour before sunrise to one-half hour after sunset. Also consult regulation pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

SPECIES	SEASON DATES	DAILY BAG LIMIT	POSSESSION LIMIT
Quail	Nov.23 - Feb. 29	10	20
Rabbit	Oct. 7 - Feb. 29	8	16
Squirrel	Oct. 7 - Jan. 28	8	16
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6/season (By all Methods)
*Turkey			

\*Separate Turkey hunting regulations will be promulgated in November 1995 and published in December 1995.

DEER HUNTING SCHEDULE				
AREA	ARCHERY	STILL HUNT	MUZZLELOADER (All Either Sex)	WITH OR WITHOUT DOGS
1	Oct. 1 - Jan. 31	Nov. 18-Dec. 1 Jan. 5-Jan. 15	Dec. 2-Dec. 8	Dec. 9-Jan. 4
2	Oct. 1 - Jan. 21	Oct. 28-Dec. 1	Dec. 2-Dec. 8	Dec. 9-Jan. 4
3	Oct. 1 - Jan. 21	Oct. 21-Dec. 1 Dec. 16-Jan. 4	Dec. 2-Dec. 8	
4	Oct. 1 - Jan. 21	Nov. 18-Dec. 1 Dec. 9-Jan. 7	Dec. 2-Dec. 8	
5	Oct. 1 - Jan. 21	Nov. 18-Nov.26	Dec. 2-Dec. 8 (Bucks Only)	
6	Oct. 1 - Jan. 21	Nov. 18-Dec. 1	Dec. 2-Dec. 8	Dec. 9-Jan. 21
7	Oct. 1 - Jan. 21	Oct. 21-Nov. 5 Nov. 18-Nov.26	Dec. 2-Dec. 8	Dec. 16- Jan. 21
8	Oct. 1 - Jan. 21	Nov. 18-Dec. 1 Jan. 5-Jan. 21	Dec. 2-Dec. 8	Dec. 9-Jan. 4

**CITATION:** None - Changes annually

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:115.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21: (July 1995).

Glynn Carver  
Vice-Chairman

9507#057

**RULE**

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

**Public Oyster Seed Ground—Lake Borgne  
(LAC 76:VII.513)**

The Wildlife and Fisheries Commission does hereby set aside additional areas in Lake Borgne, St. Bernard Parish as public oyster seed grounds. This rule is in accordance with the authority vested through R.S. 56:434.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 5. Oyster**

**§513. Public Oyster Seed Ground Addition - Lake Borgne**

The Lake Borgne Public Oyster Seed Ground is described as that portion of the state waterbottoms beginning at the most northerly point of Malheureux Point (Y-518,620) (X-2,584,920) on the southern shore line of Lake Borgne; thence southwesterly a distance of 16.6 miles to the most easterly

point of Proctor Point (Y-468,858) (X-2,512,804) on the southwestern shore line of Lake Borgne; thence northerly a distance of 5.6 miles to the most easterly point of Alligator Point (Y-498,467) (X-2,511,442) on the northern shore line of Lake Borgne; thence northeasterly along the northern shore line of Lake Borgne a distance of 19.1 miles to the intersection with the western shore line of the Pearl River (Y-553,875) (X-2,569,290); thence northerly along the western shore line of the Pearl River a distance of 0.25 miles to a point (Y-555,214) (X-2,569,277) on the western shore line of the Pearl River; thence easterly a distance of 1.15 miles to the Pearl River Beacon No. 8 (Y-556,011) (X-2,571,507); thence southeasterly a distance of 7.5 miles to the point of beginning.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:434.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21: (July 1995).

Glynn Carver  
Vice-Chairman

9507#058

# NOTICES OF INTENT

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 741—Physics of Technology

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 and changed a course title in the science requirements for high school graduation from "*Principles of Technology*" to *Physics of Technology*".

Interested persons may submit comments on the proposed policy change until 4:30 p.m., September 8, 1995 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17.7.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 21:

Carole Wallin  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Bulletin 741—Physics of Technology

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs will be approximately \$3000 to (1) notify school systems that the course title for Principles of Technology is being renamed Physics of Technology and (2) to reprint curriculum guide.

BESE's estimated costs for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$70. Funds are available.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Costs to school systems will be minimal and restricted to changing course listings, registration forms, as needed. Office of Vocational Education will incur the costs associated with the reprinting of the curriculum guide.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Changes of course name will have no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9507#096

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 741—Public and Nonpublic Summer School

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, the following amendments to Bulletin 741, Louisiana Handbook for School Administrators.

Delete Standards 2.113.14 (public) and 6.113.14 (nonpublic) and reword Standards 2.113.15 and 6.113.15 as stated below:

"Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies."

Interested persons may submit comments on the proposed policy until 4:30 p.m., September 8, 1995 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17.7.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 21:

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 741—Public and Nonpublic Summer  
Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Local school systems (public/nonpublic) may save money on operational costs if they choose to shorten the number of days in the summer school session. However, even though the number of days may be shortened, school systems must still meet a minimum of 70 hours of instructional time per subject. The department is unable to determine if this will result in a savings to local school systems.

It is estimated to cost state or local governmental units \$100 to update and disseminate *Bulletin 741*.

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)**

There is no estimated effect on revenue collection.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There are no additional estimated costs and/or economic benefits to directly affect persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There is no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9507#097

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 921—Advisory Council Competitive Projects**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary approved for advertisement, the amendments to Bulletin 921, 8(g) Policy and Procedure Manual to eliminate the 8(g) Advisory Council's participation in the eligibility review of 8(g) competitive projects as stated below:

**Part 150. Evaluation of Support Fund Applications  
50. Determination of Eligibility**

DELETE the following:

"Following the review for compliance with the constitutional requirements, the applications shall be reviewed by the 8(g) Advisory Council for conformity to priorities and objectives established by the board in the Annual 8(g) Program."

DELETE the following:

"150B. Review of conformity to the established 8(g) Program priorities and objectives.

The 8(g) Advisory Council shall review all applications for conformity to the established 8(g) Program priorities and objectives, and shall make recommendations concerning eligibility determinations to the board at its February meeting."

Interested persons may submit comments on the proposed policy until 4:30 p.m., September 8, 1995 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94094, Capitol Station, Baton Rouge, LA 70804-9064.

AUTHORITY NOTE: Promulgated in accordance with LA Constitution, Art. VII, Section 10.1, R.S. 17:3801

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 921—Policy and Procedure Manual**

**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 associated with this rule.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$75. 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)**

There are no costs or economic benefits to directly affected persons or nongovernmental units associated with this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There will be no effect on competition and employment associated with this rule.

Carole Wallin  
Executive Director  
9507#093

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division

Vehicle Inspection and Maintenance  
(LAC 33:III.Chapter 19)(AQ116)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 19 (AQ116).

Federal law governing air quality, particularly Public Law 101-549 (Clean Air Act Amendments of 1990), mandates the implementation of an enhanced I/M program in serious nonattainment areas.

The Baton Rouge nonattainment area, which includes Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, has been designated as a serious ozone nonattainment area.

This rule establishes provisions for the implementation of an enhanced vehicle Inspection/Maintenance (I/M) program for the control and abatement of motor vehicle emissions which meets the federal requirements of 40 CFR, Part 51. No vehicle testing is required until January 1, 1999. Provisions necessary to prepare for testing, such as inspection station and inspector certification and fee authority, become effective on January 1, 1998. The program requires emissions testing every other year and repairs for those vehicles which do not meet the standards.

The purpose of this program is to reduce the level of volatile organic compounds (VOCs), and carbon monoxide (CO) emitted by motor vehicles in the Baton Rouge nonattainment area.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

A public hearing will be held on August 24, 1995, 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 AQ116. Such comments should be submitted no later than August 31, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504)765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the State Register or the Investigations and Regulation Development Division for

pricing information. Check or money order is required in advance for each copy of AQ116.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70605; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Vehicle Inspection and Maintenance

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

During the first two years of Inspection Maintenance (I/M) testing, federal matching funds will supplement state-generated funds; the funding ratio is 80 percent federal and 20 percent state. Initial implementation costs are estimated to be \$3,793,917 in fiscal year (FY) 97-98 (of which \$758,783 are direct state costs). FY 98-99 costs are estimated to be \$1,927,270 (\$385,454 in direct state costs). FY 99-2000 program costs are estimated to be \$1,212,788 direct state costs (federal funds expire). State and local governmental units in the six-parish nonattainment area will be subject to an increase in the Department of Public Safety and Corrections vehicle safety inspection fee. The maximum increase is \$5 and will be less depending on state implementation costs. The ceiling for this cost is estimated to be \$15,000, based on the maximum \$5 fee increase for approximately 3,000 vehicles. The annual emissions inspection cost for these vehicles is estimated to be \$30,000, based on a projected \$10 emissions inspection cost. Estimated repair costs are \$120,000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State agency-generated funds will be obtained from a maximum \$5 increase in the current safety inspection fee. Automotive repairs for compliance with this rule will generate additional annual sales tax revenue.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Vehicle owners in the six-parish nonattainment area will be subject to a \$5 maximum increase in the safety inspection fee and a biennial (every other year) I/M inspection fee of \$10. The I/M inspection fee may increase to up to \$20 if state administrative or emissions inspection costs are not covered by the \$5 safety inspection increase and the \$10 I/M inspection fee respectively. Owners of vehicles failing the test will incur repair costs. For the first two program years failing vehicles will be required to spend up to \$100-\$200 for repairs depending on the age of the vehicle (more for newer vehicles, less for older ones). An estimated \$3.3 million will be generated annually by the repair industry. Approximately 176 new jobs and 154 secondary jobs will be created in the automotive repair



industry. Approximately 60 new jobs will be created in the emission inspection industry. Emission inspection stations will generate approximately \$1.6 million annually by conducting inspections.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition will be affected in the automotive repair and service station industries. Initially competition will lessen among existing businesses, as repair volume increases. As the program matures, new repair businesses are likely to enter the market which will increase competition. New employment is projected as follows: 15 state jobs, 60 inspection jobs, and 330 repair industry jobs.

Gus Von Bodungen  
Assistant Secretary  
9507#092

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

Waste Analysis and Minimization  
(LAC 33:V.Chapters 15 and 22) (HW49)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V. Chapter 15 and 22 (HW49).

Waste minimization and waste analysis plans that reach the Department without certification are often of unacceptable quality.

This rule would require that waste minimization and waste analysis plans be certified by professional engineers and remove the option of certification by a certified hazardous materials manager (CHMM).

These proposed regulations are to become effective upon publication as a final rule in the *Louisiana Register*.

#### Title 33

#### ENVIRONMENTAL QUALITY

#### Part V. Hazardous Waste and Hazardous Materials

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

#### Chapter 15. Treatment, Storage, and Disposal Facilities §1519. General Waste Analysis

\*\*\*

[See Prior Text in A-C.3]

D. Certification. All waste analysis plans must be certified by a Louisiana licensed professional engineer (PE).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR

15:378 (May 1989), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:

#### Chapter 22. Prohibitions on Land Disposal §2231. Variance from a Treatment Standard

\*\*\*

[See Prior Text in A-C.1]

2. Certification. Each petition for a variance must be certified by a Louisiana licensed professional engineer (PE).

\*\*\*

[See Prior Text in D-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:

#### §2237. Exemption for Surface Impoundments Treating Hazardous Waste

\*\*\*

[See Prior Text in A-A.2.d]

e. Certification. Each waste analysis plan must be certified by a Louisiana licensed professional engineer (PE).

\*\*\*

[See Prior Text in A.3-C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:

#### §2242. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections

\*\*\*

[See Prior Text in A-C.2.c]

d. each waste reduction program or plan must be certified by a Louisiana licensed professional engineer (PE).

\*\*\*

[See Prior Text in C.3-Z]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 15:1067 (December 1989), LR 16:221 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 19:187 (February 1993), LR 21:266 (March 1995), LR 21:

#### §2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

\*\*\*

[See Prior Text in A-J]

K. Certification. Each waste minimization plan must be certified by a Louisiana registered professional engineer (PE).

L. All generators shall develop and retain a waste minimization plan on-site. The plan shall be submitted to the administrative authority within 30 days of receipt of request.

The plan shall include ongoing and proposed waste minimization projects and tentative beginning dates for proposed projects.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:

**§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements**

\* \* \*

[See Prior Text in A-H]

**I. Certification.** Each waste minimization plan must be certified by a Louisiana registered professional engineer (PE).

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:

A public hearing will be held on August 24, 1995, 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 HW49. Such comments should be submitted no later than August 31, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX (504)765-0486.

James B. Thompson, III  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Waste Analysis and Minimization**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No costs to state or local governments are anticipated as a result of the implementation of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governments as a result of the implementation of this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Certified hazardous materials managers (CHMMs) will be

affected negatively since they will not be allowed to certify waste minimization plans. Professional engineers will be affected positively since they will be the only group allowed to certify waste minimization plans. There may be a slight increase in the price of certifications to generators because competition for certification jobs will be lessened.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will decrease competition for waste analysis and waste minimization plans because CHMMs will no longer be allowed to certify these plans.

Glen A. Miller  
Assistant Secretary  
9507#086

David W. Hood  
Senior Fiscal Analysis

**NOTICE OF INTENT**

**Office of the Governor  
Office of Veterans Affairs**

Jackson Veterans Center

The Office of Veterans Affairs hereby advertises its intent to repeal in its entirety LAC 4:VII.Chapter 9, Subchapter C, §929 and §931, as same duplicate rules recently revised and published under LAC 4:VII.Chapter 9, Subchapter D, §937-955.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 9. Veterans Affairs**

**Subchapter C. Louisiana Veterans Center, Jackson, Louisiana**

**§929. Eligibility**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 29:251.2.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:485 (October 1981), repealed LR 21:

**§931. Resident's Maintenance Fees**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 29:261, R.S. 29:384.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:485 (October 1981), repealed LR 21:

The proposed repeal of this rule is to become effective on October 20, 1995, or upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed action. Such comments should be submitted no later than August 25, 1995, at 4:30 p.m., to Ernie P. Broussard, Executive Director, Office of Veterans Affairs, Box 94095, Capitol Station, Baton Rouge, LA 70804-9095.

Ernie P. Broussard  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Veterans Center, Jackson**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no implementation costs for the proposed rule deletions governing eligibility requirements and maintenance fees for Louisiana Veterans Center in Jackson, LA.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule deletion, if adopted, will not affect revenue collections of state or local governmental units. Eligibility requirements are contained in Subchapter D, §937 of LAC Title 4, Part VII, and care and maintenance fees are outlined in LAC 4:VII.939.

**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.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment if proposed rule deletion is approved.

Ernie P. Broussard  
Executive Director  
9507#054

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Licensure Examination and Renewal Fees  
(LAC 46:XLV.125-131)**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Board of Medical Examiners, pursuant to the authority vested in the board by R.S. 37:1270(A), 37:1270(B)(6), and 37:1285, and the provisions of the Administrative Procedure Act, intends to amend its rules prescribing the fees payable for initial licensing examination, postgraduate education registration and annual licensure renewal for physicians and surgeons (LAC 46:XLV.125-131). The proposed rule amendments are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter C. Physicians and Surgeons Fees**

**§125. Licenses, Permits and Examination**

\* \* \*

C. For registration for and taking any step or portion of the United States Medical Licensing Examination (USMLE) or of the Special Purpose Examination (SPEX), the fee which shall

be payable by the applicant to the board shall be equal to the cost of the examination to the board as charged by the Federation of State Medical Boards of the United States, Inc. With respect to each scheduled administration of an examination, the cost of the examination may be determined upon request of the office of the board and shall be set forth in application forms and materials furnished by the board upon request of the applicant.

D. When an applicant is required by Chapter 3 of these rules to take all or a portion of the USMLE, the fees prescribed by Subsection C of this Section shall be added to the applicable application processing fee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:603 (June 1991), LR 21:467 (May 1995), LR 21:

**§127. Postgraduate Education Registration**

For processing an application for and issuance of a certificate of registration pursuant to Subchapter J of Chapter 3 of these rules, a fee of \$25 shall be payable to the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:

**§129. Transfer of Permit of License**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), repealed LR 21:

**§129. Reserved**

**§131. Annual Renewal**

A. For processing a licensee's annual renewal of license under §417 of these rules, a fee of \$150 shall be payable to the board.

B. For processing a permit holder's annual renewal of a graduate medical education temporary permit, a fee of \$25 shall be payable to the board.

C. For processing renewal of postgraduate medical education training registration, a fee of \$25 shall be payable to the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:

Inquiries concerning the proposed rule amendments may be directed in writing to: Delmar Rorison, Executive Director, Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule, in writing, to the Board of Medical Examiners at 630 Camp Street, New Orleans, LA 70130. Written comments must be submitted to

and received by the board within 60 days of from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Licensure Examination and Renewal Fees**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
Implementation of the proposed rule amendments will not result in additional costs or savings to the Board of Medical Examiners.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
Implementation of the proposed rule amendments will generate additional fees of \$50 applicable to annual renewal of the medical licenses of physicians and surgeons. Based on a projection of renewal applications, it is estimated that such additional revenues will total \$759,400 for FY 95-96, \$770,900 for FY 96-97, and \$784,900 for FY 97-98.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**  
The proposed increase of \$50 in the fee payable for renewal of medical licensure will apply to all physicians and surgeons licensed to practice medicine in the state of Louisiana who apply for renewal of such licensure on an annual basis. The rule amendment would not involve any workload adjustment or additional paperwork for such licensees, and it is not anticipated that the proposed rule will have any material impact on the receipts and/or income of physicians.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
It is not anticipated that the proposed rule amendments will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director  
9507#100

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Physical Therapy Examiners**

Examination Score, Continuing Education, Definitions  
and Prohibitions (LAC 46:LIV.145,169,305 and 311)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by R.S. 2401.2(A)(3), intends to amend its existing rules as set forth below:

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIV. Physical Therapy Examiners  
Subpart 1. Licensure and Certification  
Chapter 1. Physical Therapists and Physical Therapist  
Assistants**

**Subchapter F. Examination**

**§145. Passing Score**

The board adopts the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy. The passing point shall be a scaled score of 600 based on a scale ranging from 200 to 800.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2401.2(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 21:

**Subchapter I. Continuing Education**

**§169. Requirements**

A. - B.1. ...

a. APTA (American Physical Therapy Association) accredited courses, LPTA (Louisiana Physical Therapy Association) accredited courses, APTA home study courses, or Louisiana State University Medical Center's School of Physical Therapy-sponsored courses.

b.i. - ii. ...

2. - 3.a. - f. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2401.2(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:

**Subpart 3. Practice**

**Chapter 3. Practice**

**Subchapter A. General Provisions**

**§305. Special Definition: Physical Therapy**

A. ...

Repeal the term *Licensed in the State* and its definition

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2401.2(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:

**Subchapter B. Prohibitions**

**§311. Prohibitions: Licensed or Temporary Permit  
Physical Therapists**

A physical therapist shall not:

A. administer or implement any physical therapy treatment measures, procedures, or regimes except upon the prescription or referral of a physician, dentist or podiatrist licensed in any state.

B. - D. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2401.2(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:667 (July 1991), LR 19: 208 (February 1993), LR 21:

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on Thursday, August 24, 1995 at 9 a.m. at the Office of the Louisiana State Board of Physical Therapy Examiners, 2014 West Pinhook Road, Suite 701, Lafayette, LA 70508. Please contact the board office at (318) 262-1043 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed rules may be directed to the above address and made to the attention of Sharon Toups, Chairman. Such comments should be submitted no later than the close of business at 4:30 p.m. on Friday, August 18, 1995.

Sharon Toups  
Chairman

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Examination Score, Continuing Education,  
Definitions and Prohibitions  
(LAC 46:LIV.145,169,305 and 311)**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There will be no effect on implementation costs to the state or local government units as a result of the rule change.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There will be no effect on the revenue collections of state or local government units due to proposed rule changes.
- 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 secondary to this rule change proposal.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
There will be no effect on competition or employment as a result of this rule change.

Sharon A. Toups, P.T.  
Chairman  
9507#056

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation

Statewide Order 29-K-1  
Substitute Unit Wells (LAC 43:XIX.Chapter 29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation proposes to amend Statewide Order Number 29-K.

#### Title 43 NATURAL RESOURCES

#### Part XIX. Office of Conservation: General Operations Subpart 12. Statewide Order Number 29-K-1

#### Chapter 29. Substitute Unit Wells

#### §2901. Scope

This Order provides rules and regulations governing the unprotested applications for designation of substitute unit wells.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq.

**HISTORICAL NOTE:** Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:775 (June 1993), amended LR 21:

#### §2903. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order.

*Commissioner*—the commissioner of conservation of the state of Louisiana.

*District Manager*—the manager of any one of the districts of the state of Louisiana under the Office of Conservation, and, as used, refers specifically to the manager within whose district the field or fields affected by the special order, as hereinafter defined, are located.

*Interested Party*—any person, as person is defined in Title 30 of the R.S. of 1950, who is known to the applicant after diligent search to own an interest in the unit affected by the application.

*Legal Location*—any location which is in accordance with applicable special and statewide orders.

*Special Order*—any order of the commissioner and any amendments or supplements thereto which created the unit for which the designation of a substitute unit well is requested.

*Substitute Unit Well*—any well already drilled to, or to be drilled to, completed or recompleted in the unitized sand which in the interest of good conservation practices should be designated to take the place of and become the unit well.

*Unit*—any drilling unit or units created by order of the commissioner.

*Unitized Sand*—the sand covered by the special order.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq.

**HISTORICAL NOTE:** Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the

**§2905. Order**

A. On and after the effective date hereof the commissioner may designate by supplemental order a substitute unit well at a legal location for any unit without the necessity of a public hearing upon proper showing that such substitute unit well is desirable and in the interest of sound conservation and that the location thereof complies in all respects with applicable special and statewide orders.

B. Future applications after the effective date hereof for the designation of a substitute unit well at a legal location shall be made to the commissioner with copy to the district manager and to interested parties and such application shall include the following:

1. statement of reason explaining the need or desire for the designation of the substitute unit well;
2. plat showing the unit, the unit well and the location of the proposed substitute unit well, with particular reference to the distance to unit boundaries and other wells drilling to, completed in, or permitted for the Unitized Sand;
3. name of sand, field and parish where the unit is located;
4. name of the operator of the unit;
5. the number of the order or orders establishing the unit and the name of the unit, including the number or letter designation of the unit;
6. the plat attached to the application should not exceed 16 inches by 22 inches;
7. an application fee as established by LAC 43:XIX.201 et seq. (Statewide Order Number 29-Q-1) or successor regulation.

C. Notice of the filing of the application for designation of a substitute unit well shall be published in the official journal of the state of Louisiana.

D. Based on the application the commissioner may, at any time after 10 days following the date on which the notice is published, issue a supplemental order designating a substitute unit well as proposed unless prior thereto application for public hearing opposing such designation is filed with the required hearing fee and in compliance with the LAC 43:XIX.3901 et seq. (Rules of Procedure).

E. This order supersedes Statewide Order Number 29-K and shall be effective on and after October 20, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:775 (June 1993), amended LR 21:

In accordance with the provisions of R.S. 49:950 et seq. and R.S. 30:4, notice is hereby given that the commissioner of conservation will conduct a public hearing at 9 a.m., Tuesday, August 29, 1995, in the Conservation Auditorium, located on the First Floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953.

Written comments will be accepted until 5:30 p.m., Tuesday September 5, 1995, and should be directed to Ernest A. Burguières, III, Commissioner, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275

Ernest A. Burguières, III  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Statewide Order No. 29-K-1**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no implementation cost/savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Ernest A. Burguières, III  
Commissioner  
9507#088

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

Statewide Order 29-L-2  
Termination of Units (LAC 43:XIX.3101-3105)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation proposes to amend Statewide Order Number 29-L-1.

**Title 43  
NATURAL RESOURCES**

**Part XIX. Office of Conservation: General Operations  
Subpart 13. Statewide Order Number 29-L-2  
Chapter 31. Termination of Units  
§3101. Scope**

This order establishes rules and regulations for termination of any unit established by the commissioner of conservation pursuant to the authority of Title 30 of the R.S. of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), re-promulgated LR 19:776 (June 1993), amended LR 21:

### §3103. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this order.

**District Manager**—the manager of any one of the districts of the state of Louisiana under the Office of Conservation, and refers specifically to the manager within whose district the pool for which all units are sought to be terminated are located.

**Interested Party**—any person, as person is defined in Title 30 of the R.S. of 1950, who owns an interest in all units sought to be terminated.

**Pool**—an underground reservoir containing a common accumulation of crude petroleum or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term pool.

**Unit**—all units, whether one or more, established for a particular pool, by order of the commissioner of conservation pursuant to authority of Subsection B of Section 9 or Subsection B or C of Section 5 of Title 30 of the R.S. of 1950.

**Well**—all wells drilled within the confines of all units sought to be terminated.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated, LR 19:776 (June 1993), amended LR 21:

### §3105. Order

A. On and after the effective date hereof, a supplemental order terminating all existing units established by the commissioner for a pool may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the pool for which the unit was established, a period of one year and 90 days has elapsed without:

1. production from the pool; and
2. the existence of a well proven capable of producing from the pool; and
3. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.

B. Each application for unit termination shall be filed with the commissioner with a copy to the district manager and each interested party and shall include the following:

1. a plat showing all existing units established for the pool, with each well located thereon, together with order number and effective date of the order of the commissioner establishing said units. Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment;

2. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with LAC 43:XIX.137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well is not capable of producing from the pool;

3. a signed statement indicating that with respect to the pool for which the unit was established, to the best of applicant's knowledge, a period of one year and 90 days has elapsed without:

- a. production from the pool; and
- b. the existence of a well proven capable of producing from the pool; and

- c. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool;

4. a list of all interested parties to whom a copy of the application has been sent;

5. an application fee as established by LAC 43:XIX.201 et seq. (Statewide Order Number 29-Q-1) or successor regulation.

C. Notice of the filing of the application of unit termination shall be published in the official journal of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

D. In the event that production from the pool is subsequently reestablished from an existing well which was deemed not capable of producing from the pool as of the effective date of unit termination, the operator of record of such well shall immediately apply to the commissioner for a public hearing, after 30-day legal notice, to consider evidence concerning whether the previously existing unit on which the well is located should be reestablished for such well.

E. That the effective date of any supplemental order issued hereunder can not be prior to the expiration of the legal advertisement period, reference §3105.C hereof. Consequently, any activity described in §3105.A hereof, occurring between the date of the signed statement, reference §3105.B.3 hereof and the expiration of the legal advertisement period, shall result in application denial.

F. Any supplemental order issued hereunder approving the application shall terminate all units created for the pool and shall be filed for record as provided in Section 11.1 of Title 30 of the R.S. of 1950.

G. This order supersedes Statewide Order Number 29-L-1 and shall be effective on and after October 20, 1995.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), amended, LR 19:776 (June 1993), amended LR 21:

In accordance with the provisions of R.S. 49:950 et seq. and R.S. 30:4, notice is hereby given that the commissioner of conservation will conduct a public hearing at 9 a.m., Tuesday, August 29, 1995, in the Conservation Auditorium, located on the First Floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said



public hearing in accordance with R.S. 49:953.

Written comments will be accepted until 5:30 p.m., Wednesday, September 5, 1995, and should be directed to Ernest A. Burguières, III, Commissioner, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275

Ernest A. Burguières, III  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Statewide Order No. 29-L-2**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There will be no implementation cost/savings to state or local governmental units.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There will be no effect on revenue collections of state or local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**  
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
There will be no effect on competition and employment.

Ernest A. Burguières, III  
Commissioner  
9507#087

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Social Services  
Office of Rehabilitation Services**

**Traumatic Head and Spinal Cord Injury Trust Fund  
Program (LAC 67:VII.1901-1927)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to adopt a new Traumatic Head and Spinal Cord Injury Trust Fund Program Policy.

The purpose of this notice is to propose a rule governing Louisiana Rehabilitation Services' Traumatic Head and Spinal Cord Injury Trust Fund Program Policy to ensure uniformity in establishing the operation and services for the program.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Rehabilitation Services**

**Chapter 19. Traumatic Head and Spinal Cord Injury  
Trust Fund Program Policy**

**§1901. Program Profile**

A. **Mission.** To provide services in a flexible, individualized manner to Louisiana citizens who survive traumatic head or spinal cord injuries enabling them to return to a reasonable level of functioning and independent living in their communities.

B. **Program Administration**

1. The Department of Social Services, Louisiana Rehabilitation Services (LRS), shall be responsible for administration of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund.

2. The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board will have the responsibility of promulgating rules and regulations; establishing priorities and criteria for disbursement of the fund; investigating the needs of head injured and spinal cord injured individuals to identify service gaps and needs; submitting an annual report with recommendations to the legislature and governor 60 days prior to each regular session of the legislature; and monitoring, evaluating, and reviewing the development and quality of services and programs funded through the trust fund.

C. **Exceptions and Waivers.** It shall be the sole responsibility of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board to make any exceptions to or waiver of this policy. Such exceptions/waiver will be made only on a case-by-case basis.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

**§1903. Enabling Legislation**

House Bill Number 1579, Act 654 of the 1993 Regular Session, Chapter 48, of Title 46 of the Louisiana Revised Statutes 46:2631 through 2635 and R.S. 36:478(G).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

**§1905. Definitions**

**Advisory Board**—Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board.

**Domiciled**—a resident of Louisiana, United States of America, with intent to permanently remain within the state.

**Medically Stable**—normal vital signs, no progression of deficits and/or no deterioration of physical/cognitive status. Does not require acute daily medical intervention.

**Medically Unstable**—fluctuating vital signs requiring acute medical attention. Progression of neurologic deficits and/or deterioration of medical condition.

**Spinal Cord Injury**—an insult to the spinal cord, not of a degenerative or congenital nature but caused by an external physical force resulting in paraparesis/plegia or quadraparesis/plegia.

**Traumatic Head Injury**—an insult to the head, affecting the brain, not of a degenerative or congenital nature, but caused by an external physical force that may produce a diminished or altered state of consciousness which results in an impairment of cognitive abilities or physical functioning.

**Trust Fund**—Traumatic Head and Spinal Cord Injury Trust Fund.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

### §1907. General Requirements

A. Nondiscrimination. All programs administered by and all services provided by the agency shall be rendered on a nondiscriminatory basis without regards to race, creed, color, age, religion, sex, national origin, disability, ethnicity, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

1. Civil Rights and Equal Employment Opportunities With Regard to Employees or Agencies Delivering Services. Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination because of race, color, or national origin; Title V of the Rehabilitation Act of 1973, as amended, and Title I of the Americans with Disabilities Act/P.L. 101-336 prohibit discrimination because of disabling condition. The provisions of these acts apply to services and programs administered by Louisiana Rehabilitation Services.

2. Compliance with State and Federal Laws and Regulations, and Departmental Policies and Procedures. All agencies and staff involved in the Traumatic Head and Spinal Cord Injury Trust Fund shall comply with all state and federal laws, including the Department of Social Services, Louisiana Rehabilitation Services policies and procedures as well as civil rights rules and regulations, as applicable.

B. Cost-Effective Service Provision. All services shall be provided in a cost effective manner.

C. Case Record Documentation. A case record will be maintained for each individual served. The record shall contain documentation to support the decision to provide, deny, or amend services. The case record will contain documentation of the amounts and dates of each service delivery.

1. All records must maintain service plans and progress notes.

2. All records must reflect individual identifications, and other pertinent medical histories.

D. Expeditious Service Provision. All referrals, individual applications and services shall be provided equitably and expeditiously.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

### §1909. Confidentiality

A. General Statement. All files and information will be maintained in the strictest security and confidentiality, and the information will be used only for purposes directly connected to delivery of services.

B. Notification of Individuals. Individuals who are requested to supply information shall be informed of the need to collect confidential information and of the policy governing its use, dissemination and access including:

1. rights to confidentiality;
2. rationale to use or disclose requested information;
3. whether the individual may refuse, or is legally required to supply the requested information;
4. known consequences resulting from not providing the requested information.

C. Release of Confidential Information. All case records shall have documentation verifying informed consent for release of individual information with the following exceptions:

1. public assistance agencies or programs from which the individual has requested services or to which the individual is referred for services;
2. doctors, hospitals, rehabilitation centers, independent living centers, and/or supported living programs providing services to individuals as authorized by the trust fund.

D. Individual's Access to Information. All individuals shall have access to information in records, in an expeditious fashion, when requested in writing by the individual or his/her legal representative, with the exceptions of:

1. medical, psychological and other pertinent information, when the program manager or designee in prudent judgment documents in writing that disclosure to the individual would be detrimental to the individual's physical or psychological health;

*Note:* In cases when information is not disseminated to the individual, the information shall be released to the individual's representative, physician or licensed psychologist with assurance that it will not be released to the individual.

2. personal information that has been obtained from another vendor, agency, or organization. In these instances, it shall only be released as per direction from that agency or organization.

E. Informed Consent. Informed consent will be:

1. in the language that the individual understands;
2. dated;
3. specific as to the nature of the information which may be released;
4. specific as to the parties to whom the information may be released;
5. specific as to the purpose(s) in which the released information may be used;
6. specific as to the expiration date of the informed consent, which shall not exceed one year;
7. in the event of the individual's incapacity to understand and execute the informed consent, the individual's legal guardian, authorized representative, or the parent of a minor child, as applicable, may provide informed consent. (Documentation of guardianship or authorized representation required.)

F. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants, and Subpoenas. Subpoenaed case records and depositions will be handled in the following manner:

1. With the written informed consent of the individual, after compliance with the waiver of confidentiality requirements (signed informed consent of individual or guardian), the court will be given full cooperation.

2. Without the written informed consent of the individual, when an employee is subpoenaed for a deposition or receives any other request for information regarding an individual, he/she should:

a. inform the attorney, or other persons making the request of the confidentiality of the records;

b. inform in writing the program manager or designee of the request.

3. When an employee is subpoenaed by a court in a civil action to testify or to present case record information concerning an individual, the employee is to do the following:

a. contact the Department of Social Services, Bureau of General Counsel, Louisiana Rehabilitation Services staff attorney;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case information, inform the court of the following:

i. that the case record information or testimony is confidential information;

ii. the subpoenaed case record information is in employee's possession;

iii. employee will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

#### §1911. Individual Appeal Rights

A. Administrative Review. The administrative review is a process which may be used by individuals for a timely resolution of disagreements pertaining to eligibility decisions or a denial of services. The administrative review will allow the individual an opportunity for a face to face meeting in which a thorough discussion with the program manager of the Traumatic Head and Spinal Cord Injury Trust Fund Program can take place regarding the issues of concern. Also in attendance at the administrative review will be a representative of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board. The individual will have the right to submit additional evidence and information and will have the right to bring representation to the administrative review.

1. All applicants must be provided adequate notification of appeal rights regarding eligibility and/or the provision or denial of services. Unless services being provided have been obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the individual, such services will continue during the administrative review process.

2. The appeal request must be made in writing and post-marked or received in the office of the program manager of the trust fund program within 10 calendar days of receipt of notification of denial of eligibility or a denial of services. The administrative review must take place and a decision reached within 30 calendar days of the receipt of the individuals' request. The individual must be provided with a final written decision within that time period.

3. In order to insure that the individual is afforded the option of availing themselves of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

a. the decision being reached;

b. the basis for and effective date of the decision;

c. the specific means for appealing the decision;

d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an administrative review or advisory board review.

B. Advisory Board Review. In the event that a disputed decision is not resolved through the administrative review process, the individual may request a review before the advisory board. The individual must make the request for an advisory board review in writing to the program manager of the trust fund program. This request must be post-marked or received in the office of the program manager within 10 calendar days of receipt of the program manager's decision following the administrative review. The advisory board review will take place at the time of the next regularly scheduled advisory board meeting following the receipt of the individual's written request, unless the program manager deems that it is necessary to address the situation sooner, in which case a special meeting of the advisory board could be called for the purpose of conducting the review. The individual will have the right to submit additional evidence and information and will have the right to bring representation to the advisory board review. A final written decision must be rendered within two weeks of the advisory board review.

1. The advisory board will make an impartial decision based on the provisions of the trust fund policy manual and the law and will provide to the applicant or individual, or if appropriate, the representative, a full written report of findings following the review.

2. In order to insure that the individual is afforded the option of availing themselves of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

a. the decision being reached;

b. the basis for and effective date of the decision;

c. the specific means for appealing the decision;

d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an advisory board review.

*Note:* The advisory board review will complete the individual's avenue of appeal within the trust fund program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

### §1913. Eligibility for Services

A. In order for an individual to be determined eligible for services, the individual:

1. must meet the definition of spinal cord injury or traumatic brain injury as defined;
2. must be a resident of Louisiana, citizen of the United States, officially domiciled in the state of Louisiana at the time of injury and during the provision of services;
3. must have a reasonable expectation to achieve a predictable level of outcome to achieve improvement in quality of life and/or functional outcome;
4. must have exhausted all other governmental and private sources;
5. must provide proof of denial from other sources;
6. must be willing to accept services from an advisory-board-approved facility/program;
7. must be medically stable;
8. must complete and submit appropriate application for services.

B. Eligibility decisions must be made without regard to sex, race, creed, color, disability, or national origin of the individual applying for services unless authorized by law to comply with the purposes of Act 654 of the 1993 Louisiana Legislature.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

### §1915. Ineligibility

A determination of ineligibility for services is made when:

1. the individual is medically unstable; or
2. the disabling condition is other than a spinal cord injury or traumatic head injury as defined; or
3. any of the other eligibility criteria are not met.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

### §1917. Fiscal

A. Expenditures on behalf of any one individual shall not exceed \$15,000 for any one 12-month period nor \$50,000 in total expenditures.

B. All applicable state and departmental purchasing policies and procedures must be followed.

C. The trust fund will not purchase vehicles (automobiles, trucks, vans, etc.) or real estate.

D. Prior Written Authorization and Encumbrance. The proper authorizing document(s) must be written before the initiation or delivery of goods or services.

E. All monies that are collected for the Traumatic Head and Spinal Cord Injury Trust Fund Program are to be budgeted in the following fiscal year including but not limited to all monies collected and not expended from any and all prior calendar years.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

### §1919. Service Plan

A. Following a determination of eligibility for services, an appropriate individualized assessment will be completed to determine the scope of services. After a case-by-case assessment of needs, a service plan will be developed, implemented, and updated as appropriate. The service plan will be individualized and outcome oriented. The service plan will include as a minimum:

1. specific services to be delivered or rendered;
2. frequency of the service(s)—beginning and ending dates;
3. costs of services;
4. service provider.

B. The case record will include all updates and amendments to the service plan.

C. The individual or authorized representative must give informed written consent to the service plan and all amendments. The service plan will be presented by means understandable to the individual served.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

### §1921. Services

A. Services are authorized, coordinated and provided for eligible individuals in accordance with each person's service plan.

B. Services may include, but are not limited to:

1. evaluations;
2. post-acute medical care rehabilitation;
3. therapies;
4. medication;
5. attendant care;
6. equipment necessary for activities of daily living;
7. other goods and services deemed appropriate and necessary.

C. The trust fund will not provide experimental treatment/procedures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

### §1923. Service Providers

A. All service providers must be approved by the advisory board.

B. Service providers will furnish bimonthly progress notes to the program manager to substantiate the need for continued provision of such service(s).

C. In-state programs/facilities will be given priority for approval as service providers.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

**§1925. Conditions for Case Closure**

An individual's case can be closed at any time in the process when it has been determined that the individual:

1. has an unstable medical condition;
2. has shown consistent failure to cooperate with the service plan;
3. reaches the maximum \$50,000 in total expenditures;
4. is eligible for other funding sources;
5. is not available for scheduled services.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

**§1927. Limitation of Liability**

Members of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board shall have limited liability as specified in R.S. 9:2792.4.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:

Public hearings will be conducted on August 31, 1995, in Alexandria, Baton Rouge, New Orleans, and Shreveport, beginning at 10 a.m. The hearing locations are as follows: Alexandria Regional Office, 900 Murray Street; Baton Rouge Regional Office, 2097 Beaumont Drive; New Orleans Regional Office, 2026 St. Charles Avenue; Shreveport Regional Office, 1525 Fairfield Avenue.

Individuals with disabilities who require special services should contact Louisiana Rehabilitation Services at least seven working days prior to the hearing if they wish to attend. For assistance call (504) 925-4131 or 1-800-737-2958 or for Voice and TDD, 1-800-543-2099.

Interested persons may submit written comments by September 8, 1995, to May Nelson at the Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. She is responsible for responding to inquires regarding the proposed rule.

Gloria Bryant-Banks  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Traumatic Head and Spinal Cord Injury Trust  
Fund Program**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There is a projected \$1,676,042 cost. It is projected that 534 individuals will be served at an estimated annual cost of \$3,024.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There is a projected \$1,676,042 revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is projected that an estimated 534 individuals will be served at an estimated annual cost of \$3,024.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no proposed change in competition and employment in the public and private sectors.

May Nelson  
Director  
9507#083

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Outpatient Prescription Drugs**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and 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, notice is hereby given that the board of trustees intends to amend the Plan Document in order to avoid disruption or curtailment of services to state employees and their dependents who are covered by the State Employees Group Benefits Program.

The purpose, intent, and effect of these amendments are to remove the pre-existing condition limitations and coordination of benefits provisions from application to claims for outpatient prescription drugs.

The board proposes to amend the Plan Document of Benefits for the State Employees Group Benefits Program in the following particulars:

**Amendment Number One**

Article 1, Section II, Subsection D is amended to redesignate paragraph 4 as paragraph 5, and to add a new paragraph, designated as paragraph 4, to read as follows:

4. Eligible outpatient prescription drug claims shall not be subject to any pre-existing condition limitations.

**Amendment Number Two**

Article 3, Section IX, Subsection B, Paragraph 2 is amended to read as follows:

B. All benefits provided under Article 3, Comprehensive Medical Benefits, except for outpatient prescription drug claims, are subject to coordination of benefits.

Interested persons may present their views, in writing, to Mr. James R. Plaisance, Executive Director, State Employees Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, August 25, 1995.

James R. Plaisance  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Outpatient Prescription Drugs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation costs of this rule change will directly affect the State Employees Group Benefits Program. According to the program's consulting actuary, The Segal Company, it is anticipated that the first year costs associated with this rule change will be between \$853,200 to \$1,279,800.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections of state or local governmental units will not be affected by this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The directly affected persons will be the plan members of the State Employees Group Benefits Program. Effective July 1, 1995, there will no longer be any pre-existing condition limitation exclusion or coordination of benefits reductions for prescription drugs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Competition and employment will not be affected.

James R. Plaisance  
Executive Director  
9507#067

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Trail Rides on WMAs (LAC 76:III.109)**

The Wildlife and Fisheries Commission, at its regular meeting in July, hereby gives its notice of intent to promulgate a rule governing trail rides and related activities on wildlife management areas and refuges. Authority is vested in the commission by Revised Statutes Title 56, Sections 109, 115, 752, 754, 763, 782, 785.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part III. State Game and Fish Preserves and Sanctuaries**

**Chapter 1. Responsibilities, Duties and Regulations  
§109. Trail Rides on WMAs**

A. Organized trail rides are not consistent with the purpose and operations of wildlife management areas or refuges owned by the Department of Wildlife and Fisheries and/or state of Louisiana and shall not be permitted. No special permits or exemptions to existing rules shall be issued by the department for organized trail rides on wildlife management areas or refuges managed by the department under lease from other parties.

B. For the purposes of this rule, an *Organized Trail Ride* shall include but not be limited to:

1. any gathering where participants tender a fee or donation to any entity other than the department to participate in a group activity such as all terrain vehicle riding, horseback riding, or wagon riding; or
2. any event whose primary purpose is the use of trails that is advertised in any way to attract participants; or
3. any event involving the use of trails at which there are vendors selling commodities whether such commodities are sold for profit or not; or
4. any organized event or gathering of individuals involving any manner of conveyance or conveyances to be used on the WMA that causes excessive damage to roads, trails, or to the habitat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109, 115, 752, 754, 763, 7782 and 785.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:

Interested parties may submit any comments in writing to Hugh A. Bateman, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000. Comments must be submitted by Tuesday, September 5, 1995.

Glynn Carver  
Vice-Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Trail Rides on WMAs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule will not require any expenditures to the department. Currently the department issues permits for these activities and this rule will result in cessation of this activity. Money will actually be saved since prohibition of trail rides reduce maintenance costs on roads that have or will be damaged by trail rides. Actual damages resulting from trail rides is estimated at \$500,000 since trail rides have been allowed on department property.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Some local and/or state taxes may be lost if past events are discontinued. However, these events can be relocated to privately owned lands and therefore no losses would be incurred.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This rule will not affect costs or economic benefits to the affected groups or organizations if the rides are continued. Should trail rides be relocated, some cost may be incurred for lease fees or damages to property.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition or employment.

Fredrick J. Prejean, Sr.  
Undersecretary  
9507#065

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Turkey Hunting 1996**

The Wildlife and Fisheries Commission at its July meeting does hereby give notice of its intent to promulgate rules and regulations governing the hunting of wild turkeys. A synopsis of said rule follows.

**Resident Game Birds and Animals  
(Shooting Hours - one-half hour before  
sunrise to one-half hour after sunset)**

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	3/season

**Turkey Hunting Schedule**

Area	Season Dates
A	March 16 - April 21
B	April 6 - April 21
C	March 16 - March 24

CITATION: None - changes annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:

The full text of the proposed rule may be obtained from the Department of Wildlife and Fisheries, Wildlife Division, 2000 Quail Drive, Baton Rouge, LA 70808 and the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Public hearings will be held at regularly scheduled Wildlife and Fisheries Commission meetings from August through November. Additionally, interested persons may submit written comments relative to the proposed rule until September 29, 1995 to Hugh A. Bateman, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898.

Glynn Carver  
Vice-Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hunting of Turkey for 1996**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Establishment of turkey hunting regulations is an annual process. The cost of implementing the proposed rules, aside from staff time, is the production of the regulation pamphlet. The turkey pamphlet will be the first ever produced and costs will be approximately \$10,000. Additionally, cost to produce and distribute the license will be incurred.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

License revenue from all hunters is in the neighborhood of \$6.2 million of which turkey hunters represent a portion. It is estimated that there are 22,000 turkey hunters in Louisiana. In order to turkey hunt, a basic and big game license is required. Additionally a turkey stamp has been passed by the legislature and will be required. License revenue generated directly from turkey hunting is approximately \$550,000. Failure to adopt this rule would result in no hunting season being established and a potential loss of these revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Turkey hunting in Louisiana generates in excess of \$5,892,000 annually through the sale of outdoor related equipment, associated items and other economic benefits. Figures are based on the 1991 National Surveys of Hunting, Fishing and Outdoor Related Activities and the department's annual harvest surveys.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Hunting in Louisiana provides 9,370 jobs of which a percentage are directly related to turkey hunting. Not establishing hunting seasons might have a negative and direct impact on these positions (Southwick and Assoc. 1995).

Fredrick J. Prejean, Sr.  
Undersecretary  
9507#066

David W. Hood  
Senior Fiscal Analyst



## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Possession of Potentially Dangerous Wild Quadrupeds (LAC 76:V.107 and 115)

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 possession of certain wild quadrupeds and to amend LAC 76:V.107, the prior commission rule regulating possession of those live wild quadrupeds, by repealing the paragraphs pertaining to them.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part V. Wild Quadrupeds and Wild Birds

#### Chapter 1. Wild Quadrupeds

#### §107. Game Breeder's License

##### A-B.8.c ...

9. \* Elk (license will not be issued). Single animal: 5,000 square feet paddock or corral; increase corral size by 50 percent for each additional animal; barn, shaded or protected area attached to or adjoining corral fence, 9 gauge chain link or woven wire; 8 feet high. Welded wire is not acceptable.

Regulation of elk is under jurisdiction of the Louisiana Department of Agriculture and Forestry by Act 41 of the 1992 Legislative Session.

\* Note: Valid game breeder's license holders for these species legally possessed prior to October 1, 1988, will be "grandfathered" and renewed annually until existing captive animals expire, or are legally transferred out of state or to a suitable public facility. No additional animals may be required. This position by the department is necessary due to the ability of these animals to cause serious physical injury to the owner or other innocent bystanders and/or their potential to transmit disease to wildlife or livestock. Qualified educational institutions, municipal zoos or scientific organizations will be exempted to this provision on a case-by-case basis.

10. Other Game Quadrupeds and Birds. Other game quadrupeds and birds endemic to North America may not be kept without approval of the Wildlife Division. Pen specifications for animals not listed will be developed by the Wildlife Division as needed.

##### C. General Requirements

##### C.1-C.5 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:171.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), amended LR 18:1134 (October 1992), LR 21:

#### §115. Possession of Potentially Dangerous Wild Quadrupeds

A. This commission finds that possession of certain potentially dangerous quadrupeds poses significant hazards to public safety and health, is detrimental to the welfare of the

animals, and may have negative impacts on conservation and recovery of some threatened and endangered species.

1. The size and strength of such animals in concert with their natural and unpredictable predatory nature can result in severe injury or death when an attack upon a human occurs. Often such attacks are unprovoked and a person other than the owner, often a child, is the victim. Furthermore, there is no approved rabies vaccine for such animals, so even minor scratches and injuries inflicted upon humans or other animals could be deadly.

2. Responsible possession of these potentially dangerous wild quadrupeds necessitates that they be confined in secure facilities. Prolonged confinement is by its nature stressful to these animals and proper long-term care by experienced persons is essential to the health and welfare of these animals and to society.

3. Certain of these animals are listed as endangered species and others are so similar in appearance to endangered subspecies as to make practical distinction difficult. This similarity of appearance may provide a means to market illegally obtained endangered animals and can limit the effective enforcement of endangered species laws.

B. This commission regulation prohibits possession of certain wild quadrupeds as follows.

C. No person shall possess within the state of Louisiana, any of the following species or its subspecies of live wild quadrupeds, domesticated or otherwise:

1. Cougar or mountain lion (*Felis concolor*)
2. Black bear (*Ursus americanus*)
3. Grizzly bear (*Ursus arctos*)
4. Polar bear (*Ursus maritimus*)
5. Red wolf (*Canis rufus*)
6. Gray wolf (*Canis lupus*)

D. Valid game breeder license holders for these species legally possessed prior to October 1, 1988, will be "grandfathered" and renewed annually until existing captive animals expire, or are legally transferred out of state, or are transferred to a suitable public facility. No additional animals may be acquired.

E. Qualified educational institutions, zoos, and scientific organization may be exempted from this prohibition on a case-by-case basis upon written application to the secretary. Minimum pen requirements for exempted educational institutions, zoos and scientific organization are as follows:

1. Bears
  - a. single animal - 25 feet long x 12 feet wide x 10 feet high, covered roof;
  - b. pair - 30 feet long x 15 feet wide x 10 feet high, covered roof;
  - c. materials - chain link 9 gauge minimum;
  - d. safety perimeter rail;
  - e. pool - 6 feet x 4 feet x 18 inches deep with facilities for spraying or wetting bear(s);
2. Wolf
  - a. 15 feet long x 8 feet wide x 6 feet high per animal, covered roof;
  - b. secluded den area 4 feet x 4 feet for each animal;

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CUMULATIVE ADMINISTRATIVE CODE UPDATE  
January - June, 1995

- c. materials - chain link wire or equivalent;
- d. safety perimeter rail;
- 3. Cougar, Mountain Lion
  - a. single animal - 10 feet long x 8 feet wide x 8 feet high, covered roof;
  - b. pair - 15 feet long x 8 feet wide x 8 feet high, covered roof;
  - c. materials - chain link 9 gauge minimum;
  - d. safety perimeter rail;
  - e. claw log;
  - f. shelf - 24 inch wide x 8 feet long, 40 inches off floor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, 56:171, and 56:1904(F).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:

Interested persons may comment on the proposed rule in writing to Hugh Bateman, Administrator, Wildlife Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 until 4:30 p.m. September 5, 1995.

Glynn Carver  
Vice-Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
RULE TITLE: Possession of Potentially Dangerous Wild  
Quadrupeds

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

The proposed rule will have no implementation cost to state government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

There will be a revenue decrease of \$175 annually to the Department of Wildlife and Fisheries. There are seven individuals or institutions which will be exempted or grandfathered. They will no longer purchase a \$25 license. Instead they will receive an annual permit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 

Persons currently with valid licenses will not be affected. The prohibition against issuance of new licenses will continue. Persons desiring to obtain new licenses will be affected. The proposed rule will have no appreciable costs or benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 

The proposed rule will have no effect on competition and employment.

Fredrick J. Prejean, Sr.  
Undersecretary  
9507#064

David W. Hood  
Senior Fiscal Analyst

LAC Title	Part.Section	Effect	Location	
			LR 21 Month	Page
7	XV.Chapter 99 XXIX.15115	Adopted	Jan	17
		Amended	Jun	548
13	I.201	Adopted	Mar	258
22	III.5301	Adopted	Jun	566
28	I.105 I.915 I.915 I.919 I.929 I.943 I.952 I.1515 I.1523 I.1523 I.1710 IX.103,105,301-327	Amended	Jun	550
		Amended	Feb	163
		Amended	Mar	259
		Amended	Jun	552
		Adopted	Mar	260
		Amended	May	463
		Adopted	Feb	167
		Amended	Mar	259
		Amended	Feb	168
		Amended	May	464
		Adopted	Jun	549
Amended	Feb	168		
31	II.601,603,605	Adopted	Mar	262
33	I.Chapter 3 III.223 III.509 III.2147-2151 III.2120 III.2133 III.Chapter 31 III.3140 III.3261-3266 III.3265,3266 III.3267,3268 III.5105 III.Chapter 60 V.Chapters 1-49 V.303 V.Chapter 7 V.Chapters 11-51 XV.341 XV.550,777 XV.1401-1420 XV.2051	Adopted	Jun	555
		Amended	Jan	22
		Amended	Feb	170
		Adopted	Apr	380
		Amended	Jan	23
		Amended	Jun	552
		Amended	Mar	263
		Repromulgated	Apr	379
		Amended	Apr	371
		Repromulgated	May	464
		Adopted	Apr	377
		Amended	Apr	370
		Amended	Apr	370
		Amended	Mar	266
Amended	Jun	564		
Amended	Jun	564		
Amended	Mar	267		
Adopted	Jun	554		
Amended	Jun	554		
Amended	Jan	24		
Amended	Jun	555		
34	I.Chapters 3-27	Amended	Jun	566

37	III.505	Amended	Apr 393
40	I.1106	Amended	Mar 272
	I.1123-1129	Adopted	Jan 36
	I.1131	Adopted	Mar 272
	XI.Chapter 24	Committee Report	Feb 235
42	I.1789	Amended	May 472
	XI.Chapter 24	Amended	Jun 582
43	I.101*	Adopted	Feb 182
	I.1901	Repromulgated	Mar 273
	I.Chap.19-29**	Adopted	Apr 397
	I.Chap.21-31	Repromulgated	May 471
46	XXI.513,515,517	Adopted	Jan 21
	XXI.1101	Adopted	Jun 548
	XXV.119	Amended	Feb 174
	XXXIII.105	Adopted	Jun 571
	XXXIII.301	Amended	Jun 567
	XXXIII.306	Amended	Jun 571
	XXXIII.310	Adopted	Jun 573
	XXXIII.502	Amended	Jun 569
	XXXIII.706	Amended	Jun 570
	XXXIII.Chapter 12	Amended	Jun 572
	XXXIII.Chapter 16	Amended	Jun 569
	XXXVII.709	Repromulgated	Feb 175
	XLV.125	Amended	May 467
	XLV.411	Adopted	May 467
	XLVII.3331	Amended	Mar 271
	XLVII.3349	Amended	Jun 574
	XLVII.3356	Amended	Mar 267
	XLVII.Chapter 34	Adopted	Mar 269
	XLIX.701	Repromulgated	Feb 175
	LIV.Chap.1,3,5	Amended	Apr 394
	LVII.731	Adopted	Jun 582
	LX.705	Amended	May 465
	LXV.Chapter 1	Amended	Feb 159
	LXV.Chapters 3,5	Repealed	Feb 162
	LXVII.2101-2105	Amended	May 461
	LXVII.2107	Repealed	May 461
	LXVII.4707	Amended	May 460
	LXVI.Chapter 12	Adopted	Feb 178
18	I.Chapter 18	Adopted	Apr 401
	I.2339-2345	Amended	May 469
	I.2432-2436	Adopted	May 471
	I.Chapter 91	Adopted	Feb 177
	I.Chapter 93	Adopted	Feb 177
	III.901	Adopted	May 468
5	III.129-141	Adopted	Feb 182
	III.701	Adopted	Feb 184
8	Part III	Adopted	May 473
1	I.4373	Adopted	Feb 185
	I.4408	Amended	Apr 401
	V.Chapters 3-31	Amended	Feb 186
7	I.101	Amended	Jun 589
	III.201	Amended	Mar 273

III.Chapter 19	Amended	Feb 186	
III.4701,4702	Amended	Apr 402	
V.1103	Amended	Jun 583	
VII.101	Repromulgated	Feb 189	
VII.101	Repromulgated	Feb 191	
VII.101	Amended	May 473	
VII.303,313	Amended	Jun 589	
VII.Chapter 17	Adopted	Jun 583	
70	III.Chapter 3	Amended	Jun 590
71	I.Subpart 2	Adopted	May 474
76	III.323	Adopted	Feb 194
	VII.161	Amended	Feb 193
	VII.169	Amended	May 477
	VII.201	Amended	May 477
	VII.203	Amended	May 477
	VII.343	Amended	Jan 37
	VII.903	Amended	Jun 594

\* incorrect codification--see §1901, March 1995

\*\* incorrect codification--see Chap.21-29, May 1995

## POTPOURRI

### POTPOURRI

#### Department of Environmental Quality Office of Air Quality and Radiation Protection

#### Hearing for Substantive Changes to AQ117 (LAC 33:III.2103)

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 the agency is seeking to incorporate substantive changes to the proposed amendments to the Air Quality Regulations LAC 33:III.2103 (AQ117), which were originally proposed on April 20, 1995.

The substantive changes will amend LAC 33:III.2103.C and D to add language to clarify closure seal requirements on both internal and external floating roofs. Closure seal requirements were not included in the original proposed amendments; therefore, these additional changes are considered substantive.

A public hearing on the substantive changes will be held on August 24, 1995, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed substantive changes.

**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, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
Allen & Loe	Colgrade	Clinton Allen	012	091739
Allen Operating Company	Converse	Sybil Woods	001	213668
B & B Land & Expl. Co. Inc.	Clear Creek	McPherson-Central	001	053937
B & B Land & Expl. Co. Inc.	Clear Creek	J B Gimnick	001	056993
B & B Land & Expl. Co. Inc.	Clear Creek	J B Gimnick	1-D	058175
Brittco Inc.	Fort Jessup	Murdock	001	162556
Brittco Inc.	Pendleton-Many	Anderson	001	164614
Brittco Inc.	Pendleton-Many	Anderson	002	186981
Cardinal Oil & Gas Inc.	Abbeville	Guidry Estate SWD	002	163440
Cardinal Oil & Gas Inc.	Abbeville	Guidry RA SUA;O Guidry et al	003	193361
Cardinal Oil & Gas Inc.	South Lake Charles	VUA;E B Lawton et al	001	206495
Cardinal Oil & Gas Inc.	St. Martinville	VUE;Daspit -Maraist	001	171695
Cardinal Oil & Gas Inc.	St. Martinville	VUE;Daspit -Maraist	002	178562
Cardinal Oil & Gas Inc.	St. Martinville	VUE;Daspit -Maraist	003	178951
Deblin Oil & Gas Inc.	Venice	Cattle Farms	A-5	083115

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 substantive changes. Such comments should be submitted no later than Thursday, August 31, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulatory Development Division, Box 82282, Baton Rouge, LA 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810 or to FAX number (504) 765-0486. Commentors should reference this proposed regulation by the AQ117S. Check or money order is required in advance for each copy of AQ117S.

AQ117 and AQ117S are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

9507#099

**POTPOURRI**

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

**1995-96 WIC State Plan Comment Solicitation**

In accordance with Public Laws 99-500 and 99-591, the Louisiana Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC program's State Plan for 1995-96. The plan describes in detail the goals and the planned activities of the WIC program for the next year.

Interested persons may find copies of the State Plan at the Central Nutrition/WIC office (address below) or they may apply directly to the Nutrition/WIC office for copies of the plan at \$.25 cents per page.

Interested individuals should submit their requests for copies or their comments on the plan to: Department of Health and Hospitals, Office of Public Health, Nutrition Section - Room 406, Box 60630, New Orleans, LA 70160, Attn: State Plan.

Additional information may be gathered by contacting Henry Klimek at (504) 568-5065.

Pamela P. McCandless, M.P.H.  
Administrator

9507#101

Deblin Oil & Gas Inc.	Venice	Cattle Farms	012	098172
Deblin Oil & Gas Inc.	Venice	Cattle Farms	013	104163
Deblin Oil & Gas Inc.	Venice	Cattle Farms	014	105370
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Assistant Secretary

9507#094

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