

## **NOTICE TO ALL STATE AGENCIES**

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THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY  
5800 S. UNIVERSITY AVENUE  
CHICAGO, ILLINOIS 60637  
TEL: 773-936-3700  
FAX: 773-936-3701  
WWW: WWW.CHEM.UCHICAGO.EDU

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This public document was published at a total cost of \$1,786.00. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$4,786.00. The total cost of all printings of this document including reprints is \$4,786.00. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-987. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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# Executive Orders

EXECUTIVE ORDER MJF 96-22

Technology Transfer Programs

## EXECUTIVE ORDER MJF 96-21

Gaming Control Board's Salary and Per Diem

WHEREAS: Act 7 of the First Extraordinary Session of 1996 (hereafter "Act 7") creates the Louisiana Gaming Control Board (hereafter "the Board") and orders that it shall have regulatory authority, control, and jurisdiction over all aspects of gaming activities and operations in the state of Louisiana which pertain to land-based, riverboat, video poker, and Indian lands gaming including, but not limited to, all licensing, permitting and contracting;

WHEREAS: pursuant to Act 7, the Board shall consist of nine members appointed by the Governor and of two ex officio members, the Secretary of the Department of Taxation and the Superintendent of the Office of State Police; and

WHEREAS: pursuant to Act 7, R.S. 27:14 was enacted which provides in Subsection B(1) that "[m]embers of the board shall receive an annual salary fixed by the governor not to exceed \$15,000 per year, and shall be entitled to a per diem not to exceed \$100 for attendance at a board meeting" and which provides in Subsection B(2) that "the chairman shall not earn compensation of any kind other than his salary paid as a board member. The chairman shall receive an annual salary equal in amount to a judge of the courts of appeal of this state, as provided in R.S. 13:311."; and

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

SECTION 1: That the annual salary of all members of the Board, except the Chairman and the ex officio members, shall be \$15,000 per year.

SECTION 2: That all members except the Chairman and the ex official members, shall receive a per diem of \$100 per day for attendance at board meetings.

SECTION 3: That the provisions of this Order are effective upon signature and remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of July, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9608#001

WHEREAS: it is the public policy of the state of Louisiana to support technology transfer and utilization of the science and technology resources of the federal government to promote the adoption and utilization of technological innovations by state and local governments and by commercial entities to encourage the exchange of scientific and technical personnel between federal laboratories and academia industry and state and local governments, and to improve the economic, environmental, and social well being of the people of Louisiana;

WHEREAS: the Department of Economic Development is the state agency specifically charged with the responsibility of promoting high technology development, as well as other economic development programs in the state; and

WHEREAS: the National Aeronautical and Space Administration/National Space Technology Laboratory provides certain technology transfer programs and cooperative agreements;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and the laws of the State of Louisiana, in order to preserve and protect the health, safety, and welfare of the people of Louisiana, do hereby order and direct as follows:

SECTION 1: All resources, rights, responsibilities of any technology transfer programs conducted in cooperation with the National Aeronautical and Space Administration/National Space Technology Laboratory shall be held by the Department of Economic Development.

SECTION 2: The Secretary of the Department of Economic Development is authorized to enter into and/or to continue its operations through cooperative agreements with the National Aeronautical and Space Administration/National Space Technology Laboratory, and to continue to develop mechanisms and comprehensive work programs for the delivery of services for the Louisiana Technology Transfer Center located at the National Aeronautical and Space Administration/National Space Technology Laboratory at the Stennis Space Center in Stennis, Mississippi.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate with the Department of Economic Development in implementing the provisions of this Order.

SECTION 4: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

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

Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of July, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9608#009

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Forestry  
Forestry Commission

Forest Tree Seedling Prices  
(LAC 7:XXXIX.Chapter 203)

# Policy and Procedure Memoranda

## POLICY AND PROCEDURE MEMORANDUM

Office of the Governor  
Division of Administration

General Travel—PPM 49 (LAC 4:V.1503)

(Editor's Note: A portion of PPM 49, which appeared on pages 531-537 of the July, 1996 *Louisiana Register*, is being republished to correct a typographical error.)

### Title 4

### ADMINISTRATION

#### Part V. Policy and Procedure Memorandum

#### Chapter 15. General Travel Regulations - PPM Number 49

#### Subchapter A. Introduction

#### §1503. General Specifications

##### A. Department Policies

1. - 4.b. ...

##### 5. Funds for Travel Expenses

Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate credit card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

EXEMPTIONS: Cash advances may be allowed for:

A. - J. ...

6. - 8. ...

Mark C. Drennan  
Commissioner

9608#052

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 3:4303, the Commissioner of Agriculture and Forestry finds that this emergency rule is required so that the Office of Forestry can recover production costs for seedling production beginning August 1, 1996, until adoption of a final rule can be completed. The seedling program is funded solely through monies obtained from seedling sales and cannot be operated on a deficit. The recent federal increase to the minimum wage will cause an increase in production costs which was not anticipated in budget projections. An imminent peril to public health, safety, and welfare would exist if the seedling program is forced to shut down due to its inability to pay production costs.

The effective date of this emergency rule is August 1, 1996, and it shall be in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

The full text of this emergency rule may be viewed in the notice of intent section of the July 1996 issue of the *Louisiana Register*, page 586.

Bob Odom  
Commissioner

9608#018

## DECLARATION OF EMERGENCY

Department of Economic Development  
Division of Economically Disadvantaged

Economically Disadvantaged Business Development  
(LAC 19:I.Chapters 1-13)

In accordance with the Administrative Procedure Act, R.S. 49:950 et. seq., the secretary of the Department of Economic Development has adopted the following emergency rules for the Economically Disadvantaged Business Development Program as authorized by R.S. 51:1759. The secretary of the Department of Economic Development is exercising the emergency provision to publish these rules because of a recognized immediate need to provide small economically disadvantaged business with management, technical and financial assistance.

Without these emergency rules, the public welfare is likely to be harmed as a result of likely disruptions in the effective



growth and development of the economically disadvantaged business. Such developmental disruption would result in lower market productivity, diminished job creation and increased risk of higher unemployment. The proposed emergency rules are intended to mitigate the disruptions described above.

These emergency rules will be effective August 20, 1996, for 120 days or until a final rule is promulgated, whichever occurs first.

## Title 19

### CORPORATIONS AND BUSINESS

#### Part II. Economically Disadvantaged Business Development

##### Chapter 1. General Provisions

##### §101. Statement of Policy

In accordance with the Louisiana Economically Disadvantaged Business Act of 1996 (R.S. 51:1751 through 1765 and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended) the Department of Economic Development, Division of Economically Disadvantaged Business Development, hereby adopts the following policies, rules and regulations relative to the Economically Disadvantaged Business Development Program, to be effective November 20, 1996. These regulations are both substantive and technical in nature, and are intended to specify the procedure for certification and as qualification for an economically disadvantaged business; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protégé program; to recognize achievements for economically disadvantaged businesses; and to facilitate access to state agency procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

##### §103. Purpose

The purpose and intent of this Chapter is to provide the maximum opportunity for economically disadvantaged businesses to become competitive in a non-preferential modern economy. This purpose shall be accomplished by providing a program of assistance and promotion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

##### §105. Definitions

When used in these regulations, the following terms shall have meanings as set forth below:

*Certification*—verification that a business qualifies for designation as an economically disadvantaged business.

*Division*—the division of economically disadvantaged business development in the Department of Economic Development.

*Economically Disadvantaged Business (EDB)*—a small business organized for profit and performing a commercially useful function which is at least 60 percent owned and controlled by one or more economically disadvantaged persons

and which has its principal place of business in Louisiana. A nonprofit organization is not an economically disadvantaged business for purposes of this Chapter.

*Economically Disadvantaged Person*—a citizen or lawful resident of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

*Executive Director*—the director of the division of economically disadvantaged business development.

*Firm*—a business that has been certified as economically disadvantaged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

##### §107. Eligibility Requirements for Certification [R.S. 51:1751, 52(3)(4), 1754]

An Economically Disadvantaged Business (EDB) is a firm that is owned and controlled by one or more Economically Disadvantaged individuals and meets the requirements of economic disadvantaged businesses. Eligibility requirements fall into two categories that apply to the individual owners and to the applicant's firm. In order to continue participation in the Program, a firm and its individual owners must continue to meet all eligibility requirements.

1. Economically Disadvantaged Persons. For purposes of the program, a person who meets all of the criteria in this section shall be defined as an *Economically Disadvantaged Individual*.

*Citizenship*—the person is a citizen or lawful permanent resident of the United States.

*Louisiana Residency*—the person has resided in Louisiana for at least one year.

*Net Worth*—each individual owner's personal net worth may not exceed \$250,000. The value of an individual's personal residence and his/her investment in the applicant firm will be excluded when calculating individual personal net worth for the EDB program.

*Income*—each individual owner must submit personal Federal Income Tax Returns for the past three years.

2. Economically Disadvantaged Business

*Business Annual Gross Revenue*—a business's annual gross revenue may not exceed the Louisiana EDB's size standards by SIC Code. Where the EDB program size standards utilize "number of employees" instead of a monetary figure, the Louisiana EDB Program shall use \$10.5 million in gross revenue as the qualifying monetary standard.

*Business Net Worth*—the business' net worth at the time of application may not exceed \$750,000. The division may waive this requirement only in those instances where the business seeking certification is in a capital intensive business.

*Business Size*—for purpose of Louisiana's EDB program, an eligible firm's size shall be defined as 50 percent or less of the published U.S. Small Business Administration's size standards by SIC codes.

*Diminished Capital and Credit*—a firm will be considered to have diminished capital and credit if its ability to compete in the free enterprise system has been impaired due to diminished capital and credit, opportunities as compared to other firms in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such firm from successfully competing in the open market.

i. Examples of diminished capital and credit are lack of access to long-term financing or credit, working capital financing, equipment trade credit, raw materials, supplier trade credit, and bonding.

ii. The applicant must furnish documentation that credit was denied on at least three occasions or separate applications for each area of credit that applies to the firm's type of business, condition, or situation.

iii. Applicant firms that score poorly on all financial measurements published by the Robert Morris Associates for liquidity, leverage, operating efficiency and profitability are considered to be economically disadvantaged. Factors to be considered are:

- (a). business assets;
- (b). net worth;
- (c). income;
- (d). profit.

iv. The latest revision of the Annual Statement Studies, published by Robert Morris Associates (the "RMA"), factors to be compared are:

- (a). current ratio;
- (b). quick ratio;
- (c). inventory turnover;
- (d). account receivable turnover;
- (e). sales to working capital;
- (f). debt-to-net worth ratio;
- (g). return on assets;
- (h). percentage return on investment;
- (i). percentage return on sales.

*Full Time*—managing owners who claim economically disadvantaged status must be full time employees of the applicant firm.

*Job Creation*—an applicant firm must have a minimum of at least two full-time employees. A waiver may be granted for this requirement dependant upon the firm's plans for expansion.

*Lawful Function*—the company has been organized for profit to perform a lawful, commercially useful function.

*Ownership and Control*—at least 60 percent of the company must be owned and controlled by one or more Economically Disadvantaged Individuals.

*Principal Place of Business*—the firm's principal place of business must be Louisiana.

3. Documents Required for Certification. The application shall be supported by but not limited to the following documents:

- a. business's balance sheet and income statement;
- b. verification of signatories on bank accounts;
- c. copies of income tax returns;
- d. resumes of owners and top managers;
- e. copies of business licenses and permits;

f. copies of stock certificates, stock transfer ledgers, and articles of incorporation if business is a corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

### §109. Control and Management

Description. An applicant concern's management and daily business operations must be controlled by an owner(s) of the applicant concern who has/have been determined to be economically disadvantaged. In order for a disadvantaged individual to be found to control the concern, that individual must have managerial or technical experience and competency directly related to the primary industry in which the applicant concern is seeking program certification.

1. The economically disadvantaged individual(s) upon whom eligibility is based shall control the Board of Directors of the concern, either in actual numbers of voting directors or through weighted voting.

a. In the case of a two-person Board of Directors where one individual on the board is disadvantaged and one is not, the disadvantaged vote must be weighted by share ownership, worth more than one vote to achieve a minimum of 60 percent control, in order for the concern to be eligible for the program. This does not preclude the appointment of non-voting or honorary directors.

b. All arrangements regarding the structure and voting rights of the board must comply with state law and with the concern's Articles of Incorporation and/or By-Laws.

2. Individuals who are not economically disadvantaged may be involved in the management of an applicant concern and may be stockholders, partners, officers, and/or directors of such concern. Such individual(s), their spouses or immediate family members who reside in the individual's household may not, however:

a. exercise actual control or have the power to control the applicant or certified firm;

b. be an officer or director, stockholder, or partner of another firm in the same or similar line of business as the applicant or certified firm;

c. receive excessive compensation as directors, officers, or employees from either the applicant or certified concern. Individual compensation from the concern in any form, including dividends, consulting fees, or bonuses, which is paid to a non-disadvantaged owner, his/her spouse or immediate family member residing in the same household will be deemed excessive if it exceeds the compensation received by the disadvantaged chief executive officer, president, partner, or owner, unless the compensation is for a clearly identifiable skill for which market rates must be paid for the firm to utilize the person's expertise;

d. be former employers of the economically disadvantaged owner(s) of the applicant or certified concern, unless the division determines that the contemplated relationship between the former employer and the disadvantaged individual or applicant concern does not give the former actual control or the potential to control the applicant or certified firm and if such relationship is in the best interests of the certified firm.

3. Non-disadvantaged Control. Non-disadvantaged individuals or entities may not control, or have the power to control, the applicant firm. Examples of activities or arrangements which may disqualify an applicant firm from certification are:

a. a non-disadvantaged individual, such as an officer or member of the Board of Directors of the concern, or through stock ownership, has the power to control daily direction of the business affairs of the concern;

b. the non-disadvantaged individual or entity provides critical financial or bonding support or licenses to the concern, which directly or indirectly allows the non-disadvantaged individual to gain control or direction of the concern;

c. a non-disadvantaged individual or entity controls the corporation or the individual disadvantaged owners through loan arrangements;

d. other contractual relationships exist with non-disadvantaged individuals or entities, the terms of which would create control over the disadvantaged concern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

**§111. Responsibility for Applying [R.S. 51:1755(B)]**

A. It is the responsibility of any business wishing to participate in the program to complete the required certification process and to provide all the information requested. Failure to provide complete, true, or accurate data may result in rejection of the application to participate in the program.

B. Certification materials will be distributed by the division upon written or verbal request. Written requests for certification materials should be directed to the Division of Economically Disadvantaged Business Development, Baton Rouge, LA 70804.

C. Certification as an economically disadvantaged business does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a disadvantaged business also does not constitute any determination by the division or that the firm is responsible or capable of performing any work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

**§113. Certification Application Procedure (R.S. 51:1753(4), 1755)**

A. Applicant firm submits a completed certification application and supporting documents to the division.

B. The division reviews the certification application. If it is incomplete or further information is needed, the division will contact applicant. If the applicant does not respond within 15 days, the application will be denied.

C. The division shall conduct a site visit at the firm's place of business, prior to certification.

D. Information obtained from the site visit is added to the file and a written recommendation is made to the division's executive director.

E. The executive director notifies the applicant in writing of the decision whether or not to grant certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

**§115. Duration of Certification [R.S. 51:1755(E)]**

A. The maximum amount of time that a firm may be granted certification by the division is seven years.

B. Retention of the firm in the program depends upon time, the firm's progress toward attainment of its business goals, willingness or ability to cooperate and follow through recommendations of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

**§117. Reports By Certified Economically Disadvantaged Businesses [R.S. 51:1757]**

A. Report Form. On forms identified or prescribed by the division, certified businesses shall report at times specified by the division their financial position and attainment of the business' performance goals.

B. Verification of Eligibility. The division may take any reasonable means at any time to confirm a certified concerns eligibility, such as by letter, telephoned contact, contact with other governmental agencies, persons, companies, suppliers, or by either announced or unannounced site inspection.

C. Notification of Changes. To continue participation, a certified firm shall provide the division with a notarized statement of any changes in address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. Evaluation. -- The division, at such times it deems necessary, shall evaluate the information to determine progress, areas for further improvement, resources needed by the firm, and eligibility for continued participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

**Chapter 3. Developmental Assistance Program**

**§301. Developmental Assistance [R.S. 51:1753(B)(3)]**

A. Purpose. The division will coordinate technical, managerial, and financial assistance through internal and external resources to assist certified economically disadvantaged businesses to become competitive in their markets.

B. Developmental Steps

1. The division will conduct a preliminary analysis of the firm's situation to determine its strengths and weaknesses.

2. Determination of Assistance. In consultation with the division's staff, the business owner will determine areas in which he/she needs assistance.

3. Referral to Additional Resources. The division will assist the firm obtain intensive technical or managerial assistance from other resources, such as small business development centers, procurement centers, consultants, business networks, professional business associations, educational institutions, and other public agencies. The Small Business Development Centers shall be the point of entry for such assistance.

C. Ongoing Evaluation. In conjunction with the economically disadvantaged firm and appropriate external resources, the division will periodically assess the EDB's progress toward attainment of its business goals. The division, in conjunction with the EDB firm, will determine the effectiveness of assistance being administered. If assistance is ineffective, the division will investigate and take appropriate action.

D. Graduation from the Program. After a pre-agreed performance or time has been reached, or combination of the two, the EDB will graduate from the Program. Companies that do not make satisfactory progress will be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

#### **Chapter 5. Mentor-Protége Program**

##### **§501. Mentor-Protége Program [R.S. 51:1753(B)(6)]**

Purpose. The division shall design and conduct a business mentor-protége program to bring non-economically disadvantaged businesses into a systematic working relationship with a certified economically disadvantaged business for their mutual, commercial benefit and for the development of the protége firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

#### **Chapter 7. Recognition Program**

##### **§701. Recognition [R.S. 51:1753(B)(7)]**

Purpose. The division will publicly recognize outstanding accomplishments or contributions from economically disadvantaged businesses, public agencies, and non-economically disadvantaged firms. Companies and agencies that would be recognized include:

1. EDB Graduates. Economically disadvantaged businesses which graduate from the program by reaching their goals.

2. Outstanding EDB Firms. Economically disadvantaged companies which demonstrate outstanding performance beyond reaching their goals or which showed unusual effort, persistence, quality service or products, or creativity at overcoming obstacles.

3. Cooperative Agencies. Public agencies that show exceptional cooperation or success in working with economically disadvantaged companies.

4. Cooperative Non-EDB Firms. Companies in the private sector that demonstrate unusual efforts at promoting or buying from economically disadvantaged businesses or have been outstanding mentors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

#### **Chapter 9. Small Business Bonding Program**

##### **§901. Small Business Bonding Assistance [R.S.**

**51:1753(B)(8)]**

A. Program Activities. Louisiana Contractors Accreditation Institute: (LCAI)

1. Eligibility. All economically disadvantaged business construction contractors who are certified by the Division of Economically Disadvantaged Business Development, Department of Economic Development, are eligible to attend the institute. However, other contracting businesses will be invited to attend the institute but they will not be able to receive the grant assistance or bond guarantee until they have been certified by the Economically Disadvantaged Business Development Program.

2. Standards and Procedures for Determining Course Content. The director of Bonding Assistance Program (BAP) will once a year consult with the heads of the construction schools in Louisiana approved by the Board of Regents and Department of Education to ensure that current course content adequately prepares the students to run their construction firms in a businesslike manner.

3. Attendance. Attendance is open to only certified or potentially certified economically disadvantaged business construction contractors. However, contractors must register for institute he or she wish to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation which qualifies them to receive the grant assistance and bond guarantee phases of the program.

4. Accreditation without Institute Attendance. An EDB firm may request to be accredited without attendance. The director of the BAP will conduct a review of the firm. If the contractor can present evidence he conducts business within standards set by best practices, the director may issue accreditation to the firm.

5. Accreditation by Test Only. Should the accreditation in Subsection D, supra, be denied, the firm may gain an accreditation without attending the institute by obtaining an acceptable score on the test administered during the institute.

6. Grant Assistance:

a. Eligibility. The primary goal of the Bonding Assistance Program (BAP) is to increase the number of bonds received by Economically Disadvantaged Business (EDB) on reasonable terms. Toward this end, certified economically disadvantaged business contractors are eligible to receive the grant assistance provided for by these rules. All EDB contractors will be deemed to have the required level of capability necessary to be eligible for professional assistance if they are accredited pursuant to §501 C, D, or E of these rules. The contractor must demonstrate economic need.

b. Method of receiving the grant assistance. An accredited contractor is automatically eligible to receive the

grant assistance upon successfully completing the LCAI courses and agreeing to the following:

- i. to participate in surveys designed to evaluate the effectiveness of the services received and to assure that the services were adequately performed;
- ii. they authorize BAP to furnish relevant information to the assigned professional;
- iii. they waive all claims against BAP, the Department of Economic Development, and the State of Louisiana arising from this assistance.

7. **Eligible Professionals.** The professionals selected to deliver the services will be mutually agreed upon by the contractor, the local Small Business Development Center (SBDC) and Director of the BAP.

8. **Successful Completion of Contract.** The Local SBDC's procurement policies and procedures along with AP's evaluation process will be used to monitor contract performance. The SBDC will allow DED personnel to inspect all relevant files.

B. **Direct Bonding Assistance.** All certified economically disadvantaged businesses that have been accredited by the LCAI may be eligible for surety bond guarantee assistance from the Louisiana Economic Development Corporation (LEDC). Such assistance will be provided in accordance with rules promulgated by LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

## **Chapter 11. Promotion of Economically Disadvantaged Businesses**

### **§1101. Promotion [R.S. 51:1753(B)(2)]**

#### **A. Directory**

1. **Compilation.** The division shall compile a directory of all certified economically disadvantaged businesses and make it available to the businesses and governmental agencies.

2. **Frequency of Publication.** The directory shall be updated at least annually, based upon information provided by certified businesses. The division may issue updated directories more frequently.

3. **Volume and Distribution.** At least one copy of the directory will be made available to each state agency and educational institution, and copies will be provided to the State Library. Additional copies may be made available to the public and governmental agencies as division's resources permit.

4. **Available Information.** Public information concerning an economically disadvantaged business may be obtained by contacting the Division of Economically Disadvantaged Business Development during normal working hours.

B. **Other Promotional Means.** The division will utilize other feasible means of promoting economically disadvantaged businesses, such as, but not limited to, the Internet, world wide web, electronic bulletin boards, trade shows, or private sector contacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

## **Chapter 13. Complaints and Investigations**

### **§1301. Complaints and Investigation of Ineligibility [R.S. 51:1760]**

A. **Right To File Complaint.** Any individual, firm, or governmental agency which believes that a certified business does not qualify for certification may file a written, signed complaint with the division. The complaint must contain sufficient information for division to conduct an investigation, including specific identification of the affected business, basis for the charge of ineligibility, and identification, mailing address, and telephone number of the complainant.

B. **Right to Due Process.** No disadvantaged business shall be decertified based upon a complaint, without first having had an opportunity to respond to the allegations. However, failure of the disadvantaged business to respond to the division's notification within 30 calendar days of mailing from the division may result in revocation of certification.

#### **C. Investigative Procedure (R.S. 51:1760)**

1. **Notification of Allegation.** The division shall notify the certified business which is subject of the complaint by certified mail, return receipt requested, of the allegation within 15 calendar days of the complaint's receipt.

2. **Investigation Conducted.** Within available resources, the division shall investigate each complaint as promptly as possible. In no event shall the investigation extend beyond 60 calendar days from the date that the complaint was received.

3. **Cooperation.** The disadvantaged business enterprise shall cooperate fully with the investigation and make its staff and records available to division if requested. Insufficient cooperation may be grounds for concluding that the firm has not borne the burden of proving to the satisfaction of the division that it is eligible for certification, resulting in revocation of certification.

4. Upon completion of the investigation, the division's executive director shall make a determination and issue a written decision which either rejects the complaint or revokes the certification within 10 working days. A copy of the written decision shall be sent to the firm that was subject of the complaint, the complainant, and the director of the Office of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

### **§1303. Grounds and Procedure for Reconsideration of Denial [R.S. 51:1762]**

A. **Right to Petition.** A decision by the division to deny issuing certification, deny renewal of certification, or to revoke certification will be reconsidered after an applicant business has submitted a written petition for reconsideration to the executive director of division.

B. **Grounds.** Grounds for petitioning division to reconsider a denial or revocation of certification are that the Division of Disadvantaged Business Enterprise:

1. did not have all relevant information;
2. misapplied its rules;

3. otherwise made an error in reaching its original decision.

C. Right to Petition for Reconsideration. A petitioning business may appeal division's decision to deny issuance of certification, to deny recertification, or to revoke certification. Only a firm which is subject of the denial or revocation has a right to petition for reconsideration.

1. Petition Submitted. The appellant business submits a written petition for reconsideration to the division's executive director. If the petition has not been received by the division within 30 days of the date of the letter announcing the denial or revocation, the division's decision becomes administratively final.

2. The petition shall specify grounds upon which a reconsideration is justified and the type of remedy requested. The petition for reconsideration must also clearly identify a contact person, mailing address, telephone number. The petitioning firm may provide any additional information which would be pertinent to the issue.

3. Acknowledgment. Upon receiving a petition for reconsideration, division shall acknowledge its receipt by sending certified mail, return receipt requested, to the petitioner within five working days.

4. Reconsideration. The division shall consider the petition and review all pertinent information, including additional information provided by the appellant business. Division may conduct further investigation as necessary.

5. Notification of Decision. No later than 60 calendar days from receipt of the petition for reconsideration, the division shall notify the petitioner by certified mail, return receipt requested, of its decision either to affirm the denial or revocation, with specific reason(s) of the grounds for the decision.

D. Final Decision. A decision to deny, revoke, or suspend certification following consideration of a petition for reconsideration is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Division of Economically Disadvantaged Business Development, LR 22:

Henry J. Stamper  
Executive Director

9608#016

## DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Office of Public Health

Orleans Parish Individual Sewage

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Health and Hospitals has adopted the following emergency rule governing the installation of individual sewage systems in certain areas of Orleans Parish. Concurrently, a Notice of

Intent to establish a permanent rule is being published in accordance with the Administrative Procedure Act, R.S. 49:953(B).

Funds in the amount of \$12,500,000 from the federal and state governments as well as the New Orleans Sewerage and Water Board have been committed for the design and construction of a community sewage system for the following areas in Orleans Parish: property between Chef Pass and the Rigolets, outside the hurricane protection levee; and property on the Lake Pontchartrain side of the LandM Railroad tracks that parallel Hayne Boulevard, outside the hurricane protection levee; and property on either side of U.S. Highway 11 between Powers Junction and Interstate 10, commonly referred to as Irish Bayou.

This emergency adoption is necessary to prohibit the increase of individual sewage disposal systems in organized, subdivision type camp developments for individual camps/dwellings which shall be provided with community type sewage disposal facilities. To continue to allow the installation of individual sewage treatment and disposal systems would only jeopardize continuation of funding for this much needed public health project as many of the existing systems are inadequate and are contributing to the pollution of the Lake Pontchartrain Basin.

The effective date of this rule is August 1, 1996, and shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

### Emergency Rule

The Department of Health and Hospitals, Office of Public Health prohibits the installation of individual sewage systems in the following areas of Orleans Parish:

- 1) property between the Chef Pass and the Rigolets, outside the hurricane protection levee; and
- 2) property on the Lake Pontchartrain side of the LandM Railroad tracks that parallel Hayne Boulevard outside the hurricane protection levee; and
- 3) property on either side of US Highway 11 between Powers Junction and Interstate 10, commonly referred to as Irish Bayou.

Bobby P. Jindal  
Secretary

9608#012

## DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Office of Public Health

Sanitary Code—Bottled Water for Emergencies  
(Chapter VI)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health hereby amends and enacts rules pertaining to the processing and bottling of drinking water for limited use under

emergency circumstances by those institutions and facilities that require a source of potable drinking water.

This emergency measure amends and enacts certain sections of Chapter VI, Part 5 of the state Sanitary Code which governs the processing and bottling of bottled water. This emergency rule stems from requests by hospitals and nursing homes made to certain food processing plants to process and package bottled drinking water for their use as a source of potable drinking water for patients and residents of those facilities. These amendments to the Sanitary Code will provide guidance and set uniform rules for processing of drinking water strictly for use under emergency situations which may occur.

The effective date of this emergency rule is July 19, 1996 and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first. Without adoption of this emergency rule, there will be imminent peril to the health of the citizens of this state.

## **Chapter VI. Manufacturing, Processing, Packing and Holding of Food, Drug and Cosmetics**

### **Part 5. Processing and Bottling Drinking Water**

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#### **6:132 Definitions:**

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*Bottled Water*—water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents. Fluoride may be optionally added within the limitations established in 21 CFR §165.110(b)(4)(ii). Bottled water may be used as an ingredient in beverages (e.g. diluted juices, flavored bottled waters). It does not include those food ingredients that are declared in ingredient labeling as "water," "carbonated water," "disinfected water," "filtered water," "seltzer water," "soda water," "sparkling water," and "tonic water." The processing and bottling of bottled water shall comply with regulations specified in this part of this Chapter.

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**6:132-2 Bottled Water for Emergencies.** Bottled water processed and packaged strictly for the purpose of providing a source of potable drinking water in anticipation of, or during, an emergency such as the aftermath of disasters from severe storms, hurricanes, floods, etc., shall comply with the provisions of this part of this Chapter unless otherwise specified.

**6:132-3 Bottled Water for Emergencies from Outside of State.** Bottlers, processors, distributors, or dealers of bottled water processed and packaged outside of this state strictly for the purpose of providing a source of potable drinking water in anticipation of, or during, an emergency such as the aftermath of disasters from severe storms, hurricanes, floods, etc., shall show evidence to the state health officer, or his/her duly authorized representative, of compliance with the requirements for processing, packing, and distribution of bottled water in that state, county, or local authority having jurisdiction.

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**6:137-1(B) Treatment of Product Water for Emergencies.** Product water intended for bottling for use

during emergencies shall contain a minimum of 0.2 ppm free chlorine residual prior to bottling or, shall be treated as specified in §6:137-1 of this part.

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**6:137-2 (3)** Bottled water that is processed and packaged exclusively for emergency use shall include the following labeling information in addition to any other required labeling information:

a) Bottled water for emergencies may be named "Bottled Water" or "Drinking Water" followed immediately by "for Emergency Use Only, Not for Re-Sale".

b) Each unit container shall include a "Use by (date)" with the date not to exceed 60 days from the date of bottling.

c) The information required in §6:137-2(3) (a)-(b) shall be of the same print size and style.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:941(C), R.S. 40:2, and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:220 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health LR 22:

Bobby P. Jindal  
Secretary

9608#003

## **DECLARATION OF EMERGENCY**

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

### **Home Health Services Definition**

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law".

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

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for the delivery of home health services to Medicaid recipients in their homes under the Home Health Program. The department adopted an emergency rule effective August 1, 1996 which defined the provision of home health services under the Medicaid Program as follows. "Home health services are temporary or intermittent skilled nursing, nurse aide or

physical therapy services designed to assist homebound patients with physical limitations caused by acute illness and/or surgery. Reimbursement for home health services is not provided when the principal diagnosis is a psychiatric diagnosis." However the Health Care Financing Administration has advised that this rule has not been approved for incorporation under the Medicaid State Plan. Therefore, the following emergency rule has been adopted to repeal the August 1, 1996 in order to avoid federal sanctions or penalties.

#### **Emergency Rule**

Effective for dates of service August 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the August 1, 1996 emergency rule defining home health services which was published in the July 20, 1996 issue of the *Louisiana Register*, Volume 22, Number 7.

Bobby P. Jindal  
Secretary

9608#013

### **DECLARATION OF EMERGENCY**

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

#### **Hospital Prospective Reimbursement Methodology**

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriations 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 reduction, 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 for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first..

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for certain specialty hospital services including rehabilitation hospitals and long-term hospitals under specialty hospital peer groups as published in the *Louisiana Register*, Volume 19, Number 11 of November 20, 1993. The bureau adopted an emergency rule (*Louisiana Register*, Volume 22, Number 6, page 574) which provided for prospective reimbursement of rehabilitation hospitals and long-term hospitals within the peer groups established for general medical and surgical acute care hospitals according to the number of certified, staffed,

non-psychiatric beds and reimbursement of these hospitals at the peer group per diem rate for psychiatric patient days through December 31, 1996. The department has now determined it is necessary to repeal the July 1, 1996 emergency rule because programmatic changes would negate anticipated cost savings and implementation of this emergency rule would result in additional expenditures. Therefore, the department has adopted the following emergency rule in order to avoid a budget deficit in the medical assistance programs. It is anticipated that this action will result in a cost savings of approximately \$806,468 for state fiscal year 1996-1997.

#### **Emergency Rule**

Effective August 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the July 1, 1996 emergency rule on the reimbursement of certain specialty hospital services including rehabilitation hospitals and long-term hospitals which was published in the *Louisiana Register* Volume 22, Number 6, page 574.

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

Bobby P. Jindal  
Secretary

9608#014

### **DECLARATION OF EMERGENCY**

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

#### **Pharmacy Program—Benefits Management System and Point of Sale/Prospective Drug Utilization Review**

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act Section 1927(g) and (h) 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".

Section 1927(g) as added by section 4401 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) provides that in order for states to receive federal financial participation for covered outpatient drugs, the state must have in operation a drug use review program. This Drug Utilization Review Program must consist of prospective drug review, retrospective drug use review, the application of explicit



predetermined standards, and an educational program. The purpose of this program is to improve the quality of pharmaceutical care by ensuring that prescriptions are appropriate and medically necessary, and that they are not likely to result in adverse medical effects. This Section of the Act mandates detailed requirements for conducting drug use reviews and for the State Drug Utilization Review Boards.

The Department of Health and Hospitals, Board of Pharmacy adopted a rule on August 20, 1992 (*Louisiana Register*, Volume 19, Number 8) which incorporated these requirements under the Professional and Occupational Standards for pharmacists. Section 1927(h) also added by the Omnibus Budget Reconciliation Act of 1990 encourages states to establish a point-of-sale electronic claims management (ECM) system for processing claims for covered outpatient drugs which is capable of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims and assisting pharmacists and other authorized person in applying for and receiving payment. Regulations at Section 456.705(a) and (b)(1) require review of drug therapy based on predetermined standards at the point of sale before each prescription is filled or delivered to a recipient. The following emergency rule provides for the enhanced operation of the Louisiana Drug Utilization Review Program and the Medicaid State Plan by including prospective drug review at the point of sale, an educational program, and implementation of the Point of Sale Electronic Claims Management. Adoption of this rule is necessary to assure compliance with Sections 1927(g) and (h) and the federal regulations contained at 42 CFR Part 456, Subpart K and thereby to avoid possible federal sanctions or penalties. It is also necessary to comply with the mandated legislative budgetary limitation for the Pharmacy Program for state fiscal year 1996 and thereby avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will contain the cost effectiveness in expenditures by approximately \$3,398,424 for state fiscal year 1996 and by approximately \$11,813,400 for state fiscal year 1997.

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

This emergency rule integrates and enhances current efforts to provide optimal pharmaceutical services and to maintain program integrity.

Integration of the Pharmacy Program's existing components, Retrospective Drug Utilization Review, Formulary Management, Claims Management, Patient Education Program, Pharmacy Provider Network and Provider Service with the Louisiana Medicaid Pharmacy Benefits Management's new components of Enhanced Pharmacy Network, Pharmacy Provider Help Desk, Point-of-Sale Electronic Claims Management Network, Point of Service Prospective Drug Utilization Review System and Patient, Physician and Pharmacist Education System will enhance the existing features to allow for greater capability to determine if appropriate pharmaceutical are being utilized for optimal disease and outcomes management of the patient. The

Department of Health and Hospitals has initiated an Interdisciplinary Medicine and Pharmacy Team to assist in the development of various educational and intervention components. The conversion of the current Drug Utilization Review Program into an enhanced on-line electronic prospective one will reduce costly duplicate drug therapy, prevent potential drug to drug interactions, assure appropriate drug use, dosage and duration of therapy. In addition the electronic system will provide drug information and education to providers. This electronic system will enable the Medicaid Program to monitor prescribing patterns and recipient drug utilizations patterns. Analyses of data derived from the Point of Sale/Pro-DUR system will allow for timely interventions for those providers and/or recipients. The Point of Sale technology will integrate provider networks which will allow for better management of disease state.

Emergency rulemaking on these changes to the Pharmacy Program was adopted and published in the January 20, 1996 and April 20, 1996 issues of the *Louisiana Register*, Volume 21, Numbers 1 and 4. The following emergency rule continues this initiative in force until adoption of the rule under the Administrative Procedure Act.

#### **Emergency Rule**

Effective August 27, 1996, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the Louisiana Medicaid Pharmacy Benefits Management System. The Point of Sale/Prospective Drug Utilization Review system began full operations April 1, 1996. This system is administered with the Northeast Louisiana University, School of Pharmacy and the fiscal intermediary for the Bureau of Health Services Financing. The Prospective DUR system processes information about the patient and the drug through eight therapeutic modules. The department reserves the right for ultimate decision making relative to certain therapeutic class information, contraindications or interactions. The Point-of-Sale Prospective Drug Utilization Review is administered in accordance with the standards of the National Council of Prescription Drug Plan.

#### **I. Provider Participation:**

A. A point-of-sale enrollment amendment and certification is required prior to billing POS/Pro-DUR system as well as an annual recertification.

B. All Medicaid enrolled pharmacy providers will be required to participate in the Pharmacy Benefits Management System.

C. All Medicaid enrolled pharmacy providers whose claim volume exceeds 100 claims or \$4,000 per month and all providers enrolled on January 1, 1996 are required to participate in Point of Sale System. Long Term Care pharmacy provider claims may be processed through Electronic Media Claims (EMC).

D. Providers accessing the POS/Pro-DUR system will be responsible for the purchase of all hardware for connectivity to the switching companies and any fees associated with connectivity or transmission of information to the fiscal intermediary. The Bureau of Health Services Financing will not reimburse the provider for any on-going fees incurred by the provider to access the POS/Pro-DUR system.

E. Providers are required to verify eligibility with the monthly eligibility card and a copy of the card should be retained for processing the claim.

F. Pharmacy providers and physicians may obtain assistance with clinical questions from the Northeast Louisiana University, School of Pharmacy.

G. Physicians and pharmacy providers will be required to participate in the educational and intervention features of the Pharmacy Benefits Management System.

## II. Recipient Participation:

Pharmacy patients are encouraged to take an active role in the treatment or management of their health conditions through participation in patient counseling efforts with their physicians and pharmacists.

Bobby P. Jindal  
Secretary

9608#033

## 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 rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq and shall be in effect for the maximum period allowed by the Act.

The Department of Health and Hospitals, Bureau of Health Services Financing provides a pharmacy 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 \$0.10 provider fee collected on all prescriptions dispensed to Louisiana residents by pharmacists. This dispensing fee is called the Louisiana Maximum Allowable Overhead Cost and is determined by updating the base rate through the application of certain economic indices to appropriate cost categories to assure recognition of costs which are incurred by efficiently and economically operated providers. During state fiscal year 1995-966 the Bureau maintained the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995

level. The following emergency rule continues the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. 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 Pharmacy Program by approximately \$5,879,825 for state fiscal year 1996 and 1997.

### Emergency Rule

Effective for dates of service August 8, 1996 and after, the Department of Health and Hospitals, Office of the Secretary, 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 state fiscal year 1996-97, the Maximum Allowable Overhead Cost will remain at the level established for state 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, 1996 through June 30, 1997.

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

Bobby P. Jindal  
Secretary

9608#032

## DECLARATION OF EMERGENCY

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

Civil Penalties, Significant Services, Standards of Conduct and Ethics, and Definitions (LAC 42)

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

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

Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

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

The legislature has determined that development of a controlled gaming industry to promote economic development of the state requires thorough and careful exercise of legislative power to protect the general welfare of the state's people by keeping the state free from criminal and corrupt elements, and that it is the public policy of the state to this end that all persons, locations, practices, associations and activities related to the operation of licensed and qualified gaming establishments and the manufacture, supply, or distribution of gaming devices and equipment shall be strictly regulated.

Act 7 provides that State Police, the former licensor, may institute administrative actions against any entity that has a license, permit, casino contract, action or approval.

Numerous enforcement actions are required to be initiated immediately by State Police and it is necessary that such authority be provided by rule, and it is further necessary that rules be adopted providing for administrative hearings to ensure due process is afforded licensees and permittees.

It is essential to the purposes of Act 7 that definitions be established immediately for key employees and persons furnishing services or goods material and integral to the operation of a riverboat in order to determine if these persons are suitable to be involved in the gaming industry in Louisiana.

It is essential, to immediately effectuate the purposes of Act 7 and to ensure the integrity of gaming regulations in Louisiana, that rules be adopted to establish standards of conduct and ethical provisions for board members, employees, family members, contracting parties and other persons.

For the foregoing reasons, the Louisiana Gaming Control Board has determined adoption of emergency rules is necessary and hereby adopts these emergency rules, effective August 6, 1996, in accordance with R.S. 49:953(B), to be effective for a period of 120 days or until the final rule is promulgated, whichever occurs first.

#### **Title 42**

### **LOUISIANA GAMING**

#### **§105. Civil Penalties**

A. The department is authorized to take enforcement action by imposing civil penalties against any entity that has a license, permit or casino contract, for violation of the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501, et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., the

Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., or rules promulgated in accordance therewith, provided that such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

B. In imposing civil penalties, the department shall issue a citation which will specify the violation. The citation shall provide for the payment of a civil penalty to the department in accordance with a schedule which will be approved by the board and which will be furnished to licensees, permittees or a casino operator on request. The penalty shall be paid within 10 days of the issuance of the citation unless within that period the person to whom the citation is issued files a written request for a hearing with the board.

C. The department may institute an administrative action with the board based upon the non-compliance of the licensee, permittee or casino contractor with an enforcement action, or based upon a pattern of violations requiring enforcement action. Such administrative action may result in the suspension or revocation of a license or permit or such other penalty as the board may deem appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

#### **§106. Persons Furnishing Significant Services**

A. For purposes of R.S. 4:540 A., a person who furnishes significant services which are material and integral to the operation of a licensed riverboat shall include but not be limited to:

1. any individual, corporation, firm, partnership, or other legal entity that furnishes, by contract or otherwise, marine operations services and personnel to licensed riverboat operators;

2. masters and/or pilots and chief mates and/or first mates of riverboats whether employees or contract personnel who have authority to certify reports regarding cruising schedules and are authorized to operate the vessel for cruises.

B. Any person defined in Subsection A, shall submit an application to the board and be issued a permit by the board prior to furnishing services to any licensed riverboat operator. This rule applies to all marine operations regardless of any permit held.

C. All persons defined in Subsection A, furnishing services to a licensed riverboat operator prior to August 6, 1996, may continue to furnish services until their application has been finally acted upon by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

#### **§107. Standards of Conduct and Ethical Rules**

A.1. No board member or employee shall engage in gaming activities in any establishment under the jurisdiction of the board, except as required in the course of his duties.

2. No board member or employee shall solicit or accept employment from a casino operator or from any licensee or permittee, or any holding, intermediary, or subsidiary

company of an operator, a licensee, or a permittee, for a period of five years after termination of service on the board or employment by the board.

3. No immediate family member of a board member shall be employed by the casino operator, any licensee or a permittee, or any holding, intermediary, or subsidiary company of an operator, a licensee, or a permittee.

4. No board member or board employee nor a member of the immediate family of any board member or employee shall acquire a future direct or indirect pecuniary interest in the gaming casino operator or any other gaming licensee or permittee, or a holding, intermediary, or subsidiary company of an operator, a licensee, or a permittee, during the term of office or employment of the member or employee.

5. No board member or board employee shall attempt to affect the result of an election or a nomination for an office; directly or indirectly coerce, attempt to coerce, command, or advise a person to pay, lend, or contribute any thing of value to a political party, a committee, an organization, an agency, or a person for political purposes; or take part in a political campaign or the management of a political campaign.

6.a. No member or board employee nor a member of the immediate family of a board member or board employee shall make a contribution or loan to, or expenditure on behalf of, a candidate or committee;

b. No casino operator or any other licensee or permittee shall make a contribution or loan to, or expenditure on behalf of, a candidate or committee.

7.a. No board member or board employee shall represent the interests of any individual or entity, other than the board's interests, before the board for a period of five years following the date of termination of the person's term or employment with the board.

b. A consultant or person under contract for services to the board may not represent the interests of any individual or entity, other than the board's interests, before the board nor may such consultant or person under contract for services act as a consultant to or for or have a contract for service with the casino operator or any other licensee or permittee, or any holding, intermediary, or subsidiary company of an operator, licensee, or permittee, during the term of any agreement with the board.

8. No board member or board employee during service on or employment by the board or thereafter shall reveal information which is confidential, as provided in R.S. 27:21, except as is permitted in that Section.

9. A board member should not permit private or ex parte interviews, arguments or communications designed to influence his or her action with reference to any matter before the board.

10. A board member should not accept in any matter before the board, documents or written communications intended or calculated to influence his or her action unless the contents are promptly made known to all parties.

B.1. Violations by a board member or any immediate family member of a board member of any ethical rule adopted by the board or provided by law shall be cause for removal of the board member.

2. Violations by a board employee of any ethical rule adopted by the board or provided by law may be sanctioned by the board by suspension, demotion, or termination from employment, or some lesser sanction as determined appropriate by the board after receiving a report from a board hearing officer, if a hearing is requested by the employee, subject to applicable civil service laws and regulations.

3. Violations of any ethical rule after termination of board service or employment shall be punishable by the imposition of a fine not to exceed \$10,000, as determined by a hearing officer pursuant to R.S. 27:25(D).

C. As used in this rule, and for the purposes of R.S. 27:13, *licensee* or *permittee* shall mean any person who holds a license or permit issued pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., the Video Draw Poker Device Control Law, R.S. 33:4862.1 et seq., or the Louisiana Gaming Control Law, R.S. 27:1 et seq., specifically including, but not limited to, manufacturers, distributors, suppliers, vendors, device owners, service entities, persons furnishing services or goods material and integral to the operation of a riverboat, gaming employees, key employees, non-key employees, equity owners, contractors, and all establishments regardless of the number of gaming devices in operation at the facility.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

### Part XIII. Riverboat Gaming

#### Subpart 2. State Police Riverboat Gaming Enforcement Division

#### Chapter 17. General Provisions

##### §1701. Definitions

As used in the regulations, the following terms have the meanings described below:

\* \* \*

*Key Gaming Employee*—any individual who is employed in a managerial or supervisory capacity and who is empowered to make discretionary decisions that regulate gaming activities including, but not limited to, the general manager of the riverboat, assistant casino manager, casino shift managers and/or boat operations managers, gaming managers for slot operations and table games, assistant managers for slot operations and table games, credit executives, cage and credit managers, assistant cage managers, assistant credit managers, accounting controller, surveillance director, assistant surveillance director, management informations systems manager, director of security, assistant director of security, and those individuals whose decisions and activities have a significant impact on the day-to-day operations of a gaming establishment. All other gaming employees, unless determined otherwise by the board, shall be classified as non-key gaming employees.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division LR 22:1176 (September, 1993), amended by the Gaming Control Board LR 22:

Hillary J. Crain  
Chairman

9608#010

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

#### Food Stamps—Resource Standards and Limits (LAC 67:III.1947 and 1983)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Food Stamp Program, effective August 6, 1996. It is necessary to extend emergency rulemaking as the emergency rule of April 8, 1996 is effective for a maximum of 120 days and will expire before the final rule takes effect.

The Department of Social Services is responsible for administering the Food Stamp Program. Public Law 103-66, the Omnibus Budget Reconciliation Act of 1993, mandated revisions in certain programs including the Food Stamp Program. The food stamp provisions are referred to as the Mickey Leland Childhood Hunger Relief Act.

Pursuant to this legislation, changes were made in the resource eligibility standards as well as the income and deductions. These changes were to be effected in certain increments at pre-defined intervals. The initial changes were promulgated in accordance with APA guidelines in 1994. The next changes were to be implemented in October 1995; however, the agency misinterpreted the directives which were provided because of the federal budget deadlock. As a result, neither the changes in resource eligibility standards nor income and deduction were implemented, nor were they promulgated. Steps have since been taken to correct the oversight and assure correct benefit issuance to clients beginning with the October 1995 benefits. This emergency rulemaking is being promulgated in order to minimize the chance of possible federal fiscal sanctions or penalties. A notice of intent has been published to incorporate parts of this emergency rule, as well as future requirements of P.L. 103-66.

#### Title 67

### SOCIAL SERVICES

#### Part III. Office of Family Support

##### Subpart 3. Food Stamps

#### Chapter 19. Certification of Eligible Households

##### Subchapter H. Resource Eligibility Standards

#### §1947. Resources

\* \* \*

B. The fair market value of vehicles which is excluded in determining a household's resources is \$4600.

AUTHORITY NOTE: Promulgated in accordance with F.R. 7:55463 et seq. and 47:55903 et seq., 7 CFR 273.8, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 22:

### Subchapter I. Income and Deductions

#### §1983. Income Deductions and Resource Limits

A. - 1. ...

2. The maximum shelter deduction is \$247 for households which do not include a member who is elderly or disabled.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, P.L. 103-66, 7 CFR 273.9 and 273.10 (d)(1)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 22:

Madlyn Bagneris  
Secretary

9608#020

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Rehabilitation Services

#### Policy Manual—Confidentiality and Order of Selection (LAC 67:VII.101)

The Department of Social Services, Louisiana Rehabilitation Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following rule in the Vocational Rehabilitation Services Policy Manual, Section: Order of Selection Policy and the Confidentiality Policy.

The rule governing Louisiana Rehabilitation Services' order of selection ensures that individuals with the most severe disabilities receive priority for cost rehabilitation services.

The rule governing Louisiana Rehabilitation Services' confidentiality policy provides for the collection and release of personal information.

Because of federal guidelines, this emergency rule must become effective September 1, 1996, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

The LRS policy manuals are referenced in LAC 67:VII.101 as follows.

#### Title 67

### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

#### Chapter 1. General Provisions

##### §101. Vocational Rehabilitation Policy Manual

A. LRS Vocational Rehabilitation Policy Manual provides opportunities for employment outcomes and independence to

individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

B. Copies of the policy manual can be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA and at each of its nine Louisiana Rehabilitation Services Regional Offices (statewide), or at the Office of the State Register, 1051 North Third Street Suite 512, Baton Rouge, LA 70802.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), LR 21:191 (February 1995), amended LR 21:473 (May 1995), amended LR 21:837 (August 1995), repromulgated LR 22:

The entire Vocational Rehabilitation Policy Manual may be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA 70806 and at the nine Louisiana Rehabilitation Service Regional Offices (statewide) or at the Office of the State Registrar, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802.

Madlyn B. Bagneris  
Secretary

9608#039

**DECLARATION OF EMERGENCY**

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

Plan Document: Private Duty Nursing;  
Organ Transplants; Well Child Care

*(Editor's Note: The following emergency rule was inadvertently omitted from the July, 1996 Louisiana Register. Please note the effective date of June 13, 1996.)*

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

These amendments shall become effective on June 13, 1996 and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to provide for utilization management of benefits for private duty nursing services in order to assure that such services are available and provided when medically required, to clarify benefit limitations for transportation expenses associated with organ transplant procedures in light of recent litigation, and to extend well child care benefits until attainment of age 16 in order to promote the health and

welfare of covered dependent children of employees. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

**Amendment Number 1** -- Delete Article 3, Section I, Subsection F, Paragraph 14 in its entirety and leave blank.

**Amendment Number 2** -- Amend Article 3, Section IV, Subsection J, Paragraph 4, to read as follows:

"J. Services and/or supplies not listed herein as eligible expenses may be considered covered services and/or supplies under this Section, provided that the services and/or supplies are integral to the alternative care plan and have been recommended by or to and agreed upon by PAC, the Attending Physician, the Program and the Covered Person. Such services and supplies may include, but shall not be limited to:

\* \* \*

"4. Private-duty nursing care;

\* \* \*"

**Amendment Number 3** -- Amend Article 3, Section VIII to add Subsection NN, to read as follows:

"NN. Services of a private-duty registered nurse (R.N.) or of a private-duty licensed practical nurse (L.P.N.), except as approved in accordance with Article 3, Section IV. Routine nursing services, i.e. "floor nursing" services, provided by nurses employed by or under contract with a Hospital shall be considered as part of Room and Board charges and paid accordingly. Private-duty nursing services being provided to a Covered Person on July 1, 1985, in a non-Hospital treatment setting shall constitute an eligible expense until no longer certified as Medically Necessary by the attending physician."

**Amendment Number 4** -- Amend Article 3, Section I, Subsection F, Paragraph 25 and Subparagraph c, and add new Subparagraphs d and e, to read as follows:

"25. The Program will cover eligible expenses associated with an organ transplant procedure when the transplant recipient is a Covered Person, including expenses for patient screening, organ procurement, transportation of the organ, transportation of the patient and/or donor, surgery for the patient and donor and immunosuppressant drugs. The following conditions must be met in order for this coverage to apply:

\* \* \*

"c. The recipient must be admitted to and the transplant surgery performed at a medical center which has an approved transplant program as determined by an appropriate governmental agency.

"d. Coverage for expenses associated with an organ transplant procedure will be subject to the same deductible, co-insurance, exclusions and other provisions which apply to other expenses that the Program covers. Reimbursement of transportation charges associated with an organ transplant procedure will be limited to the maximum reimbursement allowed for professional ambulance services, in accordance with Article 3, Section I(F)(18). In no case will the Plan cover

expenses for the transportation of surgeons or family members of either the patient or donor;

"e. All benefits paid for eligible expenses associated with an organ transplant procedure, including expenses of the donor, will be applied against the lifetime maximum benefit of the transplant recipient;"

**Amendment Number 5** -- Amend the Schedule of Benefits relative to well child care as follows:

"Well Child Care (from discharge as a newborn until attainment of age 16)

"Percentage Payable (Deductible waived) . . . . 100 percent

"Maximum Benefit

per calendar year per child . . . . . \$35 limited to one office visit per year"

**Amendment Number 6** -- Amend Article 1, Section I, Subsection KK to read as follows:

"KK. The term 'Well-Child Care' as used herein shall mean routine physical examinations, active immunizations, check-ups and office visits to a Physician, except for the Treatment and/or diagnosis of a specific illness, from the time a newborn is discharged from the Hospital following birth until attainment of age 16."

James R. Plaisance  
Executive Director

9608#011

**DECLARATION OF EMERGENCY**

**Department of Treasury  
Bond Commission**

**Line of Credit**

The State Bond Commission amended the commission's rule on July 18, 1996, as originally adopted on November 20, 1976.

The commission amended Rule Number 15 of the original commission rules and increased the maximum amount of authorized lines of credit as follows:

15. *Line of Credit*—an authorization to a state agency to proceed with a project and draw from the state treasury funds for the project prior to the sale of bonds for that project. The maximum amount of lines of credit which may be authorized by the commission shall be \$400,000,000. Bonds shall be issued to replenish lines of credit granted in the fiscal year in which the line of credit was granted. No lines of credit may be granted for a project unless and until either the bonds have been sold, lines of credit have been granted, or a certificate of impossibility and impracticality has been issued for all projects of higher priority as stated in the comprehensive capital budget adopted by the legislature. The maximum amount of lines of credit provided herein shall not apply in cases where the commission shall deem an item to be an emergency matter.

Monies advanced on a line of credit for any project shall be spent only in accordance with the description in the bond

authorization act authorizing bonds to be issued for that project.

Prior to the execution of any contract or agreement obligating the expenditure of monies received by any state department or agency or any other entity from line of credit funds, the Attorney General's Office shall be requested to review such proposed contracts or agreements for the sole purpose of determining whether expenditure of funds thereunder is for the purpose of furthering the applicable project adopted by the legislature. If given, such prior approval by the Attorney General's Office shall be in writing to the appropriate state department, agency or other entity with a copy to be furnished to the State Bond Commission.

Should the Attorney General's Office determine that the proposed expenditure of line of credit funds not be in order, no funds may be used to pay obligations which may be incurred if such contracts are executed after an adverse conclusion by the Attorney General's Office.

All approvals of lines of credit shall be conditioned on compliance by the state department, agency or other entity with the aforementioned procedure, and it shall be their duty to request approval from the Attorney General's Office, stating to which bond act and to which project the contract or agreement in question pertains. Failure to comply with such procedure by any such department, agency or other entity shall result in the immediate revocation of the line of credit, and all information regarding the possible expenditure of line of credit funds for other than authorized purposes shall be forwarded immediately by the commission to the Attorney General's Office and the District Attorney's Office.

This emergency rule is necessary to ensure continued construction and funding of all projects heretofore begun and contained in the current Capital Outlay Act, Act Number 45 of the 1996 Regular Session of the Louisiana Legislature.

This rule is effective immediately and will remain in effect until the delivery of the next issue of general obligation bonds of the State of Louisiana or 120 days, whichever occurs earlier, at which time the maximum amount of lines of credit which may be authorized by the commission shall be \$100,000,000.

Sharon Perez  
Director

9608#004

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Office of Fisheries**

**Southern Flounder Commercial Harvest**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act; R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons; and R.S. 56:325.4 which provides that the secretary of the department must declare a

closed season when it is determined that the spawning potential ratio of flounder is below 30 percent; and R.S. 56:317 which allows the secretary to close a fishing season or restrict fishing in the closed season in any manner deemed advisable upon securing evidence that the fish in state waters have been depleted through overfishing or that fishing is detrimental to the interest of the state, the secretary of the Department of Wildlife and Fisheries found that an imminent peril to the public welfare existed and adopted by emergency rule a statewide closure of the commercial harvest and possession of southern flounder (*Paralichthys lethostigma*) from May 1, 1996 until May 1, 1997.

However, the secretary has determined since the promulgation of the above declaration of emergency that the closure should be modified to allow persons aboard vessels which contain legal commercial fishing gear, other than strike nets, to possess and sell up to the daily possession limit of 10 southern flounder (*Paralichthys lethostigma*). Additionally, the closure should take into account the disposition of two classes of legally harvested commercial flounder. The secretary finds that an imminent peril to the public welfare would exist if this rule is not adopted effective August 28, 1996 concurrently with the previously referenced declaration of emergency.

1. The initial declaration of emergency did not, but should have contained a provision allowing for the possession and sale of southern flounder legally taken prior to the May 1 closure. Such a provision should be included and should take effect concurrently with the closure.

2. The initial declaration of emergency did not contain a provision to allow for the possession and sale of southern flounder legally imported into the state from other states or foreign countries. Such a provision should take effect concurrently with the closure.

3. Since the initial declaration of emergency, the Wildlife and Fisheries Commission has acted to impose a recreational daily take and possession limit of 10 fish effective May 1, 1996. This in and of itself makes the closure of the commercial fishery more enforceable and at the same time offers an opportunity for a limited commercial fishery without, in the opinion of the secretary, doing harm to the resource.

4. It is important that the provisions contained within this declaration of emergency take effect concurrently with the closure so that fishermen and department enforcement agents will not be faced with the confusion and other problems associated with enforcement of three varying sets of regulations within a 120-day period. Promulgation of these provisions concurrently with the closure will allow the closure to take effect together with those provisions which the secretary deems necessary for fairness, enforceability and biological monitoring purposes.

5. Promulgation of these provisions will mean that biological data as well as data on the commercial fishermen harvesting southern flounder will be continuously available from the limited commercial fishery. Fishery dependent and fishery independent data sources are essential to understanding the status of flounder fishery stocks and to identify causes of changes in stock abundances.

Therefore, in accordance with R.S. 49:953(B), 49:967, 56:317 and 56:6, the secretary does hereby promulgate this emergency rule as follows:

Other provisions of law notwithstanding, a properly licensed commercial vessel which contains legal commercial fishing gear, other than strike nets, may have on board up to a daily possession limit of 10 southern flounder (*Paralichthys lethostigma*) per person on board. A properly licensed commercial fisherman who is not on a vessel and who is using legal gear, other than strike nets, may possess up to a daily possession limit of 10 southern flounder (*Paralichthys lethostigma*). Southern flounder (*Paralichthys lethostigma*) legally possessed under this rule may be purchased, bartered, traded, exchanged or sold.

Other provisions of law notwithstanding, nothing shall prohibit the possession or sale of southern flounder (*Paralichthys lethostigma*) legally taken prior to the closure providing that all commercial dealers possessing southern flounder (*Paralichthys lethostigma*) taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

Effective with this rule, in addition to all records otherwise required by law, wholesale/retail dealers shall maintain records indicating the number and poundage of southern flounder (*Paralichthys lethostigma*) for each transaction when southern flounder (*Paralichthys lethostigma*) are acquired, possessed or transferred.

Commercial dealers possessing southern flounder (*Paralichthys lethostigma*) legally imported into the state shall maintain appropriate records in accordance with other provisions of law. The effective date of this declaration of emergency shall be August 28, 1996.

James H. Jenkins, Jr.  
Secretary

9608#025

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Office of Fisheries

### Southern Flounder Commercial Harvest Closure

In accordance with the emergency provisions of R.S. 49:953(B) the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:325.4 which provides that the secretary of the department must declare a closed season when it is determined that the spawning potential ratio of southern flounder (*Paralichthys lethostigma*) is below 30 percent, and R.S. 56:317, which allows the secretary to close a fishing season or restrict fishing in the closed season in any manner deemed advisable, upon securing evidence that the fish in state waters have been depleted through overfishing or that fishing is detrimental to the interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to



the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m., May 1, 1996, the commercial harvest of southern flounder (*Paralichthys lethostigma*) in Louisiana waters will close and remain closed until 12:01 a.m., August 28, 1997.

Effective with the closure, no vessel possessing any commercial fishing gear including, but not limited to, any pompano strike net, shall have southern flounder (*Paralichthys lethostigma*) aboard the vessel, whether caught within or without the territorial waters of the state.

Effective with the closure, the sale, barter, or exchange of, and the commercial possession of southern flounder (*Paralichthys lethostigma*) shall be prohibited.

Act 1316 of the 1995 Louisiana Regular Legislative Session, the Louisiana Marine Resources Conservation Act of 1995, enacts §325.4 of Title 56, L.R.S., providing that the Wildlife and Fisheries Commission shall make an annual peer reviewed and evaluated report to the Legislature no later than March 1 containing the following information on southern flounder (*Paralichthys lethostigma*):

(a) the spawning potential ratio (SPR);

(b) a biological condition and profile of the species and stock assessment.

The Act also provides that if the SPR is below 30 percent, the department shall close the season within two weeks for the period of at least one year.

The department has reviewed the information on the SPR of southern flounder (*Paralichthys lethostigma*), and has determined that the SPR is probably between 16 percent and 44 percent. The most conservative of these estimates is below the 30 percent criterion established by the Legislature. The secretary has determined that a limited closure of the commercial harvest of flounder using pompano strike nets would be ineffective and unenforceable. The secretary therefore has determined that it is in the best interest of the state and most appropriate that the commercial season for southern flounder (*Paralichthys lethostigma*) in Louisiana waters be completely closed, and remain closed for one year. In order to simplify temporal changes in regulations for fishermen, the closure is placed as May 1, 1996 until May 1, 1997.

James H. Jenkins, Jr.  
Secretary

9608#026

## DECLARATION OF EMERGENCY

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

#### Fall Inshore Shrimp Season—1996

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 and R.S. 56:497 which provides that the Wildlife and Fisheries

Commission shall fix no less than two open seasons each year for all inside waters, the Wildlife and Fisheries Commission does hereby set the 1996 Fall Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State Line westward to the eastern shore of South Pass of the Mississippi River; and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermillion Bay and Southwest Pass at Marsh Island; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermillion Bay and Southwest Pass at Marsh Island westward to the Texas State Line;

All to open at official sunrise Monday, August 19, 1996.

The commission also hereby sets the closing date for the 1996 Fall Inshore Shrimp Season at official sunset Sunday, December 15, 1996 except in Breton and Chandeleur Sounds in Zone 1, as described in R.S. 56:495.1.A.(2), which shall remain open until 12:01 a.m., April 1, 1997. The commission also grants authority to the secretary of the Department of Wildlife and Fisheries to change the closing date if biological and technical data indicate the need to do so or if enforcement problems develop.

Perry Gisclair  
Vice-Chairman

9508#023

## DECLARATION OF EMERGENCY

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

#### Migratory Game Bird Seasons—1996-97

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule:

The hunting seasons for early migratory birds during the 1996-97 hunting season shall be as follows:

#### MIGRATORY BIRDS OTHER THAN WATERFOWL

DOVE:	Split Season, Statewide,	60 days
	September 7 - September 15	9 days
	October 19 - November 8	21 days
	December 14 - January 12	30 days
	Daily bag limit 15, Possession Limit, 30	
TEAL:	September 21 - September 29	9 days
	Daily bag limit 4, Possession limit 8, Blue-winged, Green-winged and Cinnamon teal only. Federal and State waterfowl stamps required.	
RAILS:	Split Season	
	September 21 - September 29	
	November 9 - January 8	
KING AND CLAPPER:	Daily bag limit 15 in the aggregate, Possession 30.	
SORA AND VIRGINIA:	Daily bag and possession 25 in the aggregate.	
GALLINULES:	Split season	
	September 21 - September 29	
	November 9 - January 8	
	Daily bag limit 15, Possession limit 30	

SNIPE: November 9 - February 23  
Daily bag limit 8, Possession limit 16  
WOODCOCK: November 28 - January 31  
Daily bag limit 5, Possession 10  
SHOOTING HOURS:

Teal, Rail, Gallinule, Snipe and Woodcock: One-half hour before sunrise to sunset.

Dove: One-half hour before sunrise to sunset except noon to sunset on September 7-8, October 19-20, and December 14-15.

A declaration of emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 1996 and extend through sunset on February 28, 1997.

Glynn Carver  
Chairman

9608#021

## DECLARATION OF EMERGENCY

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

#### Oyster Season—1996-97

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

1. The Public Oyster Seed Grounds not currently under lease and the Bay Junop, Bay Gardene, Hackberry Bay, and the Sister Lake Oyster Seed Reservations will open one-half hour before sunrise September 4, 1996.

2. A designated sacking only area east of the Mississippi River will open one-half hour before sunrise on September 4, 1996. The sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from Mozambique Pt. To Pt. Gardner to Grace Pt. at the Mississippi River Gulf Outlet.

3. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary, to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads.

4. The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides.

5. The Calcasieu and Sabine Lake tonging areas will open one-half hour before sunrise on October 16, 1996 and remain open until one-half hour after sunset on April 30, 1997.

6. Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

Perry Gisclair  
Vice-Chairman

9608#027

## DECLARATION OF EMERGENCY

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

#### Southern Flounder Recreational Harvest (LAC 76:VII.353)

The Wildlife and Fisheries Commission does hereby exercise the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to its authority under R.S. 56:6(25)(a), 56:326.1 and 56:326.3 adopts the rule set forth below. This emergency rule is necessary to expedite the enforceability and effectiveness of regulations on the commercial flounder fishery, which becomes effective May 1, 1996. It is therefore in the best interest of the state, and appropriate that these regulations be enacted concurrently, thereby requiring emergency action.

This emergency rule shall be effective on August 28, 1996 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery §353. Recreational Harvest of Southern Flounder

The daily take and possession limit for the recreational taking of southern flounder (*Paralichthys lethostigma*) caught within or without Louisiana waters shall be 10 fish per day and in possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:

Glynn Carver  
Chairman

9608#022

## DECLARATION OF EMERGENCY

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

#### Spring Inshore Shrimp Season Closure—Zone 1

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 2, 1996 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1996 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 1996 Spring Inshore Shrimp Season shall be closed in all of Zone 1 at 12:01 a.m., Monday, July 22, 1996 (midnight Sunday, July 21, 1996), except the open waters of Breton and Chandeleur Sounds as described in the Louisiana Revised Statutes (R.S. 56:495.1.A(2)) 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.

Small white shrimp have begun to show up in shrimp samples taken by department personnel in Zone 1. The number of white shrimp is expected to increase substantially over the next few weeks.

James H. Jenkins, Jr.  
Secretary

9608#002

## Rules

### RULE

#### Department of Economic Development Boxing and Wrestling Commission

Amend Existing Rules (LAC 46:XI.Chapters 1-3)  
Repeal of Rules (LAC 46:XI.Chapter 7)

The Department of Economic Development, State Boxing and Wrestling Commission, under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 4:61, amends Chapters 1 and 3 and repeals Chapter 7 of its existing rules.

These amendments update the existing rules and provide for such matters as AIDS testing, the wearing of surgical gloves, female boxing and refinements and clarifications in the methods of refereeing and judging.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XI. Boxing and Wrestling

##### Chapter 1. General Rules

- §101. Definitions
- §102. Annual License Fees
- §103. Insulting or Abusive Remarks
- §105. Conflict of Interest
- §107. Use of Drugs
- §109. Concealment of Disability
- §111. Promoters in Cities of 250,000 or More; Duty to Promote Events

§113. Financial Reports

##### Chapter 3. Professional Boxing

- §301. Commission Demands
- §303. Permit
- §305. Contestant
- §307. Weights and Classes
- §309. Recommended Weight Differences
- §311. Official Weighing In
- §313. Contestants Apparel and Physical Appearance
- §315. Judges and Referees
- §317. Judging Methods and Procedures
- §318. Rounds, Duration and Intermission
- §319. Permissible Items in Boxer's Corner
- §320. Boxing Ring and Ropes
- §321. Fouls Deductions of Points Because of a Foul and Accidental Fouling
- §322. Gloves
- §323. Bell or Gong
- §325. Physician
- §326. Ringside Physicians
- §327. Timekeeper
- §329. Promoters and Matchmakers
- §330. Sanctioned Events
- §331. Announcer
- §333. Manager
- §337. Safety
- §339. Withholding
- §341. Seconds
- §343. Charity Events
- §345. Termination of Bouts
- §347. Presence in Dressing Rooms
- §349. Tickets and Sale of Tickets
- §351. Unauthorized Matchmaker, Promoters, Managers

##### Chapter 5. Professional Wrestling

\* \* \*

##### Chapter 7. Amateur Boxing

Repealed in its entirety.

Copies of the full text of these final rules may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Leonard Miller, Jr.  
Chairman

9608#058

### RULE

#### Board of Elementary and Secondary Education

Bulletin 741—Handbook for School Administrators

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to Standard 1.010.02 of Bulletin 741, Louisiana Handbook for School Administrators as stated below:

Under Standard 1.010.02 - Operations Policies, add "K" to read:

"A written personnel policy that requires the use of universal precaution when individuals have direct contact with blood or other body fluids and provide sanctions, including discipline if warranted, for failure to use universal precautions."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:698 (August 1996).

Carole Wallin  
Executive Director

9608#042

#### RULE

#### Board of Elementary and Secondary Education

Bulletin 1882—Administrative Leadership  
Academy Guidelines (LAC 28:I.920)

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 Bulletin 1882, Administrative Leadership Academy Guidelines, Revised 1996. Bulletin 1882 is referenced in the Administrative Code as noted below and the complete document may be seen in the Office of the State Register, Room 512 of the Capitol Annex in Baton Rouge, LA; in the State Department of Education, or in the Office of the State Board of Elementary and Secondary Education located in Baton Rouge, LA.

The rule changes include the following:

1. appeal procedure for individual credit requests added;
2. specific penalty for failure to earn the required academy credits added;
3. credit-earning options have been expanded to include participation in training activities sponsored by the Department of Education;
4. a principal internship program for principals only and an assistant principal internship.

#### Title 28

#### EDUCATION

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

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

#### §920. Administrative Leadership Academy Guidelines

##### A. Bulletin 1882

1. Bulletin 1882, Administrative Leadership Academy Guidelines, is adopted. (1996)
2. This bulletin contains regulations and guidelines pertaining to membership in the Administrative Leadership Academy and credit-earning procedures to be used by members in fulfilling academy requirements. Also included are general guidelines to be used by individual members and sponsoring organizations seeking credit-worthy training activities and specific guidelines pertaining to the principal internship. Incorporated also is a policy regarding the principal and assistant principal internships.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:698 (August 1996).

Carole Wallin  
Executive Director

9608#041

#### RULE

#### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

#### Asbestos-containing Materials in School and State Buildings (LAC 33:III.Chapter 27) (AQ139)

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 27 (AQ139).

LAC 33:III.Chapter 27 is being revised to accommodate asbestos contractors and workers so that their accreditation and training period will run concurrently, reduce fraudulent accreditations, and clarify application procedures.

#### Title 33

#### ENVIRONMENTAL QUALITY

#### Part. III. Air Quality

#### Chapter 27. Asbestos-containing Materials in Schools and State Buildings Regulation

#### §2701. Asbestos-containing Materials in Schools and State Buildings

\*\*\*

[See Prior Text in A-C]

1. This regulation requires local education agencies and the state government to identify friable and nonfriable asbestos-containing material (ACM) in schools and state buildings by visually inspecting schools and state buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The regulation requires local education agencies and the state government to submit management plans to the Department of Environmental Quality on or before 90 days after promulgation of this regulation, to begin to implement the plans 180 days after promulgation of this regulation, and to complete implementation of the plans in a timely fashion. If an exemption is requested for a state building that contains no asbestos, an inspection report supporting that exemption should be submitted in accordance with Subsection B.3.b.i of this Section. Management plans submitted to and approved by the Department of Environmental Quality prior to the promulgation of this regulation shall meet the inspection and assessment requirements of this Chapter. In addition, local education agencies and the state government are required to employ persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The regulation also includes recordkeeping requirements. Local education agencies and the state government may contractually delegate their duties

under this rule, but they remain responsible for the proper performance of those duties. Local education agencies and the state government are encouraged to consult with the Air Quality Compliance Division of the Department of Environmental Quality for assistance in complying with this rule.

\* \* \*

[See Prior Text in C.2]

D. All requests, reports, applications, submittals, and other communications pursuant to this Chapter shall be submitted to the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Compliance Division/Asbestos Program, Post Office Box 82135, Baton Rouge, Louisiana 70884-2135.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:1056 (December 1990), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:698 (August 1996).

### §2703. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows:

\* \* \*

[See Prior Text]

*Preventive Measures*—actions taken to reduce disturbance of ACBM or otherwise eliminate the reasonable likelihood of the material's becoming damaged or significantly damaged.

*Removal*—the taking out or the stripping of substantially all ACBM from a damaged area, a functional space, or a homogeneous area in a school or state building.

\* \* \*

[See Prior Text]

*Small-scale, Short-duration Activities (SSSD)*—tasks that involve less than or equal to three square feet or three linear feet of asbestos-containing material.

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996).

### §2707. Inspection and Reinspections

\* \* \*

[See Prior Text in A-A.4.c]

d. assume that some or all of the homogeneous areas are ACM, and for each homogeneous area that is not assumed to be ACM, collect and submit for analysis bulk samples under LAC 33:III.2709 and 2711;

\* \* \*

[See Prior Text in A.4.e-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office

of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996).

### §2711. Analysis

A. Local education agencies and the state government shall have bulk samples, collected under LAC 33:III.2709 and submitted for analysis, analyzed for asbestos using laboratories accredited by the National Institute for Standards Technology (NIST) or another U.S. EPA approved accrediting authority.

B. Bulk samples shall not be composited for analysis and shall be analyzed for asbestos content by polarized light microscopy (PLM), using the "Method for the Determination of Asbestos in Bulk Building Materials," (EPA/600/R.93/116).

\* \* \*

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996).

### §2717. Response Actions

\* \* \*

[See Prior Text in A-I.3]

4. An action may also be considered complete if the volume of air drawn for each of the five samples collected within the affected functional space is equal to or greater than 1,199 L of air for a 25-mm filter or equal to or greater than 2,799 L of air for a 37-mm filter, and the average concentration of asbestos as analyzed by the TEM method in Appendix A of 52 FR, pp. 41857 to 41894, October 30, 1987, for the five air samples does not exceed the filter background level of 70 structures per square millimeter (70 s/mm<sup>2</sup>). If the average concentration of asbestos of the five air samples within the affected functional space exceeds 70 s/mm<sup>2</sup>, or if the volume of air in each of the samples is less than 1,199 L of air for a 25-mm filter or less than 2,799 L of air for a 37-mm filter, the action shall be considered complete only when the requirements of Subsections I.3 or 5 of this Section are met.

\* \* \*

[See Prior Text in I.5-I.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996).

### §2719. Operations and Maintenance

\* \* \*

[See Prior Text in A-D.3]

4. Use work practices or other controls, such as wet methods, protective clothing, HEPA-vacuums, mini-enclosures, and glove bags, as necessary to inhibit the spread of any released fibers.

\* \* \*

[See Prior Text in D.5-F.2.b]

c. notify the Department of Environmental Quality, Air Quality Compliance Division, of the major fiber release

episode by phone as specified in LAC 33:I.3923 and in writing as specified in LAC 33:I.3925;

\* \* \*

[See Prior Text in F.2.d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996).

### **§2723. Management Plans**

\* \* \*

[See Prior Text in A]

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or otherwise used as school or state buildings, and submit the plan to the Department of Environmental Quality. After June 20, 1994, each plan must include Form AAC-8, Required Elements for Management Plans (latest revised form can be obtained from the Air Quality Compliance Division). The plan may be submitted in stages that cover portions of the school or state building under the authority of the local education agency or the state government before the deadline specified in LAC 33:III.2701.C.

\* \* \*

[See Prior Text in A.2-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996).

### **§2735. Exclusions**

\* \* \*

[See Prior Text in A-A.6]

7. An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building or, to the best of his or her knowledge, no ACBM was used as a building material in the building. The local education agency or the state government shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the Department of Environmental Quality and shall include the statement in the management plan for that school or state building.

\* \* \*

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996).

### **§2739. Agent Accreditation**

\* \* \*

[See Prior Text in A-B.2]

3. Workers who are engaged in maintenance that

disturbs more than three square or linear feet of ACBM which does involve its actual removal, enclosure, repair, or encapsulation shall receive their initial and refresher training from a training organization recognized by the Air Quality Compliance Division, Department of Environmental Quality. This training should be in accordance with the asbestos abatement worker course as described in Appendix A Subsection A.5 Initial Training. Workers who participate in the type of project described in this Paragraph must be accredited in accordance with Appendix A of this Chapter and must work under the close direction of an accredited supervisor during any work they perform.

4. Supervisors who are directing workers who may disturb ACM shall receive their initial and refresher training in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.4, from a training organization recognized by the Air Quality Compliance Division, Louisiana Department of Environmental Quality. Supervisors who participate in the type of project referenced in this Paragraph are responsible for ensuring that:

\* \* \*

[See Prior Text in B.4.a-B.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996).

## **APPENDIX A**

### **Agent Accreditation Plan**

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors, and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors, and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and

training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

\* \* \*

[See Prior Text in A]

1. Inspectors. All persons who inspect for ACBM in schools and state buildings must be accredited. All persons seeking accreditation as inspectors shall complete a three-day training course as outlined below. The three-day program shall include lectures, demonstrations, four hours of hands-on training, individual respirator fit testing, course review, and a written examination. The use of audiovisual materials is recommended to complement lectures, where appropriate. The inspector training course shall adequately address the following topics. Hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

\* \* \*

[See Prior Text in A.1.a-A.1.n]

2. Management Planners. All persons who prepare management plans for schools and state buildings must be accredited. Possession of current and valid inspector accreditation shall be a prerequisite for admission to the management planner training course. All persons seeking accreditation as management planners must complete an inspection training course as outlined above and a two-day management planning training course. The two-day training program shall include lectures, demonstration, course review, and a written examination. The use of audiovisual materials is recommended to complement lectures, where appropriate. The management planner training course shall adequately address the following topics:

\* \* \*

[See Prior Text in A.2.a-A.3.t]

4. Asbestos Abatement Contractor/Supervisors. A person must be accredited as a contractor/supervisor to supervise any of the following activities with respect to friable ACBM in a school or state building: (1) a response action other than a SSSD activity, (2) a maintenance activity that disturbs friable ACBM other than a SSSD activity, or (3) a response action for a major fiber release episode. All persons seeking accreditation as asbestos abatement supervisors shall complete a five-day training course as outlined below. The training course shall include lectures, demonstrations, at least 14 hours of hands-on training, individual respirator fit testing, course review, and a written examination. The use of audiovisual materials is recommended to complement lectures, where appropriate. For purposes of Louisiana state accreditation, asbestos abatement supervisors include those persons who provide supervision and direction to workers engaged in asbestos removal, encapsulation, enclosure, or repair. Supervisors may include those individuals with the position title of foreman, working foreman, or leadman pursuant to collective bargaining agreements. At least one supervisor is required to be at the worksite at all times while work is in progress. Asbestos workers must have access to accredited supervisors throughout the duration of the project.

Contracted air-monitoring personnel must be accredited contractors/supervisors. Hands-on training must permit supervisors to have actual experience performing tasks associated with asbestos abatement. The supervisor's training course shall adequately address the following topics:

\* \* \*

[See Prior Text in A.4.a-A.5.k]

B. Examination. A closed-book examination shall be given to all persons seeking accreditation who have completed an initial training course. A person seeking accreditation in a specific discipline shall pass the examination for that discipline prior to receiving a training certificate. For example, a person seeking accreditation as an inspector must pass the inspector's accreditation examination given by the training organization. Each examination shall adequately cover the topics included in the training course for that discipline. Persons who pass and fulfill other associated requirements will receive a certificate indicating that they are trained in a specific discipline. The following are the requirements for examinations in each area:

\* \* \*

[See Prior Text in B.1-E.1.c]

d. persons contracted to perform air monitoring.

\* \* \*

[See Prior Text in E.1.e]

2. Application for Accreditation. The applicant for accreditation must submit the following items:

- a. A completed Asbestos Accreditation Affidavit, Form AAC-1 that contains:
  - i. name, address, and telephone number of the applicant;
  - ii. social security number of the applicant;
  - iii. name, address, and telephone number of the applicant's employer;
  - iv. identification of the discipline(s) in which accreditation is sought;
  - v. completed statements of regulation possession and understanding and of regulatory enforceability;
  - vi. previous accreditation number, if applicable; and
  - vii. signature by the applicant and the date of application.
- b. A copy of the current class training certificate. First time applicants must also submit copies of initial training and all subsequent refresher (update) certificates.
  - i. The training course(s) must have at least contingent approval from EPA or be approved by a state authorized by the EPA to approve training courses.
  - ii. Applicants receiving training from providers not recognized by Louisiana must also submit proof of training in current Louisiana regulations from a Louisiana recognized training provider.
- c. Applications for inspector, management planner, and project designer must include, where applicable:
  - i. high school diploma or the highest level of education achieved; and
  - ii. registration as an architect, or certified industrial hygienist, or engineering degree.
- d. Applicable fees (LAC 33:III.223).
- e. A 1" x 1 1/4" photograph of the applicant's face.

3. The completed application with applicable fees (LAC 33:III.223) is to be sent to:

Louisiana Department of Environmental Quality  
Air Quality Compliance Division  
Asbestos Program  
P.O. Box 82135  
Baton Rouge, LA 70884-2135

4. Persons shall be considered accredited upon receipt of a certificate of accreditation or identification card issued by the department.

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[See Prior Text in E.5-E.6.a]

b. Beginning September 1, 1996, a qualified individual seeking accreditation shall be issued accreditation certificates, which expire one year after the last day of his or her most recent training course. Accreditation certificates that expire before December 31, 1996, will not require a fee. A qualified individual can maintain continuous accreditation with the same annual expiration/renewal date, provided the individual submits the required documents and receives refresher training within 60 days of his or her expiration/renewal date. If an individual seeking reaccreditation has received refresher training earlier than within 60 days of his or her existing expiration/renewal date or receives training after his or her expiration/renewal date, his or her new expiration/renewal date will be one year after the last day of his or her most current training, provided the applicant has received initial or refresher training in the past year.

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[See Prior Text in E.7-E.8.a]

b. for failure to notify the Air Quality Compliance Division of changes in status;

\*\*\*

[See Prior Text in E.8.c]

d. for failure to allow an Air Quality Compliance Division representative to inspect and review sites and documentation;

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[See Prior Text in E.8.e-E.10.b]

c. Trainers shall not participate both as a student and as an instructor in their own asbestos training courses for certification.

\*\*\*

[See Prior Text in F]

1. Submit the latest revision of the Asbestos Training Organization Recognition Application, Form AAC-3, (which may be obtained from the Air Quality Compliance Division) requesting approval to train asbestos agents.

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[See Prior Text in F.2-F.2.g]

3. The completed application with applicable fees for organization and trainer recognition (LAC 33:III.223) are to be sent to:

Louisiana Department of Environmental Quality  
Air Quality Compliance Division  
Asbestos Program  
P. O. Box 82135  
Baton Rouge, LA 70884-2135

\*\*\*

[See Prior Text in F.4-F.5.a]

b. The recognized training organization must keep the Air Quality Compliance Division informed of any change in

status of the training organization, such as pending fines, notices of violation, changes in instructor status, etc.

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[See Prior Text in F.5.c]

i. The notification must be received in writing by the Air Quality Compliance Division at least five days prior to class commencement. (Notification must be made at least three days prior to a course when only the state regulations are to be taught.)

ii. Cancellation of classes must be received by the Air Quality Compliance Division before the class should have commenced.

d. Within 10 days of the completion of a class a complete roster of trainees, their social security numbers, and examination grades, with a 1" x 1 1/4" photograph of the face of each trainee, must be submitted to the Air Quality Compliance Division on a form approved by the department.

e. The Air Quality Compliance Division must be notified by phone or in writing of changes in class schedules prior to the date when the course was to have commenced.

\*\*\*

[See Prior Text in F.5.f-F.5.k.v]

6. Applications for trainer recognition shall be completed using the latest revision of the Asbestos Trainer Recognition Form, AAC-4 (latest revision of the form may be obtained from the Air Quality Compliance Division). A resume indicating proof of experience as described in Subsection F.2.d.ii of this Appendix must be attached. The completed application with applicable fees (LAC 33:III.223) is to be sent to:

Louisiana Department of Environmental Quality  
Air Quality Compliance Division  
Asbestos Program  
P. O. Box 82135  
Baton Rouge, Louisiana 70884-2135

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[See Prior Text in F.7-F.9.e.iii]

Note: Copies of Forms AAC-1, 3, and 4 previously located here are hereby being deleted. All forms may be obtained from the Air Quality Compliance Division, Asbestos Program.

J. Dale Givens  
Secretary

9608#043

## RULE

### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

#### Removal of Perchloroethylene from Applicability (LAC 33:III.Chapter 21)(AQ141)

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, 2129 (AQ141).



The list of compounds which are exempt from Chapter 21 regulations is modified to include perchloroethylene (perc) also known as tetrachloroethylene. LAC 33:III.2129, Perchloroethylene Dry Cleaning Systems, is rescinded, since perchloroethylene is no longer regulated under Chapter 21. The purpose of the modification is to make Chapter 21 consistent with the corresponding EPA regulations for preparation of State Implementation Plans (SIPs). Perchloroethylene will still be regulated as a Hazardous Air Pollutant. Perchloroethylene has been exempted as of February 7, 1996 from the federal definition of VOC (40CFR 51.100) for the purpose of preparing SIPs.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air Quality

### Chapter 21. Control of Emission of Organic Compounds

#### §2117. Exemptions

The following compounds are considered exempt from the control requirements of LAC 33:III.Chapter 21: 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), acetone, parachlorobenzotrifluoride (PCBTF), perchloroethylene (tetrachloroethylene), 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.Chapter 21: 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 Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996).

#### §2129. Reserved

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

Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), repealed LR 22:703 (August 1996).

J. Dale Givens  
Secretary

9608#040

### RULE

#### Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

#### Deferred Retirement Option Plan

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (the "fund"), pursuant to R.S. 11:3363(F), has adopted rules and regulations for participation in the Deferred Retirement Option Plan, in accordance with the provisions of R.S. 11:3385.1.

#### Rules and Regulations for Participation in the Deferred Retirement Option Plan

In accordance with R.S. 11:3385.1, a member of the Firefighters' Pension and Relief Fund may elect to participate in the Deferred Retirement Option Plan upon the board's determination that the member is eligible to receive a service retirement benefit pursuant to R.S. 11:3381 or 3384, provided all applicable provisions of R.S. 11:3361 et seq., including R.S. 11:3385.1 pertaining to the DROP and these rules and regulations are fully satisfied.

A. Definitions. In connection with R.S. 11:3385.1 and when used in these rules and regulations, the following terms shall have the following meanings:

*Board or Board of Trustees*—the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

*Covered Employment*—service pursuant to R.S. 11:3361 as a firefighter employed by the fire department of the city of New Orleans actively engaged in the extinguishment of fires.

*Creditable Service*—pension credits accrued in the fund by a member on the basis of services rendered in covered employment. Solely for purposes of eligibility in the DROP, *creditable service* shall include *service credit reciprocally* recognized under R.S. 11:142.

*DROP*—established in R.S. 11:3385.1 for eligible members of the Firefighters' Pension and Relief Fund for the City of New Orleans.

*DROP Account*—an individual member's accumulation of monthly service retirement benefits payable to him by the fund during a period of DROP participation in accordance with the member's service retirement benefit election.

*Fund*—the Firefighters' Pension and Relief Fund for the City of New Orleans.

*Fund DROP Account*—the bank account held by the fund on behalf of all participating DROP members in which are deposited the monthly payments payable on behalf of each member for his individual DROP account during his participation in the DROP.

*Member*—a firefighter employed by the fire department of the city of New Orleans who is actively engaged in

extinguishing fires, or is otherwise eligible pursuant to R.S. 11:3361 to participate in the fund.

*Retired Member*—a former member receiving retirement benefits from the fund, but not including a DROP participant who has not yet received distribution of his DROP account balance.

*Service Retirement Benefit*—the vested benefit of a member payable from the new system under R.S. 11:3384 or from the old system under R.S. 11:3381.

*Qualified Domestic Relations Order or QDRO*—an order issued by a court of competent jurisdiction recognized and approved by the board pursuant to its rules and regulations relating to QDROs as requiring the board to make payment of a part or all of a member's retirement benefit to an alternate beneficiary.

*Year of Creditable Service*—a period of 12 consecutive months of pension credit accrued in the fund by a member on the basis of services rendered in covered employment.

#### B. Eligibility

1. In order to satisfy eligibility to participate in the DROP, the member shall satisfy the following conditions:

a. The member shall have accrued not less than 20 years of creditable service, including not less than 15 years of creditable service accrued in this fund plus any reciprocal credit reciprocally recognized by the board under R.S. 11:142.

b. The member shall satisfy all eligibility requirements for a service retirement benefit.

c. The member shall file with the board and the board shall approve the member's service retirement benefit application.

d. The member shall file and the board shall approve the member's DROP enrollment application.

e. By submitting a DROP enrollment application, the member shall automatically elect to participate in the DROP for the full three-year period. Nonetheless, the member may exit the DROP at any time by filing with the board an application to withdraw from the DROP, effective upon the board's approval.

2. A member may participate in the DROP only once.

3. The member's application to enter the DROP shall request retirement on the first day of a calendar month and shall specify a requested effective date no earlier than the first day of the second calendar month following the calendar month in which the DROP enrollment application is submitted. The service retirement application and the DROP enrollment application shall not be submitted to the board for consideration and approval until such time as all required and requested data, documentation and information have been submitted to the board in order to complete both the service retirement and the DROP enrollment applications. Such participation shall be limited to a maximum period of three years—i.e., 36 calendar months—as to each individual.

#### C. Participation in and Withdrawal from the DROP

1. The effective date of a member's entry into the DROP shall be the first day of the second calendar month following the calendar month in which the member initially files his DROP enrollment application, providing, however, that:

a. The member has completed submission of any and all requested data, documentation and information to the

board in connection with the DROP enrollment application and the service retirement application no later than the seventh of the first calendar month (or the first work day following this date if the seventh of the first calendar month falls on a holiday or weekend) following the submission date; and

b. the board has considered and formally approved said applications prior to the requested effective date.

2. Upon the effective date of the member's DROP participation, the fund shall distribute monthly benefit payments pursuant to the member's service retirement award into the member's DROP account.

3. Upon a member's commencement of participation in the DROP, his membership in the fund shall terminate and he shall accrue no additional creditable service during DROP participation.

4. No employer contributions shall be made to the fund on behalf of a member participating in the DROP, nor shall the member be required to make employee contributions to the fund.

5. A member's compensation and creditable service shall be frozen when the member enters participation in the DROP and shall thereafter remain as they existed on the effective date of the member's commencement of participation in the DROP.

6. A member participating in the DROP shall not be eligible to receive the cost-of-living adjustments awarded by the fund from time to time to retired members. Eligibility for cost-of-living adjustments shall not commence until the member has been separated from covered employment for one full year.

7. A member's DROP account shall not be charged, debited or assessed any fees, charges or similar expenses of any kind for any purpose, nor shall the account be subject to diminution based on valuation or earnings losses of any kind. In addition, no such fees, charges, losses or other similar charges shall be charged, debited or assessed against the member indirectly.

8. A member's DROP account shall not earn or accrue any interest, gains, or earnings of any kind, nor shall the member accrue such earnings indirectly.

9. Pursuant to R.S. 29:415.1, a member shall not accrue any military service credit or pension credit based on military service performed during a member's participation in the DROP.

10. The duration of participation in the DROP shall not exceed a period of three consecutive years—i.e., 36 consecutive calendar months measured from the effective date of commencement of participation in the DROP.

11. A member may terminate his participation in the DROP to be effective as of the last day of any calendar month prior to the end of the maximum three-year period by filing with the Board of Trustees of the fund a DROP withdrawal application, providing the DROP withdrawal application is submitted to the board no later than the last day of the previous calendar month.

12. If a member participating in the DROP does not terminate his covered employment upon completion of three years of participation in the DROP or upon the effective date of his approved withdrawal prior thereto, payment of the

member's service retirement benefit into the member's DROP account shall automatically cease. In the event the member has failed to notify the board of his intent to continue in his covered employment after the effective date of his DROP completion, the board shall notify the member in writing, at his last known address, that the fund has ceased monthly payments into his DROP account.

13. If the member should die during his period of participation in the DROP, a lump sum payment of the balance in the member's DROP account shall be paid within one year of his death to his designated beneficiary or, if none, to his estate. Any additional survivor and/or death benefits payable to the member's beneficiary or beneficiaries, in accordance with the member's individual retirement election, all applicable statutory provisions, and the board's rules and regulations pertaining to death benefits, shall also be subject to distribution.

14. No distribution shall be made from a member's DROP account until the member's covered employment has been fully terminated. A member's DROP account shall not be distributable at any time during the member's DROP participation or at any time prior to the member's separation from covered employment, even if the member has exited from the DROP.

15. Any payment of the member's DROP account shall be made only as a one-time lump sum payment. Installment, piecemeal, partial, pro rata or annuity payments of any kind from the DROP account shall be strictly prohibited.

16. Neither a member nor a beneficiary shall be permitted to defer receipt of a distribution from the member's DROP account beyond one year—i.e., 12 consecutive calendar months—following the effective date of the member's termination of covered employment, or the member's death, as applicable.

17. Upon termination of covered employment, the member shall file an application with the board requesting distribution of his DROP account on the first day of any calendar month within one year following the calendar month of termination. Provided, however, that the requested distribution date shall be no earlier than the second calendar month following the calendar month of termination.

18. In the event a member validly elects to rollover all or any part of his DROP distribution to a qualified plan or an individual retirement account, said distribution shall not be made until at least 30 days after the member has acknowledged in writing receipt of the applicable explanation to employees and notice relating to rollover, direct rollover, income averaging treatment and tax consequences upon distribution, or compliance with any timeliness requirement subsequently established by applicable law, if different. Any such election shall be made in compliance with the board's rules and regulations of direct rollovers and all applicable provisions of the Internal Revenue Code then effective.

19. Upon termination of covered employment, the monthly benefits that were formerly paid into the member's DROP account during his period of participation shall be paid directly to the retired member.

20. The member shall not be permitted to change, revoke or rescind the retirement benefit distribution option selected

and/or the beneficiary or beneficiaries he designated upon entering into the DROP regarding his service retirement benefit nor shall any such change be permitted at the time the DROP account is distributed.

21. If the member does not terminate his covered employment upon completion of the maximum three-year participation period or upon such earlier date as the member has specified for withdrawal:

a. monthly service retirement benefit payments into the DROP account shall cease; and

b. the member shall resume active membership in the system; and

c. the member shall commence accrual of additional creditable service under the system.

#### D. Post-DROP Accruals and Retirement Benefits

1. If a member continues in covered employment after termination of his participation in the DROP, the member shall accrue a second retirement benefit based on his additional covered employment performed following the date of termination of his DROP participation, using the normal method of computation of benefits, subject to the following conditions:

##### a. New System Member

i. If the member originally retired from the new system, and his period of additional covered employment after termination of DROP participation is less than 48 months, the average compensation figure used to calculate the additional benefit accruals shall be that used to calculate the member's original benefit.

ii. If the member originally retired from the new system, and his period of additional covered employment after termination of DROP participation is 48 months or more, the average compensation figure used to calculate the additional benefit accruals shall be based on the member's compensation earned during the period of post-DROP service.

##### b. Old System Member

i. If the member originally retired from the old system and his period of additional covered employment is less than 12 months, the average compensation figure used to calculate the additional benefit shall be that used to calculate the member's original benefit.

ii. If the member originally retired from the old system and his period of additional covered employment is 12 months or more, the average compensation figure used to calculate the additional benefit shall be based on the member's compensation during the period of additional service.

c. If the member was first employed before December 31, 1967 but originally elected to retire from the new system, that election shall also apply to and determine the additional benefits accrued for post-DROP service.

2. The distribution option under R.S. 11:3385 originally selected by the new system member upon entering into the DROP shall also apply to any additional benefits accrued during the period of additional covered employment.

3. The beneficiary designated by the member upon entry into the DROP shall also be the beneficiary or beneficiaries designated in connection with the additional benefits accrued. However, in the event the member's designated beneficiary has predeceased the member, the

member may designate a new beneficiary or beneficiaries for purposes of the additional retirement benefit only.

4. If following a period of additional covered employment performed after leaving the DROP the board determines that the member is disabled pursuant to R.S. 11:3376 and is therefore eligible to receive a service-connected disability benefit, the following terms and conditions shall apply:

a. The amount of the service-connected disability benefit shall be in the same amount and calculated as a service retirement benefit based only on the credited service accrued subsequent to the date of the member's termination of participation in the DROP.

b. The fund shall distribute to the member, no later than one year following termination of covered employment, a lump sum payment equal to his DROP account balance.

c. The member's monthly benefit payments attributable to both the original and the additional benefits shall be paid directly to the retiree.

d. All monthly benefits paid and payable to the member, as well as his DROP account balance, shall be classified by the fund as service-connected disability benefits and shall be so reported on all necessary filings made by the fund to the Internal Revenue Service.

e. Under no circumstances shall the original benefit amount or the DROP account balance be recalculated, for any purpose.

5. In no event shall the member's additional retirement benefit exceed an amount which, when combined with the original benefit, equals 100 percent of the average of any three highest consecutive years of compensation earned by a member who elected to retire under the old system, or 100 percent of the average of any four highest consecutive years of compensation earned by a member who elected to retire under the new system, both during participation and after withdrawal from the DROP.

E. Trustees' Procedures Applicable to Payments to Drop Accounts

1. The procedures herein set forth shall govern the monthly payments owed by the fund to each member's DROP account during his participation in the DROP.

2. The board shall maintain a detailed accounting of each individual DROP account on behalf of each member currently participating in the DROP. Each month that a payment is due on behalf of the member, the board shall show a credit to the member's account and shall maintain a current balance showing the total credit to each member's account. At such time as the balance maintained in an individual member's DROP account shall exceed \$95,000, the board shall make all subsequent monthly payments directly to a separate fund bank account to be known as the excess DROP account to be established at a bank other than the fund's then current custodian bank in order to preserve full FDIC pass-through insurance for all participating members. An accounting of all such deposits exceeding \$95,000 per member and the balance to the credit of each such individual DROP participant in the separate excess DROP account shall be maintained. The sum of the participant's balances in both banks shall be the total to

be distributed to the participant at such time as a distribution is due.

3.a. Old System. At such time as the board furnishes to the City of New Orleans the required annual report pursuant to R.S. 11:3375 of projected retirements, distributions, and other data necessary for the council to appropriate a budget allocation for each subsequent year, the board shall include in such projections all benefit obligations projected by the board relative to members retiring from the old system and entering or remaining in the DROP and shall include the projected monthly payments payable to fund DROP accounts for the benefit of all DROP participants.

b. New System. In regard to those members retiring under the new system, at such time as the fund's actuary certifies pursuant to R.S. 11:3363(D) the annual amount of contributions required to be paid by the City of New Orleans for the subsequent year in order to maintain the new system on an actuarial basis, the fund actuary shall include therein actuarial projections relative to all anticipated benefit obligations projected for members retiring from the new system and entering or remaining in the DROP and shall include the projected monthly payments payable to fund DROP accounts for the benefit of all DROP participants.

4. When a member enters the DROP, a book transfer shall be made each month of the payment owed by the fund to each DROP participant until such time as the balance in the member's DROP account reaches \$95,000. Thereafter, the board shall cause a payment to be made each month from regular fund assets to the excess DROP account on behalf of that member, representing the amount of his monthly service retirement award.

5. The board shall maintain complete accounting records documenting all payments, receipts and distributions to and from the fund's excess DROP account, as well as a detailed record of the amount held and accumulated in each member's individual DROP account on behalf of each individual participant in the DROP, and the dates of all transactions related thereto. Nevertheless, all payments to the excess DROP account for the benefit of DROP participants shall be maintained in a joint account for all members, and the board shall not maintain individual or segregated bank accounts on behalf of each member.

6. The fund's actuary shall record in his annual actuarial valuation performed on behalf of the fund relative to the old and the new systems the amount of assets held each year in the excess DROP account for the benefit of all members currently participating.

7. On an annual basis, or more frequently should the board so determine, all earnings accrued in the excess DROP account shall be transferred from the excess DROP account to the fund's general bank account, to be invested or utilized as a general asset of the fund.

8. No payments, disbursements, or deductions of any kind shall be made from the assets held in the excess DROP account other than distributions owed to individual members and the transfer of earnings held in the excess DROP account to the fund's general assets, as described in Paragraph 7 hereof.

9. All costs, expenses and fees payable in connection with DROP participation and/or maintenance of excess DROP account, including any bank charges associated with the maintenance thereof, shall be paid, if and when due, only from the fund's general assets and from bank accounts other than the excess DROP account.

10. All assets held either in the fund's general account or in the excess DROP account on behalf of DROP participants shall be held, recognized, and treated as fund assets until such time as distributions approved by the board are made therefrom. No individual member participating in the DROP, or any person claiming through him, shall have any personal ownership, interest or entitlement in any fund account, including the excess DROP account, until such time as a distribution is made to or on his behalf by the board.

11. All DROP assets held in the fund's general account or in the excess DROP account shall be exempt from seizure, levy, sale, garnishment, attachment or any other process whatsoever, and shall be exempt from state and municipal taxes, except as follows:

a. The board shall honor all QDROs recognized by the board as valid pursuant to its procedural rules and regulations for determining status of qualified domestic relations orders, in accordance with the terms, conditions and effective dates specified in each such individual order.

b. The board shall honor any such levy, garnishment or other process validly served upon it in the event the board determines, based on advice of its counsel, that the process in question is based on statutory, administrative, judicial or other authority or precedent that preempts and/or supersedes the provisions of R.S. 11:3389.

12. At such time as distributions are made by the fund to participants, beneficiaries or other persons claiming through them, the payments shall be subject to federal, state and municipal taxation, and to levy, garnishment, seizure, sale, attachment or any other process whatsoever, that is applicable to any other distribution or payment made to a retired member. However, any distribution of the balance contained in a member's DROP account shall also be subject to federal income tax and withholding treatment under the rollover provisions of the Internal Revenue Code, the regulations issued thereunder by the Internal Revenue Service, and the board's rules and regulations of direct rollovers, in the event the member or a qualified beneficiary should elect rollover treatment.

13. In the event a DROP participant has failed to keep the fund advised of his current address and whereabouts at a time when a distribution is due from the member's DROP account, the fund shall forward the distribution to the member's last known address, via certified mail. If said mailing is returned to the fund, the fund shall hold said mailing and check in the participant's file until such time as the board receives additional information sufficient to permit distribution. Any such distribution shall be made as a direct payment to the individual member, unless the member shall have validly elected to make a direct rollover to a qualified plan or a financial institution, in which event said election shall be honored.

14. If the board is unable to effect the required distribution because of the member's failure to advise the fund of his current address, or for any other reason not directly attributable to the fund's intentional action or inaction, neither the fund nor the board shall be responsible or liable for any loss, prejudice, expense or other consequences, including tax liability or consequences, attributable to the fund's inability to distribute. No matter how long the board is required to hold the distribution due to such member failure, no interest, gains, or earnings of any kind shall be payable thereon.

15. At such time as a participant requests or the fund is required to effect any distribution of a member's DROP account balance, the board shall furnish to the member the applicable notice and explanation to employees relating to direct rollover, income averaging treatment and tax consequences upon distribution required under Internal Revenue Code §402(F) and Internal Revenue Service Notice No. 92-48, such notice to be furnished in accordance with the time delays and other requirements therein specified, as amended from time to time. Currently said statutory provisions and Internal Revenue Service Notice require that the notice and explanation to employees be furnished no later than 30 days prior to the date the DROP account is distributable.

16. Neither the board nor the fund shall give, distribute or offer to any member or participant on the fund's behalf any advice, counseling, or information concerning taxability and tax consequences, or financial information pertaining to DROP distributions, other than the general summation reflected in the fund's explanation and notice to employees. Instead, the fund and the board shall advise the member that the rules applicable to distributions of lump sum amounts for a member's DROP account are complex and confusing and may prompt the member, in his individual discretion, to seek advice from a competent professional tax advisor or from the member's local Internal Revenue Service office, which from time to time may distribute publications relative to retirement distributions and related matters.

#### F. General

1. Consistent with the provisions of R.S. 11:3361 et seq., the board shall have full and complete authority and discretion to determine the eligibility of any member to enter the DROP and to receive a DROP distribution and to make any other determinations pertaining thereto, consistent with all applicable statutory provisions, applicable jurisprudence published thereunder, and all rules and regulations adopted by the board from time to time, including these rules and regulations pertaining to the DROP.

2. Should the board determine that a member is ineligible to participate in the DROP or should it make any other determination pertaining to the DROP that is considered by the member, a beneficiary, legal representative, or other person claiming through the member to be adverse or in any way prejudicial, the injured person shall be entitled to pursue an appeal before the board in accordance with the appeal procedures set forth in the fund's summary plan description. At the time any decision is issued to the board member, whether or not the board considers it to be adverse to the

claimant, the claimant shall be advised in writing of such entitlement to request rehearing and of the time delays and other requirements to be observed in connection therewith.

3. No member, beneficiary, legal representative, or other person claiming through the member shall be entitled to pursue judicial review of any board determinations reached in regard to DROP entitlement and other issues pertaining to DROP participation, exit from the DROP, benefit distributions from the DROP, and related matters, unless the claimant shall first have exhausted all internal fund appellate and review procedures and the board has issued a final decision, and then only in accordance with applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

William M. Carrouche  
President

9608#006

## RULE

### Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

#### Direct Rollovers

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (fund), pursuant to R.S. 11:3363(F), has amended and restated its rules and regulations of direct rollovers.

#### Direct Rollovers

1. Notwithstanding any provision of the plan to the contrary, benefit distributions shall be made in accordance with the following direct rollover requirements and shall otherwise comply with Section 401(a)(31) of the Internal Revenue Code and the Treasury regulations promulgated thereunder, the provisions of which are incorporated herein by reference. The trustees shall allow a member to directly roll over his eligible rollover distribution which is paid directly to an eligible retirement plan as specified by the member.

2. For purposes of these rules and regulations, an eligible rollover distribution is any distribution from this fund of all or any portion of the balance to the credit of the member except the following:

(a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made over any one of the following periods: the life of the member (or the joint lives of the member and the member's designated beneficiary), the life expectancy of the member (or the joint life and last survivor expectancy of the member and the member's designated beneficiary), or a specified period of 10 years or more; or

(b) any distribution to the extent the distribution is required under Section 401(a)(9) of the Internal Revenue Code, relating to the minimum distribution requirements; or

(c) the portion of any distribution that is not includable in gross income.

3. For purposes of this section, an eligible retirement plan is an individual retirement account under Code §408(a); an individual retirement annuity under Code §408(b); a qualified

defined contribution plan under Code §401(a); an annuity plan under Code §403(a); or any other type of plan specified under the Treasury regulations.

4. A notice to participants conforming with I.R.C. Section 402(f) and all Treasury regulations promulgated thereunder shall be provided to the member and any other person receiving a distribution by the fund who is eligible to make a direct rollover no less than 30 days and no more than 90 days before the date of distribution of the pension benefit. The notice shall inform the distributee that he has the right to consider his options for at least 30 days prior to making the election described in Section 4 of these rules and regulations and shall further inform the member or distributee that he may affirmatively waive this 30-day review period by submitting the election prior to the expiration of 30-day period.

5. A member shall elect to have his eligible rollover distribution directly rolled over to an eligible retirement plan by completing and filing the applicable forms before the date of distribution of his pension benefits. The member, pursuant to the provisions hereunder, must specify the eligible retirement plan to which his eligible rollover distribution will be directly paid as a direct rollover. A member may revoke any election to directly roll over his eligible rollover distribution, provided such revocation is in writing and filed with the trustees before his date of distribution of his pension benefits.

6. The trustees shall accomplish a direct rollover under Section 401(a)(31) of the Internal Revenue Code by establishing reasonable procedures in accordance with the Treasury regulations either by a wire transfer or by mailing the distribution check directly to the eligible retirement plan specified by the member. Payment made by check must be negotiable only by the trustee of the eligible retirement plan. Payment made by wire transfer must be directed only to the trustee of the eligible retirement plan.

The trustees shall, in their sole and absolute discretion, distribute the eligible rollover distribution check directly to the member, instructing the member to deliver same to his designated eligible retirement plan, provided that if the eligible retirement plan is an individual retirement account, the check must be payable to the trustee, as trustee of the individual retirement account for the benefit of the distributee member; or if to a qualified retirement trust, the check must be payable to the trustee of the qualified plan for the benefit of the distributee member.

7. The member shall not directly roll over any eligible rollover distribution, or portion thereof, if the total amount of his eligible rollover distribution is less than \$200, or as such amount may be adjusted from time to time under Section 401(a)(31) of the Internal Revenue Code or the Treasury regulations promulgated thereunder.

8. The member shall not directly roll over a portion of his eligible rollover distribution to an eligible retirement plan if such portion is less than \$200, or such other amount as provided under Section 6 above. The remainder of the member's eligible rollover distribution not directly rolled over shall be paid to the member.

9. The member shall directly roll over his eligible rollover distribution, or a portion thereof, only to a single eligible

retirement plan. The member is prohibited from dividing his eligible rollover distribution into two or more separate distributions to be paid in direct rollovers to two or more eligible retirement plans.

10. The trustees shall treat a member's election to make or not make a direct rollover with respect to one payment in a series of periodic payments as applying to all subsequent payments in a series. The member, with respect to subsequent payments, shall at any time change his previous election to make or not make a direct rollover by completing and filing the appropriate forms with the trustees.

11. A surviving spouse of a deceased member shall elect to have her eligible rollover distribution directly rolled over only to an individual retirement account in accordance with the provisions hereunder.

12. A spouse or former spouse alternate payee under a Qualified Domestic Relations Order shall elect to have her eligible rollover distribution directly rolled over to an eligible retirement plan as specified by the spouse or former spouse alternate payee in accordance with the provisions hereunder.

A nonspouse beneficiary of a deceased member is prohibited from electing a direct rollover to any eligible retirement plan.

William M. Carrouché  
President

9608#007

## RULE

### Office of the Governor Crime Victims Reparations Board

#### Compensation to Victims (LAC 22:XIII.Chapters 1-5)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and under the authority of the Crime Victims Reparations Act, R.S. 46:1801 et seq., the Crime Victims Reparations Board has amended its rules concerning compensation to victims of crime. These rules remove policy constraints of automatic denial and automatic reduction of awards for certain victims, remove life insurance as a collateral offset for certain claimants, and increase the maximum amount of lost wages and loss of support awards. Furthermore, the amendments include provisions for crime scene evidence, an area previously not covered by board rule; will allow for quicker delivery of board checks; and will ensure compliance with two federal grant requirements.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part XIII. Crime Victims Reparations Board

#### Chapter 1. Authority and Definitions

#### §103. Definitions

\*\*\*

*Collateral Source or Resource*—source of benefits for pecuniary loss awardable, other than under these rules, which

the claimant has received or which is readily available to him/her from any or all of the following:

\*\*\*

f. proceeds of a contract of insurance payable to the claimant for pecuniary loss sustained by the claimant by reason of the crime.

\*\*\*

*Pecuniary Loss*—amount of expense reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:

\*\*\*

b. as a consequence of death:

\*\*\*

iii. care of a child or children enabling the surviving spouse of a victim or the legal custodian or caretaker of the deceased victim's child or children to engage in lawful employment, where that expense is not otherwise compensated for as a pecuniary loss for personal injury.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996).

### Chapter 3. Eligibility and Application Process

#### §301. Eligibility

To be eligible for compensation, an individual must have suffered personal injury as a result of a violent crime.

#### 1. Contribution

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who claims an award of reparations through a victim, when any of the following occurs:

i. - iii. ...

b. As Louisiana law requires all drivers and front seat passengers to use seat belts, victims not wearing a seat belt and injured or killed by a driver in violation of R.S. 14:98 (DWI), if found eligible otherwise, may have their award reduced. The total maximum award allowed under current policy may be reduced by 50 percent.

\*\*\*

#### 3. Unjust Enrichment

a. When determining unjust enrichment or substantial economic benefit to offenders in applications involving domestic violence, the board will consider the following factors:

i. Has the victim reported the incident to the authorities and has the victim cooperated with their reasonable requests?

ii. In determining whether enrichment is substantial or inconsequential, factors to be considered include:

(a). the amount of the award,

(b). the total amount of income to the household,

and

(c). whether a substantial portion of the award will be used directly by or on behalf of the offender.

b. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his

living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied.

c. The availability of collateral resources, including but not limited to court-ordered restitution and medical insurance, will be examined. A determination shall be made:

i. as to whether the offender has a legal responsibility to pay,

ii. whether the offender has resources to pay,

iii. whether payment is likely.

d. The victim shall not be penalized for the failure of an offender to meet legal obligations to pay for the costs of the victim's recovery.

e. If the offender fails to meet legal responsibilities to pay restitution or provide for the medical and support needs of a spouse or child, or if the offender impedes payment of insurance that may be available to cover a spouse's or child's expenses, the program should attempt to meet the victim's needs to the extent allowed.

f. Payments to third-party providers will be made wherever possible.

g. Child victims will not be penalized by denying or delaying payment when offender or collateral resources are not forthcoming.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996).

### §303. Application Process

#### A. Claimant Responsibility

1. - 5. ...

6. The victim/claimant is required to use claim forms to seek additional compensation after the original award is made.

B.1. - 2. ...

#### C. Board Staff Responsibility

1. - 4. REPEALED

5. Check distribution will be as follows:

a. Provider checks will be issued directly to providers from the board office.

b. Victim/claimant checks will be mailed directly from the board office unless the sheriff specifies that he wishes to have them mailed directly to the sheriff's claim investigator for personal distribution.

D.1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996).

### Chapter 5. Awards

#### §501. Payment of Awards

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AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), repromulgated LR 22:710 (August 1996).

### §503. Limits on Awards

A. - B.3. ...

C. Funeral Expenses

\*\*\*

2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid may be considered as a collateral source. If a claimant is the dependent or spouse of the victim, life insurance will not be considered a collateral offset.

3. - 4.c. ...

D. Lost Wages/Earnings

1. - 3.b. ...

4. The board may reimburse lost wages/earnings with a maximum of \$10,000.

4.a. - 6. ...

7. If a victim does not return to work, the lost wage period may be no longer than one year.

8. - 12. ...

E. Loss of Support

1. - 2. ...

3. The board may reimburse loss of support with a maximum of \$10,000.

a. - b. ...

F. Ambulance

1. - 2. ...

3. The medical portion of the ambulance bill is to be considered as a medical cost and paid at the medical per cent consistent with all other claims for that claimant.

\*\*\*

M. Crime Scene Evidence

1. For the board to consider compensation of a loss resulting from expenses associated with the collection and securing of crime scene evidence, the following may apply:

a. The board is not responsible for the replacement of damaged or stolen property but only for those losses resulting from the collection and securing of crime scene evidence.

b. The loss claimed must be for an item or items listed as evidence seized in the law enforcement report, and

c. the item or items must be either not returned or returned in a condition which renders it unusable.

d. Proof of purchase or an estimate for replacement with a comparable item from a recognized merchant must be furnished.

e. Items may be limited to clothing and bedding.

2. A forensic medical examination for a victim of sexual assault will be considered an expense associated with the collection and securing of crime scene evidence. This expense will be reimbursed at 100 percent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996).

Lamarr Davis  
Chairman

9608#019



## RULE

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

#### Sanitary Code—Lead Poisoning Control (Chapter IV)

Pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Chapter IV of the state Sanitary Code to bring the code into agreement with current state laws, federal housing regulations and industry standards, and to more effectively deal with child lead poisoning cases.

#### Chapter IV Lead Poisoning Control

**4:001.** Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

*Abate*—to remove, isolate, cover with permanently affixed lead-free covering incapable of being readily chewed through, pierced, torn or removed, or to otherwise make inaccessible to children or other persons, sources of lead contamination.

Painting over lead-based paint with nonlead paint shall not constitute abatement; however, liquid encapsulant formulated and warranted by the manufacturer for such purpose may be used. Contaminated soil may be covered with uncontaminated topsoil or vegetation, if approved by the state health officer.

*Chewable Surface*—shall include, but not be limited to, such surfaces as window sills, window frames, door frames, handrails, toys, furniture, and other appurtenances offering a biting surface to a child or other person.

*Child*—as used in this chapter shall mean a child under 6 years of age.

*Dwelling*—a building or structure occupied or designed or intended to be occupied as a place of human habitation and use, and construed to include any accessory building or structure belonging thereto or usually enjoined therewith.

*Dwelling Unit*—any room or group of rooms or other interior area of a dwelling designed or used for human habitation.

*Exposed Surface*—all surfaces of a premises which are readily accessible to any person. Such surfaces include structural components, walls, and siding from floor or ground level to a vertical distance of at least five feet. Any area subject to contamination from flaking, peeling or chalking lead based materials is also considered an exposed surface.

*Lead Contamination*—shall include: paint or similar coating material, putty, plaster or other composition material, on an exposed surface or chewable surface, which contains  $\geq 0.5$  percent lead by weight as determined by laboratory analysis or  $\geq 1.0$  milligram per square centimeter of surface area as measured by X-ray fluorescence or equivalent method; drinking water, dust, or soil which contains a level of lead which, in the judgment of the state health officer, is sufficient to be a source of lead poisoning to children or other persons;

any object or material which, in the judgment of the State Health Officer, can be a source of lead ingestion or inhalation.

*Lead Poisoning*—a blood lead level hazardous to health as established by the state health officer.

*Occupant*—any person living, sleeping, cooking, eating in or having actual possession of a dwelling or dwelling unit.

*Operator*—any person who has charge, care or control of a building or part thereof in which dwelling units are let.

*Other Person*—as used in this Chapter shall mean a person, other than a child under 6 years of age, deemed by the state health officer to be at risk of lead poisoning because of mental state, physiological condition, or behavioral traits.

*Owner*—a holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

*Premises*—a lot, plot or parcel of land or part thereof including all facilities and improvements thereon.

*Surface*—the outermost layer of the superficial area of a premises.

**4:002.** Lead contamination shall be considered a health hazard to children or other persons, if said lead contamination exists in or about a dwelling, dwelling unit, household, or other premises which, in the judgment of the state health officer, children or other persons visit with such frequency or duration as to create significant risk of lead poisoning.

**4:003.** All day care facilities or institutions in which children or other persons commonly reside or are cared for shall be maintained free of lead contamination.

**4:004.** When the state health officer is informed of a case of lead poisoning, he shall cause to have inspected the dwelling in which the person with lead poisoning resides, or has recently resided, if the occupants of such dwelling consent, after reasonable notice, to such inspection. The state health officer may, as he deems necessary, cause to have inspected other residences or premises which the person with lead poisoning frequents.

**4:005.** The purpose of such inspection shall be to identify possible sources of lead poisoning. The inspection may include: *in situ* testing with an X-ray fluorescence analyzer or other method approved by the state health officer; collection of paint, dust, soil, and water samples for laboratory analysis; visual inspection for objects which may contain lead; and interviews with the person with lead poisoning or others with knowledge of the person's behavior and habits.

**4:006.** When lead contamination is found in a dwelling, the following actions shall be taken:

**4:006-1.** The inspection findings shall be reported in writing immediately to the parent or guardian, owner and/or operator of the building, all affected tenants, the person having medical management of the lead poisoning case, and the state health officer.

Additionally, any findings as to behavior or habits of the person with lead poisoning which might be causative of lead poisoning shall be reported to the person having medical management.

**4:006-2.** The parent or guardian of the person with lead poisoning and the owner and/or operator of the building shall be notified that such person and other children should immediately be protected from the lead hazard, either by

removal from the dwelling, isolation of the contamination, or other method approved by the state health officer, until the hazard is abated.

**4:006-3.** A notice shall be prominently posted on the main entrance of the dwelling that the premises contains levels of lead hazardous to children and other persons and that such persons should not occupy the building until the hazard has been abated. Such notice may not be removed until the state health officer determines that the hazard has been abated. Unauthorized intentional removal of the notice shall subject the offender to a fine of \$500 as provided in R.S. 40:1299.(24).(C).

**4:006-4.** The state health officer shall strongly encourage the examination of all children and other persons residing, or who have recently resided in the dwelling.

**4:006-5.** If, within 30 days of notification of the existence of lead contamination, the parent or guardian and/or the owner or operator of the building have not taken adequate measures to protect the person with lead poisoning and children and other persons from the lead hazard, they shall be invited to attend a conference at local health unit or other site designated by the state health officer. Invitees shall be given at least 10 days advance notice of the conference; shorter notice may be given if mutually agreeable. Present at the conference shall be: the inspector or other Office of Public Health representative familiar with the inspection results, the person having medical management of the poisoning case or other person familiar with the case, and if possible, a social worker.

**4:006-6.** The purpose of the conference shall be to inform the invitees of the hazard to the person with lead poisoning, and to children and other persons, the necessity for protecting such persons from the lead hazard, and to develop a plan of action to accomplish such. Such plan should include removal of the persons at risk, abatement of the hazard, or other steps approved by the state health officer. A written or electronic record of the conference shall be kept. At the conclusion of the conference, the invitees shall be requested to sign a statement that they understand the hazard to the child, and that they agree to accomplish the plan of action by a mutually agreed upon date. Such statement shall be made part of the conference record.

**4:006-7.** If, at any time, the state health officer determines that a child with lead poisoning and other children in the family are at risk and are likely to remain so without intervention beyond that outlined above, he shall notify the appropriate child protection agency and/or other agency of the particulars of the case.

**4:007.** Lead contamination identified as a result of the aforementioned inspection shall not be considered abated until verified by a reinspection authorized by the state health officer.

Bobby P. Jindal  
Secretary

9608#030

## RULE

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

#### Informed Consent—Urology (LAC 48:I.2449)

*(Editors Note: Title 48, Part I, Chapter 23, Section 2449.F is being republished to correct a typographical error. The complete rule was published in the January 1996 issue of the Louisiana Register, pages 31-32, with a correction published on page 285 of the April, 1996 Louisiana Register.)*

### Title 48 PUBLIC HEALTH

#### Part I. General Administration

#### Chapter 23. Informed Consent

#### §2449. Urology

A. - E.6. ...

F. Bladder Suspension (MMK, Pererya - Procedure, Cystocele repair, etc.)

F.1 - Q.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 22:31 (January 1996), repromulgated LR 22:285 (April 1996), LR 22:712 (August 1996).

Bobby P. Jindal  
Secretary

9608#036

## RULE

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

#### Maternal and Child Health Block Grant

The Department of Health and Hospitals (DHH) is applying for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1996-97 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register* Volume 47, Number 129, Tuesday, July 6, 1982, pages 29472-29493. DHH will continue to administer programs funded under the MCH Block Grant in accordance with provisions set forth in Public Law 97-35 and the federal regulations. The Office of Public Health is the office responsible for program administration of the grant.

A copy of the full text of these rules may be obtained through the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Bobby P. Jindal  
Secretary

9608#031

**RULE**

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

**Coverage for Reduction Mammoplasty Services**

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act.

**Rule**

The Bureau of Health Services Financing adopts the following criteria to govern the provision of reduction mammoplasty services under the Medicaid Program.

**I. Approval Requirements**

A. Qualifying Condition. The recipient must meet the following weight and height criteria before the provider is to submit a request for evaluation and consideration for reduction mammoplasty services. The recipient's total weight shall not exceed 20 percent of the weight limit established by the following formula.

Height	Pounds
5 feet	100
Each additional inch over 5 feet	5

For example: A request for reduction mammoplasty services shall not be submitted for consideration for a recipient who is 5 feet tall who weighs more than 120 pounds (100 pounds plus 20 percent). A person who is 5 feet, 1 inch tall shall weigh no more than 126 pounds (105 pounds plus 20 percent) to be considered. A recipient who is 5 feet, 5 inches tall shall weigh no more than 150 pounds (125 pounds plus 20 percent) to be considered.

**B. Prior Authorization**

1. If the qualifying condition stated above is met, providers may then submit a request for prior authorization for reduction mammoplasty upon which the determination of medical necessity will be made.

2. The following documentation must accompany the request for the prior authorization of reduction mammoplasty services:

- a. posterior photo view of the shoulder straps areas;
- b. frontal photo of chest with face blocked;
- c. lateral photo of chest and;
- d. number of grams of breast tissue to be removed

from each breast.

**II. Payment Requirements**

The pathology report and the PA01 or the prior authorization approval letter must be attached to the claim submitted for payment to the fiscal intermediary. The HCFA 1500 claim form cannot be electronically transmitted. The claim will be denied payment if the above requirements are not attached to the claim.

Bobby P. Jindal  
Secretary

9608#028

**RULE**

**Transportation and Development  
Board of Registration for Professional Engineers and  
Land Surveyors**

**Minimum Standards for Property Boundary Surveys  
(LAC 46:LXI.2501-2509)**

In accordance with the R.S. 49:950 et seq., the Board of Registration for Professional Engineers and Land Surveyors has amended LAC 46:LXI.2501-2509 as follows.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors**

**Subpart 1. Rules**

**Chapter 25. Minimum Standards for Property  
Boundary Surveys**

**§2501. General**

A. ...

B. These standards are set forth to solely provide a means by which professional performance can be assessed by the Louisiana State Board of Registration for Professional Engineer and Land Surveyors and to enable the surveying profession as a whole to better protect the safety, health, and welfare of the public. It should be recognized that surveying practices now in place may vary from one region of the state to another, and these practices should be evaluated when at variance with these standards.

C. It is intended that these be recognized as minimum standards of practice and that they not be relied upon by the professional surveyor as a substitute for the exercise of proper individual skill, professional discretion, and good judgment in fulfilling the legal and/or contractual requirements of any property boundary survey.

D. When in the professional surveyors opinion special conditions exist that effectively prevent the survey from meeting these minimum standards, the special conditions and any necessary deviation from the standards shall be noted upon the drawing. It shall be a violation of this rule to use special conditions to circumvent the intent and purpose of these minimum standards.

E. A property boundary survey shall only be performed by persons qualified to practice land surveying and registered in accordance with the provisions of R.S. 37:681, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:713 (August 1996).

**§2503. Definitions**

Any terms not specifically defined herein shall be as defined in the most current publication of *Definitions of Surveying and Associated Terms* as published by the American Congress on surveying mapping. For the purpose of these standards, all the definitions listed that differ from any other source are to be interpreted as written herein.

*Client*—the person with whom the contract for work is made. This may, or may not be the owner.

*Corner*—a point on a land boundary, at which two or more boundary lines meet. Not the same as monument, which refers to the physical evidence of the corner's location on the ground.

*Deed*—an instrument in writing which, when executed and delivered, conveys an estate in real property or interest therein.

*Description, Legal*—a written description usually contained in an act of conveyance, judgment of possession, etc., recognized by law which definitely locates property by metes and bounds or by reference to government surveys, coordinate systems or recorded maps; a description which is sufficient to locate the property without oral testimony.

*Description, Metes and Bounds*—a description of a parcel of land by reference to course and distances around the tract, or by reference to natural or record monuments.

*Encroachment*—any structure or obstruction which intrudes upon, invades or trespasses upon the property of another.

*May*—when used means that a choice on the part of the surveyor is allowed.

*Monument*—a physical structure which marks the location of a corner or other survey point. In public-land surveys, the term "corner" is employed to denote a point determined by the surveying process, whereas the "monument" is the physical structure erected to mark the corner point upon the earth's surface. Monument and corner are not synonymous, though the two terms are often used in the same sense.

*Positional Accuracy*—the difference between the actual position of a monument and the position as reported on the plat.

*Positional Tolerance*—the distance that any monument may be mislocated in relation to any other monument cited in the survey.

*Prescription*—title obtained in law by long possession. Occupancy for the period prescribed by the Louisiana Civil Code, as sufficient to bar an action for the recovery of the property, gives title by prescription.

*Right of Way*—any strip or area of land, including surface, overhead, or underground, granted by deed or easement, for construction and maintenance according to the designated use.

*Servitude*—a nonpossessing interest held by one person in land of another whereby the first person is accorded partial use of such land for a specific purpose. A servitude restricts but does not abridge the rights of the fee owner to the use and enjoyment of his land. The term easement is often used interchangeably with servitude and means the same thing.

*Shall*—the subject is imperative or mandatory and must be done by the surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:713 (August 1996).

## §2505. Classification of Surveys

A. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:714 (August 1996).

## §2507. Property Boundary Survey

A. Definition

*Mineral Unit Survey (or Unit Plat)*—a plan showing subsurface mineral boundaries prepared for the specific purpose of allocating mineral rights. A mineral unit survey should not be viewed as a property boundary survey subject to the requirements of the Minimum Standards for Property Boundary Surveys. This does not absolve the professional land surveyor from his obligation to use due diligence in the practice and from complying with all applicable rules and laws pertaining to the practice of land surveying.

*Property Boundary Survey*—a survey which, after careful study, investigation, and evaluation of major factors influencing the location of boundaries, results in the deliberate location or relocation on the ground of one or more boundaries. When all the boundaries of a parcel of land are surveyed, an area determination may be included if requested by the client.

B. Purpose. The primary purpose of the property boundary survey is to locate or relocate the physical position and extent of the boundaries of real property, and the discovery of visible evidence of prescriptive rights relating thereto. A property boundary survey may also include the location or relocation of the physical position and extent of political boundaries which define the perimeters of public or private ownership. In addition, the property boundary survey is a means of marking boundaries for sufficient definition and identification to uniquely locate each lot, parcel, or tract in relation to other well recognized and established points of reference, adjoining properties and rights-of-way.

C. Product. A property boundary survey will result in the establishment of monumented corners; point of curvature and tangency; and reference points (See Subsection E, "Monuments," in this Section). In event that no plat of survey is required, the professional land surveyor must maintain adequate records to substantiate his professional opinion in reestablishing boundary lines and corners on a survey. If requested by the client, a boundary survey may also include the following:

1. - 3. ...

D. Research and Investigation. A surveyor shall be provided the legal description or plats describing the property to be surveyed. The surveyor shall then evaluate the necessity to obtain the following data based on the specific purpose of the survey:

1. the most recent recorded legal descriptions and plats of the tract to be surveyed, tracts adjoining or in proximity to the property to be surveyed;

2. the recorded legal descriptions of adjoining, severing, or otherwise encumbering servitudes or rights-of-way,

including, but not necessarily limited to, highways, roadways, pipelines, utility corridors, and waterways used for drainage, navigation or flood control. Where the purpose of a survey neither requires nor includes research and investigation of servitudes, a note to that effect shall be placed upon the plat of survey;

3. ...

E. - E.2.a. ...

b. Concrete monuments shall be at least three inches in width or diameter by 24 inches in length, reinforced with an iron rod at least one-fourth inch in diameter, and may contain a precise mark on top indicating the exact location of the corner.

c. Marks on existing concrete, stone, or steel surface will consist of drill holes, chisel marks or punch marks and must be of sufficient size, diameter or depth to be definitive, stable and readily identifiable as a survey monument. Marks on asphalt roads may consist of railroad spikes, large nails, or "PK nails".

d. ...

e. Monuments must be set vertically whenever possible and the top may be reasonably flush with the ground when practical. Monuments subject to damage from earthwork, construction or traffic should be buried at a sufficient depth to offer protection.

f. ...

3 ...

F. - F.1. ...

2. In performing resurveys of tracts of whose boundaries are defined by lines established in public lands surveys, the surveyor shall, as nearly as possible, reestablish the original lines of any prior survey made under United States or state authority. In all townships or portions of townships where no survey has been made, the surveyor, in surveying or platting the township or portion thereof, shall make it conform as nearly as practicable to the lots and sections indicated upon the plats according to which the lands were granted by the state or by the United States. (R.S. 50:125)

3. ...

4. Special consideration shall be afforded by the rules of evidence and "hierarchy of calls" before any decision is made regarding property boundaries. "... The legal guides for determining a question of boundary or the location of a land line in order of their importance and value are:

- a. 1—natural monuments
- b. 2—artificial monuments
- c. 3—distances
- d. 4—courses
- e. 5—quantity

But the controlling consideration is the intention of the parties." (See citation in Meyer vs. Comegys, 1920 La. Supreme Court, 147 La. 851 and 86 SO. 307, 309.)

5. - 7. ...

G. Plats and Maps. Every original plat or map of a boundary survey should be a reproducible drawing at a suitable scale which clearly shows the results of the field work, computations, research and record information as

compiled and checked. The plat, map or drawing shall be prepared in conformity with the following guidelines.

1. - 2. ...

3. All dimensions, bearings or angles, including sufficient data to define the curve shall be neatly and legibly shown with respect to each property or boundary line. When possible, all bearings shall read in a clockwise direction around the property. All lines and curves shall show sufficient data on the map to calculate a map closure.

4. Monuments shall be labeled as "found" or "set," with a brief definitive description of the monument and relevant reference markers, if any, along with their positions in relation to the corner. This description shall include the physical characteristics of the monument and its relevance to the survey.

5. When the purpose of the survey dictates, all pertinent natural or manmade features located during the course of the field survey (water courses, streets, visible utilities, etc.) shall be labeled or represented by an appropriate symbol on the plat in its proper location. When appropriate, the feature should be dimensioned and referenced to the nearest property line.

6. ...

7. A statement indicating the origin of angles or bearings shall be shown on each plat, map, or drawing. If bearings are used the basis of the bearings shall include one or more of the following:

a. - b. ...

c. reference to the record bearing of a well established line found monumented on the ground as called for in a relevant deed, or survey plat;

d. when none of the above alternatives are practical, a magnetic bearing (corrected for declination) or assumed bearing may be used.

8. If a coordinate system other than the Louisiana Coordinate System is used on a map, that system must be identified. If that system is the Louisiana Coordinate System, the appropriate zone must be shown on the map.

9. Where the new survey results differ from the prior deed information in regard to course, distance, location or quantity, the plat shall indicate such differences or discrepancies.

10. ...

11. Cemeteries and burial grounds known by the surveyor to be located within the premises being surveyed should be indicated on the plat. However, a detailed survey of the limits of the cemetery shall not be required unless directed by the client.

12. ...

13. Original section, grant, subdivision or survey lines, when an integral part of the deed, shall be shown in proper location with pertinent labeling. A measurement of course and distance must be shown to a parent tract corner, block corner, section corner, subdivision or grant corner, and existing monuments shall be indicated.

14. - 16. ...

H. - H.4. ...

5. Every metes and bounds description may be written in at least two parts. The first part, called the "General

Description," should indicate the general location of the property by naming the particular lot or block, etc., within which it is located if in a subdivision or by naming the grant or aliquot part of a rectangular section within which it is located, along with the township, range, land district and meridian (if applicable), city (if applicable), parish and state. The second part called the "Particular Description," shall logically compile and incorporate calls for the following:

- a .- b. ...
- c. monuments (when controlling), including descriptions of type, size, material, reference monuments (if applicable), and whether found, set or replaced;
- d. ...
- e. the area, if stated, shall be in square feet or acres or hectares within the tolerances specified in this Chapter.

6. ...

7. The courses in the written description shall be as brief and yet as explanatory as the surveyor can construct. Brevity should not cause important locative information to be omitted, and explanatory phrases should not enlarge the description to the extent of confusion.

8. Curved boundaries shall be identified as tangent or

nontangent curves and sufficient data to define the curve shall be presented.

9. Curved boundaries shall be identified as tangent or nontangent curves and sufficient data to define the curve shall be presented. Each metes and bounds description must return to the point of beginning and close mathematically within the tolerances stated in this Chapter.

10. A statement at the end of the description should connect the description to the specific survey on which it is based and to the map or plat which depicts the survey. Such a statement may be phrased

"This description is based on the boundary survey and plat made by \_\_\_\_\_, Registered Professional Land Surveyor, dated \_\_\_\_\_" or "This description is based on plat recorded \_\_\_\_\_"  
 "(give recordation data).

11. The metes and bounds description shall then be signed and sealed by the surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:714 (August 1996).

**§2509. Precision Specifications and Positional Tolerances**

CONDITION	D RURAL	C SUBURBAN	B URBAN	A URBAN BUSINESS DISTRICT	REMARKS AND FORMULA
Unadjusted Closure (maximum allowable)	1:5,000	1:7,500	1:10,000	1:15,000	Traverse Loop or between Control Monuments
Angular Closure (maximum allowable)	30"√N	25"√N	15√N	10"√N	N=Number of Angles in Traverse
Accuracy of Bearing	± 40 Sec.	± 30 Sec.	±20 Sec.	±15 Seconds	In Relation to Source
Linear Distances Accurate to: (maximum allowable)	0.1 ft. + ± 0.2 ft per 1,000 ft.	0.07 ft + ± 0.15ft per 1,000 ft	0.05 ft. ± ± 0.1 ft. per 1,000 ft	0.05 ft.± ± 0.05 ft. per 1,000 ft	Applies when the distance is not part of a closed traverse
Positional Tolerance and Positional Accuracy of Any Monument (Maximum)	0.2'+ AC/5,000	0.1'+ AC/7,500	0.1'+ AC/10,000	0.1'+ AC/15,000	AC=Length of Any Course*
Calculation of area - Accurate and carried to nearest ____ (decimal place) of an acre.	0.001 .01 .1 .3	0.001 .01 .1 .2	0.001 .001 .01 .1	0.001 .001 .01 .1	To 1 acre To 10 acres To 100 acres To 1,000 acres
Elevations for Boundaries Controlled by Tides, Contours, Rivers, etc. Accurate to:	0.5 ft.	0.4 ft.	0.3 ft.	0.2 ft.	Based on Accepted Local Datum
Location of Improvements Structures, Paving, etc. (Tie Measurements) Adjusted Mathematical Closure to Survey (Minimum)	± 1 ft. 1:50,000	± 0.5 ft. 1:50,000	± 0.2 ft. 1:50,000	± 0.1 ft. 1:50,000	

\*Short courses in Categories "A" and "B" may generate Positional Errors of less than 0.01 feet. A minimum course distance of 200' should be used in calculating Positional Error.

AUTHORITY NOTE: Promulgated in accordance with R. S.:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1068 (December 1990), amended LR 22:716 (August 1996).

H. Glen Kent, Jr., P.L.S.  
Executive Secretary

9608#005

**RULE**

**Department of Treasury  
Housing Finance Agency**

**HOME-Affordable Rental Housing Program  
(LAC 16:II.105)**

In accordance with R.S. 49:51 et seq., the Louisiana Housing Finance Agency amends the regulations governing the criteria used to award HOME funds to affordable rental housing projects. The purpose of the amendment is to revise the categories in which the projects may be awarded points toward selection for the award of HOME funds.

**Title 16**

**COMMUNITY AFFAIRS**

**Part II. Housing Finance Agency**

**Chapter 1. HOME Investment Partnership Program  
§ 105. Selection Criteria to Award HOME Funds for  
Affordable Rental Housing**

Applications for HOME Funds will be rated in accordance with the selection criteria (Appendix IX) for which the applicant must initially indicate that the project qualifies.

**APPENDIX IX**

**Selection Criteria to Award HOME Funds  
to Affordable Rental Housing Projects**

The applicant hereby requests priority consideration based upon the project satisfying one or more of the following conditions (minimum threshold of 75 points required):

	<b>POINTS</b>
(A) Leverage Ratio for Each HOME Dollar Minimum Other Dollars	
\$1	0 _____
\$2	20 _____
\$3	25 _____
\$4	30 _____
\$5	35 _____
\$6	40 _____
\$7	45 _____
\$8	50 _____
(B) Project to re-construct or rehabilitate substandard housing units to minimum quality standards with total funds per unit not exceeding:	
\$ 2,500	50 _____
\$ 5,000	40 _____
\$ 7,500	30 _____
\$10,000	20 _____
\$15,000	10 _____
(C) Project to rehabilitate housing units of historic or architectural significance:	25 _____
(D) Project to rehabilitate or create housing units serving special needs groups (check one or more):	
Elderly/Handicapped _____	
Homeless _____	
Physically Disabled _____	

Mentally Disabled _____	
HIV/AIDS _____	
(i) One hundred percent of units serve or fifty units serve special needs group	25 _____
(ii) Fifty percent or 25 units serve special needs group	15 _____
(iii) Twenty-five percent or 15 units serve special needs group	10 _____
(E) Project serves large families percentage of units having four or more bedrooms:	
(i) 5 percent but less than 10 percent	10 _____
(ii) 10 percent but less than 15 percent	15 _____
(iii) 15 percent but less than 20 percent	25 _____
(F) Project involves lease to own program	50 _____
(G) Project located in qualified census tract/difficult to develop:	
Area or RECD target area	50 _____
(H) Project to provide supportive services (attach description of supportive services to be provided and identify source of funding)	40 _____
(I) Developer fees are less than 10 percent of total development cost under subsidy:	
Layering review guidelines	25 _____
(J) Project involves local nonprofit or CHDO as co-developer:	25 _____
<b>TOTAL</b>	_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993), amended LR 21:959 (September, 1995), LR 22:717 (August 1996).

V. Jean Butler  
President

9604#047

# Notices of Intent

## NOTICE OF INTENT

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

**Seed Certification Standards (LAC 7:XIII.8789)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Seed Commission, proposes to amend regulations regarding seed sweet potatoes and sweet potato plant certification. These rules comply with and are enabled by R.S. 3:1433.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XIII. Seeds**

**Chapter 87. Rules and Regulations Pursuant to the Louisiana Seed Law**

**Subchapter C. Requirements for Certification of Specific Crops/Varieties**

**§8789. Seed Sweet Potatoes and Sweet Potato Plant Certification**

A. - E. ...

F. Tagging and Certificate Tape

1. Each container of seed sweet potatoes and all

certified sweet potato plants shall be tagged as follows:

- a. foundation (white tag);
  - b. registered (purple tag); and
  - c. certified (blue tag).
2. Each tag shall contain the following:
- a. kind and variety;
  - b. year in which grown; and
  - c. grower's name and address.
3. Sweet potato plants shall be tied in bundles of approximately 100 each with official tape issued by the Department of Agriculture and Forestry.

G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 8:579 (November 1982), amended LR 9:202 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 22:

Interested persons should submit written comments on the proposed rules to Benjy Rayburn through September 25, 1996, at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding these rules is available.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Seed Certification Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No costs or savings to state or local governmental units is anticipated to result from the implementation of the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of the proposed rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule amendments will have no economic impact except in the case of seed sweet potato dealers and consumers. Seed sweet potato dealers should benefit from an increased supply of seed potatoes at lower wholesale prices which should benefit retail consumers. An estimate of savings is not ascertainable at this time.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Seed sweet potato dealers in Louisiana will be more competitive with those of other southern states.

Richard Allen  
Assistant Commissioner  
9608#068

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Animal Health Services  
Livestock Sanitary Board**

Rendering Plants, Contagious Diseases, Brucellosis  
Eradication (LAC 7:XXI.Chapter 117)

In accordance with provisions of the Administrative Procedures Act, the Department of Agriculture and Forestry, Livestock Sanitary Board, proposes to adopt rules amending the regulation pertaining to vehicles and containers used in the transportation of dead animals or offal used in a rendering plant, amending the regulations pertaining to requirements for reporting contagious diseases, and amending the regulations pertaining to vaccination of heifer calves for Brucellosis.

These rules comply with and are enabled by R.S. 3:2091 et seq.

**Title 7**

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

**Chapter 117. Livestock Sanitary Board**

**Subchapter A. General Provisions**

**§11715. Rendering Plant**

**A. Permit**

1. No person shall operate a rendering plant without first obtaining a permit to operate from the board.

**2. - 4. ...**

**B. Vehicles and Containers**

**1.a. - b. ...**

2. Any vehicle used for hauling dead animals or offal shall be provided with a tarpaulin or other covering or be so constructed so as to shut off from view all such dead animals or offal, and said conveyance shall not stop by the way unless detained by unavoidable circumstances.

**B.3. - C. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2131.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:234 (March 1985), amended LR 11:615 (June 1985), LR 22:

**§11717. Requiring the Reporting of Contagious Diseases**

A. In order to improve the protection of the livestock industry from the effects of contagious diseases of livestock, all veterinarians licensed in the state of Louisiana, are required to report to the state veterinarian, by telephone or wire, within 24 hours after diagnosis or tentative diagnosis, the occurrence of suspected occurrence of the following contagious diseases: hog cholera, anthrax, vesicular condition, scabies, equine encephalomyelitis, pullorum/typhoid, pseudorabies, Newcastle (OIE List A Diseases), Avian Influenza (OIE) List A Diseases), Ornithosis, Paramyxovirus (Other than Newcastle Disease), Infectious Encephalomyelitis, Infectious Laryngotracheitis (other than vaccine induced), or any other disease condition which may seriously threaten the welfare of the livestock and poultry industry.



B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2094, and R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 15:813 (October 1989), LR 16:391 (May 1990), LR 22:

#### **Subchapter B. Cattle**

#### **§11734. Brucellosis Vaccination and Fee**

A. - C. ...

D. When Louisiana is officially classified as Brucellosis Class Free in the Code of Federal Regulations by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, all nonvaccinated heifer calves between four and 12 months of age which are sold through an approved livestock auction market must be vaccinated with USDA approved brucellosis vaccine prior to being shipped from said approved livestock auction market, unless the heifer is to be shipped directly to an out-of-state destination. There shall be a fee to be paid by the buyer of \$2 for each heifer calf required to be vaccinated for brucellosis, which fee shall be known as the brucellosis vaccination fee. The brucellosis vaccination fee shall be collected on the date of the sale from the buyer by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later than the 10th day of the month following the month in which the fee was collected.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:

#### **§11735. Livestock Auction Market Requirements**

All cattle which are sold or offered for sale in livestock auction markets must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements:

A. Brucellosis

1. - 3. ...

4.a. While Louisiana is officially classified as Brucellosis Class A in the Code of Federal Regulations by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, all nonvaccinated heifer calves, between four and 12 months of age, must be vaccinated with USDA approved brucellosis vaccine prior to being sold. When Louisiana is officially classified as Brucellosis Class Free in the Code of Federal Regulations by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, all nonvaccinated heifer calves, between 4 and 12 months of age, which are not shipped directly to an out-of-state destination must be vaccinated with USDA approved Brucellosis vaccine prior to being shipped from an approved livestock auction market, or within 15 days from the date of sale.

4.b. - 7.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of

Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 22:

#### **§11737. Governing the Sale of Cattle in Louisiana by Livestock Dealers**

All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of LAC 7:XXI.11711 and the following specific requirements:

A. Brucellosis

1. - 2. ...

3.a. While Louisiana is officially classified as Brucellosis Class A in the Code of Federal Regulations by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, all heifer calves between four and 12 months of age must be vaccinated with USDA approved brucellosis vaccine, prior to being sold. When Louisiana is officially classified as Brucellosis Class Free in the Code of Federal Regulations by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, all heifer calves between four and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold or within 72 hours from the date of sale, unless they are shipped to an out-of-state destination within 72 hours from the date of sale.

3.b. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 22:

#### **§11739. Governing the Sale and Purchases, Within Louisiana, of all Livestock**

Not Governed by Other Regulations (Brucellosis Requirements)

It is a violation of this regulation to sell or purchase cattle, not governed by other regulations of the Livestock Sanitary Board, in Louisiana, for any purpose other than immediate slaughter, unless they meet one of the following requirements:

A. While Louisiana is officially classified as Brucellosis Class A in the Code of Federal Regulations by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, heifers, four to 12 months of age, must be official brucellosis calfhood vaccinates to be eligible to be sold other than to slaughter or to a quarantined feedlot. When Louisiana is officially classified as Brucellosis Class Free in the Code of Federal Regulations by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, heifers, four to 12 months of age, must be official brucellosis calfhood vaccinates to be eligible to be sold other than to slaughter, or to a quarantined feedlot, or to an out-of-state destination to which they are shipped within 72 hours from the date of sale.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:238 (March 1985), amended LR 11:615 (June 1985), LR 12:502 (August

1986), LR 13:559 (October 1987), LR 18:837 (August 1992), LR 22:

All interested persons may submit written comments on the proposed rule through September 25, 1996, to Dr. Maxwell Lea, Jr., Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. A public hearing will be held on these rules on September 25, 1996, at 9 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble concerning the proposed rules is available.

Dr. Maxwell Lea, Jr.  
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Rendering Plants, Contagious Diseases,  
Brucellosis Eradication**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There would be on estimated costs or savings to local government units to implement the rendering plant and contagious diseases rule changes. It is estimated that there will be a savings of \$18,000 to state government units to implement the brucellosis eradication rule changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There would be no effect on revenue collections of state or local government units to implement the rendering plant and contagious diseases rule changes. It is estimated that there will be a reduction of \$18,000 to revenue collections of state or local government units to implement the brucellosis eradication rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

**RENDERING PLANT RULE CHANGES.** It is estimated that there would be no costs or economic benefits to directly affected persons or nongovernmental groups.

**CONTAGIOUS DISEASES RULE CHANGES.** Having these diseases listed individually in the state regulations is a recent requirement placed on U.S. poultry meat by Russia. Poultry producers selling poultry meat to Russia will be economically benefited by this regulation change by being able to continue to ship meat to Russia.

**BRUCELLOSIS ERADICATION RULE CHANGES.** Louisiana cattle producers selling nonvaccinated calves at livestock auction markets will benefit by this rule change because they will no longer have to pay a \$2 per head fee to have their calves vaccinated for brucellosis. It is estimated that the rule change will save this group \$160,000 per year. Louisiana cattle producers buying nonvaccinated calves at livestock auction markets to take back to a Louisiana farm will be adversely affected by this rule change. Approximately 90 percent of calves sold at Louisiana auction markets move directly out of state. The 10 percent return to Louisiana farms will need to be vaccinated to protect them against this devastating disease. Producers who buy calves to take back to farms will have to pay vaccination fees of \$2 per head. The 20 accredited veterinarians who vaccinate calves at auction markets will be adversely affected because they will be vaccinating 90 percent

fewer calves. This will result in a decrease in income for this group of \$128,000.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule change will have no effect on competition and employment.

Richard Allen  
Assistant Commissioner  
9608#056

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Civil Service  
Board of Ethics for Elected Officials**

**Lobbyist Required Registration and Reporting**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics for Elected Officials, intends to adopt forms, as required by R.S. 24:53G, which enable lobbyists to register and file required semi-annual expenditure reports.

No preamble to the proposed forms has been prepared.

**Form 1**

**LOBBYING EXPENDITURE REPORT**

COVERING JANUARY 1 THROUGH JUNE 30 DUE AUGUST 15

COVERING JULY 1 THROUGH DECEMBER 31 DUE FEBRUARY 15

**Lobbyist's Registration Number** \_\_\_\_\_

**FOR OFFICE USE ONLY**  
Postmark Date: \_\_\_\_\_

**Instructions**

- Print in ink or type.
- Fill in Registration Number in spaces provided.
- Complete form, have it notarized and return to the Board of Ethics, 8401 United Plaza Blvd., Suite 200, Baton Rouge, LA 70809 (504) 922-1400
- This form must be delivered or postmarked by the due date.
- This form may be faxed to (504) 922-1414. The original should be forwarded on the day of fax transmittal.

1. NAME \_\_\_\_\_  
Last First MI

2. BUSINESS ADDRESS \_\_\_\_\_  
Street and Number  
City State Zip

3. BUSINESS PHONE \_\_\_\_\_  
Area Code and Telephone Number

4. Total of all expenditures made during this reporting period: \$ \_\_\_\_\_

5. Total of all expenditures made during the calendar year: \$ \_\_\_\_\_

6. Did you make an expenditure exceeding \$50 on one occasion for any one legislator during the calendar year?

Yes  No

If the answer to Number 6 above is YES, please provide the name of each legislator for whom you made an expenditure of \$50 or more on one occasion and the total amount of expenditures for each named legislator on Schedule A and attach.

7. Did you make expenditures exceeding the sum of \$250 for any one legislator:

From January 1 through June 31 Yes  No   
 From July 1 through December 31 Yes  No

If the answer to either question in Number 7 above is YES, please provide the name of each legislator for whom you made aggregate expenditures exceeding of \$250 or more in a reporting period and the total amount of expenditures for each legislator on Schedule A and attach.

8. Did you expend funds for a reception, social gathering, or other function to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus, or any delegation thereof were invited during the reporting period?

Yes  No

If the answer to Number 8 above is YES, please provide the name(s) of the group(s) invited, the date and location of the reception, social gathering or other function, and a statement of the total expenditures for each event on Schedule B and attach.

State of \_\_\_\_\_  
 Parish of \_\_\_\_\_

Before me, the undersigned authority, personally came and appeared \_\_\_\_\_, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

\_\_\_\_\_  
 Signature of Lobbyist

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public

**SCHEDULE A: EXPENDITURES FOR LEGISLATORS**

The following information must be provided for all legislators for whom you made an expenditure exceeding \$50 on one occasion and all legislators for whom you made aggregate expenditures exceeding \$250 in a reporting period. This schedule should only be completed if you answered YES to questions 6 or 7 on the Lobbying Expenditure Report.

1. LEGISLATOR'S NAME	2. AMOUNT OF EXPENDITURES THIS REPORTING PERIOD	3. TOTAL EXPENDITURES THIS CALENDAR YEAR

**SCHEDULE B: EXPENDITURES FOR RECEPTIONS, ETC.**

The following information must be provided for all receptions, social gatherings, or other functions to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus or any delegation thereof was invited. This Schedule should only be completed if you answered YES to question 8 on the Lobbying Expenditure Report.

1. NAME(S) OF GROUP(S) INVITED	2. DATE OF RECEPTION	3. LOCATION OF RECEPTION	4. TOTAL EXPENDITURES

**LOBBYING REGISTRATION FORM**

To be used for initial registrations and renewals. Registrations expire on January 31 unless a renewal is submitted between December 1 and January 31.

Lobbyist's  
 Registration  
 Number \_\_\_\_\_

**FOR OFFICE USE ONLY**  
 Postmark  
 Date: \_\_\_\_\_

**Instructions**

- Print in ink or type.
- Complete form, have it notarized and return with \$10 registration fee to the Board of Ethics, 8401 United Plaza Blvd., Suite 200 Baton Rouge, LA 70809-7017, (504) 922-1400.
- Initial registrations must be submitted within 5 days of (1) employment as a lobbyist or (2) first action requiring registration. Renewals must be submitted between December 1 and January 31.
- Complete employer verification form(s) for each employer and each person you represent as listed below.

1. NAME \_\_\_\_\_  
Last First MI
2. BUSINESS PHONE \_\_\_\_\_  
Area Code and Phone Number
3. BUSINESS ADDRESS \_\_\_\_\_  
Street and No. City State Zip
4. EMPLOYER \_\_\_\_\_
5. EMPLOYER'S ADDRESS \_\_\_\_\_  
Street and No. City State Zip

6. LIST BELOW (a) Names of persons, groups, or organizations which you represent; (b) the address of each such person, group, or organization you represent; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby. R.S. 24:53(C) REQUIRES THAT A VERIFICATION FORM BE SIGNED BY EACH PERSON YOU REPRESENT OR WHO EMPLOYS YOU. THOSE FORMS MUST MATCH THIS LISTING.

1. Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Business or purpose \_\_\_\_\_  
 Does this person pay you? \_\_\_\_\_  
 If No, who pays you? \_\_\_\_\_
2. Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Business or purpose \_\_\_\_\_  
 Does this person pay you? \_\_\_\_\_  
 If No, who pays you? \_\_\_\_\_
3. Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Business or purpose \_\_\_\_\_  
 Does this person pay you? \_\_\_\_\_  
 If No, who pays you? \_\_\_\_\_
4. Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Business or purpose \_\_\_\_\_  
 Does this person pay you? \_\_\_\_\_  
 If No, who pays you? \_\_\_\_\_
5. Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Business or purpose \_\_\_\_\_  
 Does this person pay you? \_\_\_\_\_  
 If No, who pays you? \_\_\_\_\_

State of \_\_\_\_\_  
Parish of \_\_\_\_\_

Before me, the undersigned authority, personally came and appeared \_\_\_\_\_, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

Signature of Lobbyist \_\_\_\_\_  
Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
\_\_\_\_\_  
Notary Public

Rev. 6/96

ATTACH  
2" x 2"  
PHOTOGRAPH  
HERE  
FOR  
INITIAL  
REGISTRATION  
ONLY

### Form 3

**LOBBYING SUPPLEMENTAL  
REGISTRATION FORM**  
  
To be used for changes to  
registrations and terminations.

Lobbyist's  
Registration  
Number \_\_\_\_\_

**FOR OFFICE  
USE ONLY**  
Postmark  
Date: \_\_\_\_\_

#### Instructions

- Print in ink or type.
- Complete form, have it notarized and return with \$10 fee to Board of Ethics, 8401 United Plaza Blvd., Suite 200 Baton Rouge LA 70809-7017, (504) 922-1400.
- This form must be submitted within 5 days of any changes in your registration form to add employers or those you represent or if you cease all activities requiring registration. It must be submitted within 10 days of any terminations of employment or representations.
- Complete employer verification form(s) must be submitted for each additional representation.

1. NAME \_\_\_\_\_  
Last First MI
2. BUSINESS PHONE \_\_\_\_\_
3. BUSINESS ADDRESS \_\_\_\_\_  
Street and No. City State Zip
4. EMPLOYER \_\_\_\_\_
5. EMPLOYER'S ADDRESS \_\_\_\_\_  
Street and No. City State Zip
6. Have you ceased or terminated all lobbying activities requiring registration? Yes \_\_\_\_\_ No \_\_\_\_\_
7. LIST BELOW (a) Names of persons, groups, or organizations which you are adding or eliminating; (b) the address of each such person, group, or organization listed; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby; and (e) the date of termination if applicable. R.S. 24:53(C) REQUIRES THAT A VERIFICATION FORM BE SIGNED BY EACH PERSON YOU REPRESENT OR WHO EMPLOYS YOU. THOSE FORMS MUST MATCH THE NAMES ADDED BELOW.

1. Name \_\_\_\_\_  
Address \_\_\_\_\_  
Business or purpose \_\_\_\_\_  
 New Representation  
Does this person pay you? \_\_\_\_\_  
If No, who pays you? \_\_\_\_\_  
 Terminated Representation as of \_\_\_\_\_

### Form 3A

#### SUPPLEMENTAL REGISTRATION FORM

Lobbyist's  
Registration  
Number \_\_\_\_\_

2. Name \_\_\_\_\_  
Address \_\_\_\_\_  
Business or purpose \_\_\_\_\_  
 New Representation  
Does this person pay you? \_\_\_\_\_  
If No, who pays you? \_\_\_\_\_  
 Terminated Representation as of \_\_\_\_\_
3. Name \_\_\_\_\_  
Address \_\_\_\_\_  
Business or purpose \_\_\_\_\_  
 New Representation  
Does this person pay you? \_\_\_\_\_  
If No, who pays you? \_\_\_\_\_  
 Terminated Representation as of \_\_\_\_\_

State of \_\_\_\_\_  
Parish of \_\_\_\_\_  
Before me, the undersigned authority, personally came and appeared \_\_\_\_\_, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

Signature of Lobbyist \_\_\_\_\_  
Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
\_\_\_\_\_  
Notary Public

### Form 4

**LOBBYING REGISTRATION  
EMPLOYER  
VERIFICATION FORM**

Lobbyist's  
Registration  
Number \_\_\_\_\_

#### Instructions

- Print in ink or type.
- Complete form, have it notarized and return to Board of Ethics, 8401 United Plaza Blvd., Suite 200 Baton Rouge, LA 70809-7017 (504) 922-1400.
- This form must be submitted within 10 days of lobbyist's registration, supplemental registration or renewal registration - A lobbyist's registration is NOT complete unless this form is submitted for each representation listed on the registration form, supplemental registration form or renewal registration.

**FOR OFFICE  
USE ONLY**  
Postmark  
Date: \_\_\_\_\_

State of \_\_\_\_\_  
Parish of \_\_\_\_\_  
I hereby verify that \_\_\_\_\_  
Name of registrant  
is authorized to represent \_\_\_\_\_  
Name of Employer, Person, Group or Organization Represented  
before the Louisiana Legislature for the calendar year 199\_\_\_\_.  
\_\_\_\_\_  
Name of Authorizing Official (Type or print)  
\_\_\_\_\_  
Signature of Authorizing Official  
\_\_\_\_\_  
Title

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.  
\_\_\_\_\_  
Notary Public (Type or print)  
\_\_\_\_\_  
Signature of Notary Public

Rev. 6/96

Interested persons may direct their comments to Patricia H. Douglas, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (504)922-1400, until September 10, 1996.

R. Gray Sexton  
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Lobbyists Disclosure Form**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The only administrative costs incurred by state government will be the costs of developing, copying and mailing the forms which constitute the rule. These costs will be absorbed into the budget of the Ethics Administration Program and filing fees collected from registered lobbyists. There will be an estimated \$350 of postage costs along with an estimated \$500 in staff time and equipment use to develop, copy and mail the forms.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be an estimated \$5,000 for each fiscal year in self-generated funds due to a \$10 filing fee imposed on lobbyist registration. A late fee of \$50 per day will be assessed for late registration. This can result in additional revenue for the state.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Persons who may be affected by the proposed Lobbyist Disclosure Forms are registered lobbyists and those who wish to become registered lobbyists. A \$10 fee must be submitted with each registration and supplemental registration form. It is impossible for this agency to assign a dollar amount to each person's time required to complete the forms. Timely filing of these forms will prevent automatic fines on the lobbyists.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect.

R. Gray Sexton  
Executive Secretary  
9608#057

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Culture, Recreation and Tourism intends to promulgate a rule entitled "Segmentation of Louisiana Byways" in accordance with R.S. 56:1948.7.B.

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

**Title 25  
CULTURE, RECREATION AND TOURISM  
Part XI. Office of the Secretary**

**Chapter 1. Byways**

**101. Segmentation of Louisiana Byways**

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

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

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

1. identification of the byway at issue and as designate in accordance with R.S. 56:1948 et seq;
2. identification of the entity that proposed the byway in accordance with R.S. 56:1948.4;
3. identification of the beginning and ending of the segment recommended to be excluded, measured in relation to permanent public features of the byway such as intersecting highways, municipal and parish boundaries and public buildings;
4. a description of the zoning on the adjacent land, including the name of the zoning authority, if zoned; or if unzoned, a description of the commercial or industrial activities located on the adjacent land, including the name of any businesses and the boundaries of the regularly used areas of such businesses;
5. a report of the differences between the segment to be excluded and the criteria for Louisiana byway designation in R.S. 56:1948.2 and R.S. 56:1948.3.

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

days on the suitability of the recommended segment for exclusion.

E. Not less than 45 days after the receipt of the resolution and accompanying documents from the local byway commission, the secretary will determine whether to exclude the segment of the Louisiana byway. The secretary shall provide the applicant and the local commission written reasons for his decision, which shall consider the petition of the applicant, the recommendation and accompanying documents received from the local byway commission, the recommendation of the Department of Transportation and Development, the statutory guidelines for the selection and establishment of byways as found at R.S. 56:1948 et seq., and any other evidence brought before him.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the Secretary, LR 22:

Interested persons may submit written comments on the proposed rule until 4:30 p.m on October 4, 1996 to: Phillip J. Jones, Secretary of the Department of Culture, Recreation and Tourism, Box 94361, Baton Rouge, LA 70804-9361.

A public hearing on the proposed rule will be held on September 27, 1996 at 10 a.m. in the Third Floor Committee Room, Capitol Annex Building, 1051 North Third Street, Baton Rouge, LA.

Phillip J. Jones  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Byways**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is not anticipated that the proposed rule will result in costs or savings to the Department of Culture, Recreation and Tourism or any state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is not anticipated that the proposed rule will have any effect on revenue collections of any governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Landowners or leaseholders of property along Louisiana byways which are eligible for exclusion may benefit from increased potential land uses as a result of exclusion from byways regulations.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule may allow for increased economic development opportunities on excluded segments. These increased opportunities may increase competition and employment. Organizations or residents interested in excluding segments of existing or proposed Louisiana byways from the Louisiana byways system may recommend such exclusion to the secretary of CRT. These organizations or residents must accompany their recommendations with a description of the segment to be excluded and a report to justify the exclusion. This report may require clerical or technical assistance in its preparation. Specific costs would depend upon the ability of the recommending interest to personally prepare the report and the extent to which the interest might need outside assistance.

Phillip J. Jones  
Secretary  
9608#046

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

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

#### **Small Business Linked Deposit Program (LAC 19:VII.Chapter 71)**

In accordance with R.S. 51:2312(A)(7), the Department of Economic Development, Economic Development Corporation proposes to adopt rules and regulations regarding the Linked Deposit Loan Program.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of the June, 1996, *Louisiana Register*.

This proposed rule is scheduled to become effective October 20, 1996, or as soon thereafter, as is practical upon publication in the *Louisiana Register*.

Interested persons may comment on the proposed rules until September 20, 1996, to Brett Crawford, Executive Director, Economic Development Corporation, Box 94185, Baton Rouge, LA 70804 or 101 France Street, Suite 312, Baton Rouge, LA 70802.

Brett Crawford  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Small Business Linked Deposit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation costs of the proposed rules for FY 96-97 is estimated at \$758,100. The vast majority of the costs represent foregone earnings on Treasury funds. The remaining costs reflect the portion of LEDC's administrative expenses needed to process the linked deposit transactions. This will not represent an increase in LEDC's administrative expenses due to the fact that the program has been in existence and operating since FY 90.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule established procedures for authorization and administration for an existing low interest loan program. The Treasurer's office has deposited \$25 million into accounts at an interest rate 3 percent lower than it would ordinarily receive on normal deposits. The "linked deposit" costs the state approximately \$750,000 per year in lost revenues. The deposit and the state's ability to make this deposit is by law subject to the judgement of the State Treasurer.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Each business is eligible for up to a \$200,000 linked deposit under this program. The "linked deposit" is available to a small business for a period of three years, renewable each year. After the three-year period, the deposit returns to state funds to be reinvested into another business taking advantage of the linked program. The benefit to each eligible business would be \$200,000 times 3 percent, or \$6,000 per year to be used to create or sustain jobs. It is estimated that 65 to 70 businesses per year will be assisted either by the initiation of a new "linked" application or by renewal of an existing one.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition will be minimal since the amount each business receives and the beneficiaries will be spread across the small business spectrum. The effect on employment should be positive since one of the criteria for awarding this benefit will be the ratio of state funds to be deposited to the number of jobs created or sustained.

Brett Crawford  
Executive Director  
9608#047

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Economic Development Division of Economically Disadvantaged

#### Economically Disadvantaged Business Development (LAC 19:I.Chapters 1-13)

In accordance with the Louisiana Economically Disadvantaged Business Act of 1996 (R.S. 51:1751 through 1765) and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended, the Department of Economic Development, Division of Economically Disadvantaged Business Development, hereby adopts the following policies, rules and regulations relative to the Economically Disadvantaged Business Development Program, scheduled to become effective November 20, 1996. These regulations are both substantive and technical in nature, and are intended to specify the procedure for certification and as qualification for an economically disadvantaged business; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protége program; to recognize achievements for economically disadvantaged businesses; and to facilitate access to state agency procurement.

These regulations shall apply to all state departments, boards or commissions, or educational institutions, created by

the Legislature or executive order within the executive branch of state government pursuant to Title 36, operating from funds appropriated, dedicated or self-sustaining, federal funds; or funds generated from any other source. These regulations will not apply to agencies of the judicial or legislative branches of state government, except to the extent that procurement or public works activities for these branches is performed by an executive branch agency.

The full text of this notice of intent may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

All interested persons are invited to submit written comment on the proposed rules and regulations. Such comments should be submitted no later than September 9, 1996 at 5 p.m. to Henry J. Stamper, Executive Director, Division of Economically Disadvantaged Business Development; Box 94185; Baton Rouge, LA 70804 or to 101 France Street, Baton Rouge, LA 70802.

Henry J. Stamper  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Economically Disadvantaged Business Development

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Economically Disadvantaged Development Program provides maximum opportunity for economically disadvantaged businesses to become competitive in a non-preferential modern economy. This purpose will be accomplished by providing assistance and promotion. The Department of Economic Development is adopting rules in accordance with Act 29, of the First Extraordinary Session, 1996 (HB 24), which allows for the creation of the Division of Economically Disadvantaged Business Development within the Office of the Secretary, in the Department of Economic Development.

The Economically Disadvantaged Business Development Program combined with the Louisiana Small Business Bonding Assistance Program will replace the Division of Minority and Women's Business. The new program will utilize the resources of the former Division of Minority and Women's Business, the existing Louisiana Small Business Bonding Assistance Program, and the addition of two small business advisors (GS-18) to provide business assistance to economically disadvantaged businesses statewide. The program will cost \$982,280 to implement in FY 1996-97, which represents an increase of \$504,702 over last year's funding of the Minority and Women's Business Division and the Louisiana Small Business Bonding Assistance Program. The estimated costs are \$305,890 for total personal services; \$31,015 for travel expenses for the staff; \$114,637 for operating services, supplies and acquisitions; and \$530,738 in other charges. Other charges include \$89,175 for contracted technical assistance; \$35,000 for small business bonding workshops for small construction firms; \$401,373 in bonding technical assistance; \$5,190 in special marketing. The program will employ an executive director, director of small business bonding assistance, administrative services assistant/secretary, and five business advisors.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The program will have no direct effect on revenue collections. However, as economically disadvantaged firms prosper, they will have a positive fiscal impact on state and

local government. However, the impact cannot be quantified at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The program will enable Economically Disadvantaged Businesses to expand and strengthen by becoming more competitive. The impact, however, cannot be quantified at this time since there are no historical data available to make reliable projections. It is estimated that approximately 2,600 businesses will participate in the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The enhanced ability of EDB's will increase competition and employment in the Louisiana economy. No data exist to estimate the impact or to make a reliable projection until experiential data have been collected.

Henry J. Stamper  
Executive Director  
9608#017

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1452—Dropout Definition**

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, a repeal of board policy 3.07.14 (stated below) relative to identifying students who enter adult education programs as transfers rather than dropouts, and authorized the Department of Education to follow the federal definition.

**Repeal Rule 3.07.14:** (stated below)

"Eligible students who desire to exit the K-12 program and transfer into adult education, with the permission of their parents and the authorization of the principal or counselor, will be considered as transfer students rather than dropouts."

**Bulletin 1452. Handbook for Supervisors of Child Welfare and Attendance and School Social Welfare and Attendance**

The new rule will amend Bulletin 1452 as stated below:

"A dropout is an individual who:

1. was enrolled in school at some time during the previous school year and was not enrolled on October 1 of the current school year; or
2. was not enrolled on October 1 of the previous school year although expected to be in membership (i.e., was not reported as a dropout the year before); and
3. has not graduated from high school or completed a state- or district-approved educational program; and
4. does not meet any of the following exclusionary conditions:
  - a. transfer to another public school, private school, or state- or district-approved education program,
  - b. temporary school-recognized absence due to suspension or school-approved illness, or
  - c. death.

For purposes of applying the dropout definition, the following additional definitions apply:

1. A school year is defined as the 12-month period of time beginning October 1 and ending September 30.
2. A school completer is an individual who has graduated from high school or completed a state or district-approved education program.
3. A state- or district-approved program is one that leads to receipt of formal recognition from school authorities. It may include special education programs, home-based instruction, and school-sponsored secondary (but not adult) programs leading to a GED or some other certification differing from the regular diploma.

This notice of intent supersedes the notice of intent printed in the April, 1996 issue of the *Louisiana Register*.

Interested persons may submit comments until 4:30 p.m., October 9, 1996 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Mary Louise "Weegie" Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 1452—Dropout Definition**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
A cost of approximately \$50 will be incurred by the state to print and distribute this policy change.  
Estimated cost for printing this policy and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$200.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no effect on revenue collections of state or local governmental units associated with this rule.
- 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 is no effect on competition and employment associated with this rule.

Mary Louise "Weegie" Peabody  
Executive Director  
9608#077

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Teacher Certification Appeals Council (LAC 28:I.107)**

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, a revision to the composition of the Teacher



Certification Appeals Council to include a personnel director representative of the Personnel Directors' Association and a principal representative of the Principals' Association. This is a revision to the *Louisiana Administrative Code* as noted below:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter I. Organization  
§107. Board Appeals Council**

**A. Teacher Certification Appeals Council**

1. Composition. A Teacher Certification Appeals Council shall be appointed by the board and shall consist of nine members, three of whom shall be representatives of the universities, one of whom shall be a representative of the Parish Superintendents' Association, one of whom shall be a representative of the Personnel Directors' Association, one of whom shall be a representative of the Principals' Association, and three of whom shall be classroom teachers. The classroom teachers shall consist of one representative each from the Louisiana Federation of Teachers, Louisiana Association of Educators, and the Associated Professional Educators of Louisiana. The board will be responsible only for paying travel expenses of council members at the state rate.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(D) and R.S. 17:6(A)(9).

Interested persons may comment on the proposed revision until 4:30 p.m. October 9, 1996 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Teacher Certification Appeals Council**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated implementation costs to adding two members to the Teacher Certification Council is approximately \$4,000 per year, based on state travel regulations. The council meets approximately 10 times a year, based on number of appeals to be reviewed.

The estimated costs for printing this policy revision and first page of fiscal and economic statement in the *Louisiana Register* is \$100.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections of state or local governmental units associated with this rule.

**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 is no effect on competition and employment associated with this rule.

Mary Louise "Weegie" Peabody  
Executive Director  
9608#076

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

Incorporation by Reference (LAC 33:III.Chapters 1, 15, 21, 25, 29, 30, 31, 60, 61 and 64) (AQ145)

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.Chapters 1, 15, 21, 25, 29, 30, 31, 60, 61 and 64 (AQ145).

This proposed rule repeals LAC 33:III.Chapters 31, 60 (except section 6099 which will be moved and renumbered as LAC 33:III:2901.G), 61 (except Subchapter A which will be moved and renumbered as Subchapter N in Chapter 21), and 64 from LAC 33:III and to incorporate by reference into Chapter 30 federal regulations in 40 CFR Part 60 - Standards of Performance for New Stationary Sources. Revisions will also be made in LAC 33:III.Chapters 1, 15, 21, 25 and 29, so that referenced LAC cites agree with changes per this rulemaking, and to add 40 CFR references. These changes will expedite both the EPA approval process, and state implementation of delegation of authority for the NSPS program. The NSPS and the authority for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, Section 111. This rulemaking is applicable to stationary sources statewide.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on September 26, 1996, 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 AQ145. Such comments should be submitted no later than October 3, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX (504) 765-0486.

Copies of this proposed regulation can be purchased at the above referenced address and also at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 at (504) 342-5015. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ145.

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 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Incorporation by Reference**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Incorporation by reference eliminates the need to codify federal regulatory requirements, verbatim, into Louisiana regulations, and thereby eliminates extra volumes of printed regulations. The result is that the same regulations will be enforced without duplicating the printing of those regulations. The outcome will be savings to state government by eliminating a volume of regulations that would be purchased (or printed). A significant reduction in man-hours will be achieved by eliminating the need to type, proof, and correct federal regulations promulgated as state regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Incorporation by reference eliminates the need to codify federal regulatory requirements, verbatim, into Louisiana regulations, and thereby eliminates extra volumes of printed regulations. The result is that the same regulations will be enforced without duplicating the printing of those regulations. The outcome will be a savings to the regulated community by eliminating a volume of regulations that would be purchased (or printed).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9605#045

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Solid and Hazardous Waste  
Solid Waste Division**

**Waste Tire (LAC 33:VII.Chapter 105)(SW021)**

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 Solid Waste Division regulations, LAC 33:VII.Chapter 105 (SW021).

The proposed rule will make modifications to the Waste Tire Management Fund Prioritization System providing more equity in cleanups and make the emergency rule in effect permanent. The rule also provides for grammatical cleanup of the waste tire regulations.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part VII. Solid Waste**

**Subpart 2. Recycling**

**Chapter 105. Waste Tires**

**§10505. Definitions**

The following words, terms, and phrases, when used in conjunction with the solid waste rules and regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

\* \* \*

[See Prior Text]

*Major Highway*—all asphaltic concrete and concrete interstate and intrastate highways and roads maintained by the United States government or Louisiana state government, or both, or any agencies or departments thereof.

\* \* \*

[See Prior Text]

*Marketing*—the selling and transferring of waste tires or waste tire material for recycling and/or beneficial use or reuse.

\* \* \*

[See Prior Text]

*Promiscuous Tire Pile*—an unauthorized waste tire pile that has resulted from storage or disposal activities by anyone other than the landowner without the landowner's knowledge.

\* \* \*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:

**§10525. Standards and Responsibilities of Waste Tire Processors**

\*\*\*

[See Prior Text in A-E.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended LR 22:

**§10535. Fees and Fund Disbursement**

\*\*\*

[See Prior Text in A-D.10]

11. After January 1, 1998, a payment of \$1 per 20 pounds of shredded waste tire material or an equivalent amount for waste tire material produced by other processes shall be made when it is documented to the administrative authority that this material has been marketed and delivered for beneficial use.

\*\*\*

[See Prior Text in D.12-D.13]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:

**§10536. Cleanup of Promiscuous/Unauthorized Tire Piles**

A. Upon promulgation of these regulations, the administrative authority may issue agreements for cleanup of promiscuous/unauthorized tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for promiscuous/unauthorized tire pile cleanup. Any such agreements will designate specific eligible sites and the department will monitor the cleanup activities, which shall be made in accordance with the standards and responsibilities outlined in the solid waste regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs, which include but are not limited to, administrative costs, consulting fees, or legal fees. Furthermore, they shall not be applied to reclamation efforts or cleanup costs associated with other types of contaminants, which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, and disposal costs of the waste tires.

B. In order to apply for and receive funding for promiscuous/unauthorized tire site cleanup, local governments must provide the administrative authority with promiscuous/unauthorized tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information will be submitted using forms available from the administrative authority.

C. Promiscuous/unauthorized tire piles shall be chosen for cleanup based on their placement on the waste tire priority cleanup list. Point values will be assigned in accordance with

the Waste Tire Management Fund Prioritization System located in Appendix B. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

**Appendix A. Louisiana Department of Environmental Quality Financial Assurance Documents For Waste Tire Facilities (August 4, 1994)**

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

\*\*\*

[See Prior Text in Sample Document 1]

**SAMPLE DOCUMENT 2:**

**WASTE TIRE FACILITY PERFORMANCE BOND**

Date bond was executed: [date bond executed]

Effective date: [effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33.VII.10525.D.26-28 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the Louisiana Administrative Code, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed

for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33.VII.10525.D.26-28 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Financial Assurance Documents dated August 4, 1993, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]  
[Name(s)]  
[Title(s)]  
[Corporate Seal]

CORPORATE SURETY

[Name and Address]  
State of incorporation:  
Liability limit:

[Signature(s)]  
[Name(s) and title(s)]  
[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: \$

\*\*\*

[See Prior Text in D]

E. Waste tires may not be removed from promiscuous/unauthorized waste tire piles without prior approval of the administrative authority.

F. The administrative authority will seek reimbursement from all responsible parties for any waste tire cleanup costs incurred by the state by any method allowed by law, provided same is practicable and cost effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:

\*\*\*

[See Prior Text in Sample Document 3]

### Appendix B. Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria:

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the department.

Number of Tires in Pile	Point Value
>1,000,000	50
250,001 - 1,000,000	40
100,001 - 250,000	30
50,001 - 100,000	20
<50,000	10

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to Nearest School	Point Value
School within 2 mile radius	25
School within 4 mile radius	17
School within 6 mile radius	9

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to 50+ Residences	Point Value
50 or more within 2 mile radius	25
50 or more within 4 mile radius	17
50 or more within 6 mile radius	9

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

Proximity to Hospital and/or Nursing Home	Point Value
Hospital and/or nursing home within 2 mile radius	25
Hospital and/or nursing home within 4 mile radius	17
Hospital and/or nursing home within 6 mile radius	9

V. Proximity to Major Highways. If a major highway is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

Proximity to Major Highway	Point Value
Major highway within ¼ mile radius	20
Major highway within ½ mile radius	10

A public hearing will be held on September 26, 1996, 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 SW021. Such comments should be submitted no later than October 3, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810; or to FAX number (504) 765-0486.

Mike Strong  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Waste Tire**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no implementation costs to state governmental units as the job functions are already being performed. No local governmental units with solid waste facilities will be affected by the rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The estimated effect on revenue collections to the state governmental unit will be zero as the rule only provides equity to the waste tire prioritization system.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no estimated costs to directly affected persons as the rule is only accomplishing equalizing the waste tire prioritization system and grammatical clean up.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no estimated effect on competition or employment to facilities or individuals within the state.

H.M. "Mike" Strong  
Assistant Secretary  
9608#051

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Water Resources**

**Numerical Criteria for the Ouachita River  
(LAC 33:IX.1123)(WP019)**

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 Water Quality Management Division regulations, LAC 33:IX.1123 (WP019).

Numerical criteria for dissolved oxygen (DO) has been evaluated for the portion of the Ouachita River from the Arkansas-Louisiana state line to Columbia Lock and Dam. A Use Attainability Analyses (UAA) was conducted on portions of the water body in order to assess past and current chemical, physical, and biological conditions. This rule will modify the standards so that appropriate seasonal DO criteria, as determined by the UAA, are applied.

Federal law requires that the state meets the goals of the Clean Water Act. The federal water quality standards regulation (40 CFR) 131.10 requires the states to "specify appropriate water uses to be achieved and protected."

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY  
Part 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.

Code	Stream Description	Designated Uses	CL	SO <sub>4</sub>	DO	pH	B A C	°C	TDS
	Atchafalaya River Basin (01)								

* * *										
[See Prior Text in 010101 - 070601]										
	Ouachita River Basin (08)									
080101	Ouachita River - Arkansas State Line to Columbia Lock and Dam	A B C D	160	35	[15]	6.0 - 8.5	1	33	350	
* * *										
[See Prior Text in 080102 - 120806]										

ENDNOTES:

[15] Site-specific Seasonal DO Criteria: 3 mg/l June and July, 4.5 mg/l August, 5 mg/l September through May. These seasonal criteria may be unattainable during or following naturally occurring high flow (when the gage at the Felsenthal Dam exceeds 65 feet and also for the two weeks following the recession of flood waters below 65 feet), which may occur from May through August. Naturally occurring conditions that fail to meet criteria should not be interpreted as violations of the criteria.

**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 20:883 (August 1994), LR 21:683 (July 1995), LR 22:

A public hearing will be held on September 26, 1996, 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 WP019. Such comments should be submitted no later than October 3, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810; or to FAX number (504) 765-0486.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Ouachita River—Numerical Criteria**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect of this proposed rule on state or local governmental expenditures is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect on state or local governmental revenue collection is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No significant costs and/or economic benefits to directly affected persons or nongovernmental groups are anticipated.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No significant effect on competition and employment is anticipated.

Linda Korn Levy  
Assistant Secretary  
9608#050

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Louisiana Lottery Corporation**

**On-Line Lottery Games (LAC 42:XV. Chapter 1)**

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., hereby gives notice of its intent to amend the rules and regulations pertaining to the operations of on-line lottery games in particular LAC 42:XV.141 to allow the Louisiana Lottery Corporation to offer the multi-state Lottery game "Daily Millions".

**Title 42  
LOUISIANA GAMING  
Part XV. Lottery**

**Chapter 1. On Line Lottery Games  
§101. Policy Statement**

The Louisiana Lottery Corporation (the "corporation") is authorized by Louisiana Revised Statutes 47:9008(A) to adopt such rules and regulations as may be necessary to conduct specific lottery games and operations of the corporation. Pursuant to that grant of authority, the board of directors of the corporation (the "board") has adopted these on-line lottery games general rules, which are intended to provide general guidelines concerning the conduct and administration of on-line lottery games.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

**§103. Definitions**

As used in the Game Rules, Game Directives and Drawing Directives, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

*Board*—the Board of Directors of the Louisiana Lottery Corporation.

*Claim Center*—a regional office or claims office of the corporation at which winners may redeem prizes.

*Claim Deadline*—the day after which prizes from a particular game or on-line drawing are no longer eligible to be redeemed or claimed.

*Claim Form*—the form provided by the corporation to be completed by prize winners when claiming a prize.

*Corporation*—the Louisiana Lottery Corporation.

*Drawing Directive*—the detailed drawing instructions followed by the corporation for each drawing event.

**Free Ticket**—a lottery prize for which the winner is entitled to another ticket for the same game, without charge.

**Game Directive**—the game-specific guidelines that itemize the particular requirements of each game.

**Game Rules**—these general rules regarding all on-line lottery games, prize payments, and other game parameters.

**Invalid Ticket**—any ticket that fails to meet all of the validation requirements of the corporation.

**Lottery**—any game of chance approved by the corporation and operated pursuant to the Louisiana Lottery Corporation Law.

**Lotto**—a lottery game that offers a player a choice of five, six or seven numbers out of a specified field of numbers, the winner being determined by a drawing.

**Numbers Game**—a lottery game permitting the player to choose a three-digit or four-digit number, the winner being determined by a drawing.

**On-Line Lottery Game**—a game, authorized in §105, which is played using ticket-generating terminals linked to a central computer, with winners being determined by a drawing.

**On-Line Game Ticket**—an official ticket issued by the corporation in connection with any on-line lottery game, produced on official paper stock by an On-Line Retailer in an authorized manner, bearing player or computer selected numbers, figures and/or characters representing the type of wager, drawing date, amount of wager, and validation data.

**On-Line Retailer**—any person with whom the corporation has contracted to sell On-Line Game Tickets to the public.

**President**—the president of the Louisiana Lottery Corporation.

**Quick-Pick**—a player option by which on-line game number selections are determined at random by computer software.

**Valid Ticket**—a ticket that meets the validation requirements of the corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, amended October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 22:

### §105. General Provisions

A. These game rules authorize the corporation to offer the following on-line lottery games:

1. Pick 3 Daily Game. An on-line numbers game permitting a player to choose a three-digit number, the winner being determined by a drawing.

2. Lotto. An on-line lotto game permitting a player a choice of six numbers out of a specified field of numbers, the winner being determined by a drawing.

3. Easy 5. An on-line lotto game permitting a player a choice of five numbers out of a specified field of numbers, the winner being determined by a drawing.

B. Introduction of a new on-line lottery game may only be accomplished by amendment of these game rules to include the game as an authorized game. These game rules shall apply to the on-line lottery games listed in this Section. The

detailed information regarding each on-line game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. Each game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of the particular game.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 22:

### §107. Probability of Winning

The overall probability of winning any prize in a particular game (expressed as "odds" of winning as that term is commonly used in the lottery industry) will be contained in the game directive for that game and shall be included in the promotional materials for the game. The statement of "odds" does not need to specify the "odds" of winning each particular prize. The corporation shall make every attempt to release accurate "odds" information in press releases for each on-line lottery game.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, repromulgated LR 22:

### §109. Compliance with Law/Rules

In submitting an official on-line game ticket for validation, the player agrees to abide by applicable laws, all corporation rules, regulations, policies, directives, instructions, conditions, and final decisions of the president of the corporation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, repromulgated LR 22:

### §111. Names of Winners

The corporation shall have the right to use the names and the city or area of residence of all prize winners in on-line lottery games. The information may be used by the corporation for advertising and publicity purposes. The corporation will not make public the addresses or phone numbers of on-line lottery winners. Such information will be provided to authorized governmental agencies, as required by law or as deemed appropriate. Winners who grant the corporation permission to be photographed agree to allow the use of such photographs for publicity and advertising purposes without any additional compensation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

### §113. Age Eligibility

No person under 18 years of age may purchase an on-line game ticket, but persons under 18 years of age may receive an on-line game ticket as a gift.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### **§115. Retailer Eligibility**

Retailers authorized by the corporation to sell tickets may purchase tickets and may claim prizes resulting from any tickets so purchased.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### **§117. End of Game**

Each on-line lottery game will continue until such ending date as may be announced by the president. The president may suspend or terminate a game without notice if such action is deemed to be in the best interest of the corporation. No tickets for a particular game may be sold for a game after the suspension or termination of the game.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### **§119. Winner Validation**

A. Except as provided in specific game directives, the following requirements will apply to the validation of winning on-line game tickets:

1. The validation data, number selections, and drawing date(s) printed on the ticket must be present in their entirety and must correspond with the data reflected in the corporation's computer records relating to the production of the ticket.

2. The on-line ticket must be intact and not defaced in any manner.

3. The ticket must not be mutilated, altered, reconstituted, or tampered with in any manner.

4. The ticket must not be counterfeit in whole or in part, nor an exact duplicate of another winning ticket.

5. The ticket must have been issued by an authorized on-line retailer in the authorized manner on official paper stock.

6. The ticket must not be stolen or canceled.

7. The ticket must have exactly the specified number of computer selected numbers, figures and/or characters, and validation data as provided for in the game directives for the game.

8. The ticket must not be partially blank, misregistered, defectively printed, or produced in error to the extent that it cannot be validated by the corporation.

9. The ticket must be submitted for redemption within the claim period provided for in the game.

10. The ticket must be submitted for payment in accordance with the provisions set forth in each game directive.

11. The player or computer number selections, validation data and drawing date(s) of an apparent winning ticket must appear on the official transaction record of the corporation, and a ticket with that exact data must not have been previously paid.

12. The ticket must pass all other confidential security checks of the corporation.

13. In submitting an official on-line game ticket for validation, the player agrees to abide by applicable laws, all corporation rules, regulations, policies, directives, instructions, conditions, and final decisions of the president of the corporation.

B. Except as provided above, any on-line game ticket that fails to pass any of the validation requirements is void and ineligible for any prize, and no prize shall be paid. Liability for defective tickets is limited to the original purchase price of the ticket.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, repromulgated LR 22:

#### **§121. Prize Payment**

On-line lottery game prizes will be paid in accordance with game directives and retailer regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### **§122. Delay of Payment**

A. The corporation shall pay prizes in a timely fashion but may delay making payment of any prize or installment of a prize under the following circumstances:

1. A dispute occurs or it appears that a dispute may occur relative to any prize.

2. There is any question regarding the identity of the claimant.

3. There is any question regarding the validity of the ticket.

4. The claim is subject to any court ordered garnishment.

5. The corporation becomes aware of a change in circumstances relative to a prize award which requires review.

B. The corporation assumes no liability for interest for any delay of payment of a prize or installment.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### **§123. Claim Form**

A. For any prize of more than \$600, the owner of the apparent winning ticket shall complete an official claim form that requires the winner to provide:

1. the name of the individual or entity claiming the prize;

2. the address and city of residence of the claimant;

3. the social security number of the individual claimant or the federal employer's identification number issued by the IRS for multiple claimants.

B. No prize payment will be authorized if the required information is not provided by the claimant. The name of the owner printed on the back of the ticket must correspond with the name of the claimant.



C. A group, family unit, club or other organization which plays as a partnership which is not a legal entity and which does not possess a federal employer's identification number may claim a lump sum prize if it:

1. files an Internal Revenue Service form 5754, "Statement by Person(s) Receiving Gambling Winnings", or a successor form, with the corporation, designating to whom the prize is to be paid and the person or persons to whom the prize is taxable; or

2. designates one individual in whose name the claim shall be entered and furnishes that person's social security number and other required information.

D. Formal recognition of partnership play will be required with respect to lotto grand prizes paid on an installment basis. Formal recognition shall include, but shall not be limited to, production of a partnership agreement or memorandum thereof, listing the names of all partners. The corporation must also be furnished a Federal Employer's Identification Number for the partnership entity. Each such recognized partnership shall receive a single annual installment payment payable to the partnership.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### §125. Assignability

The right of any person to a prize after the prize is claimed shall not be assignable. The corporation may pay any prize to the estate of a deceased winner. Any prize to which a winner is entitled may be paid to any person pursuant to an appropriate judicial order.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### §127. Installment Prizes

The corporation may provide for the payment of any prize of more than \$100,000 in equal annual installments. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount. When the prize amount is paid in installments, the president may round the actual amount of the prize to the nearest \$1,000 amount to facilitate the appropriate funding mechanism. The period of payment of any installment payment schedule shall not exceed 20 years. The corporation shall not accelerate the payment schedule of any installment prize for any reason except pursuant to an appropriate judicial order.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### §129. Merchandise Prizes

If a noncash prize is offered, the value of the prize will be determined by the fair market value of any such prize, which will be the amount reported to the state and the IRS for tax purposes. If the value of the prize is \$5,000 or more, the

corporation will pay withholding taxes on behalf of the winner in accordance with federal and state rules. The corporation will not be responsible for any other fees associated with the prize.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 22:

#### §131. Drawings

The corporation shall follow drawing directives that detail the procedures for conducting each on-line game drawing, the drawing method, and the equipment to be utilized. The corporation shall exercise care to insure a totally random drawing process that results in the selection of prize winners in a method that favors none of the participants.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### §133. Independent Auditor

All drawing events shall be witnessed by an independent auditing firm. The independent auditor shall attest to the fact that the procedures for the drawing were properly disseminated and that the procedures were followed, and shall make note of any exceptions to the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 22:

#### §135. Bulk Purchase

"Bulk Purchase" is the purchase of on-line game tickets for the purpose of accomplishing a buyout of a lotto jackpot or grand prize pool. The bulk purchase of on-line game tickets by an investment syndicate, investment group, corporation or any person for investment purposes is expressly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 22:

#### §137. Bulk Sale

"Bulk Sale" is the sale of on-line game tickets by a licensed on-line retailer for the purpose of assisting the purchaser in accomplishing a buyout of a lotto jackpot or grand prize pool. The bulk sale of on-line game tickets by a licensed on-line retailer is expressly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 22:

#### §139. Enforcement

The game directive shall include provisions to enforce the prohibitions contained in Sections 135 and 137.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994, and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 22:

#### §141. Multi-State Lottery

This Section authorizes the Louisiana Lottery Corporation, through an agreement with the Multi-State Lottery Association (MUSL), to offer the following games: "PowerBall"- and "Daily Millions". Introduction of any new game conducted by MUSL may only be accomplished by amendment of this Section to include the game as an authorized game. The detailed information regarding the rules of the PowerBall game and the Daily Millions game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. The game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of PowerBall and Daily Millions.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, amended LR 22:

A public hearing will be held on Friday, September 27, 1996, at 10 a.m., at the offices of the Louisiana Lottery Corporation, 11200 Industriplex Boulevard, Suite 190, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, September 23, 1996, at 4 p.m., to John Carruth, Louisiana Lottery Corporation, Box 90008, Baton Rouge, LA, 70898.

Bonnie Fussell  
President

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: On-Line Lottery Games

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The Louisiana Lottery Corporation was created by Louisiana R.S. 47:9000 et seq. and exists as a quasi-public corporation. All costs of the corporation are funded by revenue generated by the corporation. The general and administrative costs of the corporation associated with the new game are projected to be \$63,233 for the fiscal year ending June 30, 1997 and \$217,736 for the fiscal year ending June 30, 1998. The costs of on-line vendor commissions and on-line communication are estimated to be from \$27,000 to \$359,000 for fiscal year ending June 30, 1997 and from \$422,000 to \$1,800,000 for the fiscal year ending June 30, 1998.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
As required by Louisiana R.S. 47:9029, the Louisiana Lottery Corporation transfers not less than 35 percent of gross revenues to the lottery proceeds fund in the state treasury. As a result of the introduction of the new game, the projected additional revenue to the lottery proceeds fund is estimated to be from \$189,000 to \$2,500,000 for the fiscal year ending June 30, 1997

and from \$3,000,000 to \$12,600,000 for the fiscal year ending June 30, 1998. Please note that the additional revenue is estimated only for 3 1/2 months for the fiscal year ending June 30, 1997 since the projected start date is March 16, 1997.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Retailers earn five percent commission on the sale of lottery products. Based on sales estimates, retailers are projected to earn \$27,000 to \$359,000 for the fiscal year ending June 30, 1997 and \$422,000 to \$1,800,000 for the fiscal year ending June 30, 1998. Likewise, lottery players win prizes totaling approximately 50 percent of total sales. Using conservative sales projections, prize payouts to players are expected to be \$270,000 to \$3,600,000 more in the fiscal year ending June 30, 1997 and \$4,200,000 to \$18,000,000 more in fiscal year ending June 30, 1998.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The additional revenue from the new game will be generated from consumers' discretionary income. The specific effects on competition and employment cannot be determined.

Bonnie Fussell  
President  
9608#029

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

#### NOTICE OF INTENT

#### Office of the Governor Division of Administration Property Assistance Agency

Fleet Management (LAC 34:XI.103)

Notice of hereby given that the Office of the Governor, Division of Administration, Louisiana Property Assistance Agency, under authority of R.S. 39:321, and the Administrative Procedure Act, R. S. 49:950 et seq., advertises its intent to amend the existing State Fleet Management Regulations, LAC 34:XI.103 as follows:

#### Title 34

#### GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

#### Part XI. Fleet Management

#### Chapter 1. General Provisions

#### §103. Program Definition

A.1. - 2.b.ii.(d). ...

iii. It shall be the responsibility of the agency transportation coordinator to apply to the Department of Public Safety for vehicle license plates and to notify the state fleet manager, within 45 days of receipt, of both the license number and agency property tag number assigned to a new vehicle and any subsequent number changes which may occur.

2.c. - d.i. - v. ...

vi. Annually, it shall be the responsibility of the agency transportation coordinator to insure that a Personal Assignment Agreement (DOA form MV-2) is completed and

forwarded to the state fleet manager by May 1 and is signed and approved by the commissioner in order to continue the personal assignment into the new fiscal year beginning July 1. Any personal assignment approved by the commissioner during the year shall expire June 30 and renewal will require submission of a Personal Assignment Agreement (DOA form MV-2) as described above.

As an alternative to submitting individual MV-2 forms for employees who are requesting renewal of personal assignment and/or home storage approval for the next fiscal year, the state fleet manager may accept a listing of those employees who are currently approved for personal assignment and/or home storage for update purposes. In order to be approved, the listing must consist of only those names of employees who have been previously approved on an individual MV-2 form, with current and correct information, and is on file with the state fleet manager and the originating agency. Any changes to the original information on the MV-2 form must be submitted on a new MV-2 form for approval at the time of the change. This list shall consist of the name of the employee, social security number of the employee, and vehicle identification number of the vehicle that is personally assigned and/or home stored. The list must be approved by the agency transportation coordinator and the agency head prior to submission to State Fleet Management.

vii. ...

2.e.i. - ii. ...

iii. Annually, it shall be the responsibility of the agency transportation coordinator to insure that a Home Storage Agreement form (DOA form MV-2) is completed and forwarded to the state fleet manager by May 1 and is signed and approved by the commissioner in order to continue home storage into the new fiscal year beginning July 1. Any home storage approved by the commissioner during the year shall expire June 30 and renewal will require submission of a Home Storage Agreement (DOA form MV-2) as described above.

As an alternative to submitting individual MV-2 forms for employees who are requesting renewal of personal assignment and/or home storage approval for the next fiscal year, the state fleet manager may accept a listing of those employees who are currently approved for personal assignment and/or home storage for update purposes. In order to be approved, the listing must consist of only those names of employees who have been previously approved on an individual MV-2 form, with current and correct information, and is on file with the state fleet manager and the originating agency. Any changes to the original information on the MV-2 form must be submitted on a new MV-2 form for approval at the time of the change. This list shall consist of the name of the employee, social security number of the employee, and vehicle identification number of the vehicle that is personally assigned and/or home stored. The list must be approved by the agency transportation coordinator and the agency head prior to submission to State Fleet Management.

2.f.i. - ii. ...

iii. All daily vehicle usage logs (DOA form MV-3) for both personally assigned and pool vehicles are approved

by the appropriate supervisor and received by the agency transportation coordinator by the third working day of the month following the month to which the report pertains. The approving supervisor is responsible for auditing each respective DOA form MV-3. MV-3 data may be submitted monthly via magnetic media provided the information is formatted as required by the Division of Administration and the agency has received prior approval from the state fleet manager to submit data in this manner.

iv. preventive maintenance is performed on all fleet vehicles and recorded on the Preventive Maintenance Record (DOA form MV-2) or a maintenance form approved by the state fleet manager.

v. - vi. ...

2.g. - h. ...

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:361-363 and R. S. 39:1761-1771.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:231 (April 1986), amended LR 13:15 (January 1987), LR 13:742 (December 1987), LR 22:

Interested persons may submit written comments on the proposed revision to Mike McCumsey, Assistant Director, Administrative Section, Property Assistance Agency, Box 94095, Baton Rouge, LA 70804-9095. Written comments will be accepted through the close of business at 5 p.m. on September 20, 1996.

Mike McCumsey  
Assistant Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Fleet Management**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no additional costs related to this change. Estimated implementation savings to the state will be minimal. Approximately 1,000 fewer forms will have to be processed resulting in savings of labor and cost of forms.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefits to any affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Louis W. Amedee  
Director  
9608#069

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

Advertising; Records on Prescriptions  
(LAC 46:XXXIII.301 and 303)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301, Advertising and Soliciting by Dentists, and intends to repeal LAC 46:XXXIII.303, Maintenance of Records on Prescriptions Pursuant to R.S. 37:1204.

The board is amending the definition of pediatric dentistry to conform with the recently adopted definition of the American Dental Association.

LAC 46:XXXIII.303 is being repealed as it conflicts with R.S. 37:794 which was adopted by the Legislature in 1995.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 1. General Provisions

#### §301. Advertising and Soliciting by Dentists

A. - C. ...

D. Definitions

*Pediatric Dentistry*—an age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

E. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:

#### §303. Maintenance of Records on Prescriptions Pursuant to R.S. 37:1204

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:179 (March 1987), repealed LR 22:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Advertising; Records on Prescriptions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation costs or savings to the Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9608#061

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Dentistry

Continuing Education (LAC 46:XXXIII.1611 and 1613)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8) and (13), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1611, Continuing Education Requirements for Relicensure of Dentists, and LAC 46:XXXIII.1613, Continuing Education Requirements for Relicensure of Dental Hygienists.

These rule changes are intended to clarify how to obtain the required clinical continuing education requirements for dentists and dental hygienists.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 16. Continuing Education Requirements

#### §1611. Continuing Education Requirements for Relicensure of Dentists

A. ...

B. At least one-half of the minimum credit hours (10) must be attained by personally attending clinical courses pertaining to the actual delivery of dental services to patients.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:

**§1613. Continuing Education Requirements for Relicensure of Dental Hygienists**

A. ...

B. At least one-half of the minimum credit hours (6) must be attained by personally attending clinical courses pertaining to the actual delivery of dental services to patients.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Continuing Education**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation costs or savings to the Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9608#066

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Dental Assistants (LAC 46:XXXIII.502)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend

LAC 46:XXXIII.502, Authorized Duties of Expanded Duty Dental Assistants.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 5. Dental Assistants**

**§502. Authorized Duties of Expanded Duty Dental Assistants**

A.1. - 8. ...

9. Prepare the teeth and the tray for indirect orthodontic bonding procedures and then seat the prepared tray provided the dentist has personally adjusted the brackets on the casts or the brackets have been placed according to a written prescription by the dentist for final positioning of the brackets. A duplicate of the written prescription should be maintained in the patient's chart if the prescription is filled by an outside laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice. No preamble has been prepared.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Dental Assistants**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation costs or savings to the Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9608#062

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Dental Hygienists—Authorized Duties  
(LAC 46:XXXIII.701)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.701, Authorized Duties.

This rule will authorize dental hygienists to prepare teeth for and to place fissure sealants on teeth.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 7. Dental Hygienists**

**§701. Authorized Duties**

A. - B.12. ...

13. Preparation of teeth for and placement of fissure sealants.

14. - 15. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Dental Hygienists—Authorized Duties**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated implementation costs or savings to the Board of Dentistry or any other state or local governmental unit.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9608#063

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Emergency Suspension of Licenses  
(LAC 46:XXXIII.903)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.903, Initiation of Proceedings.

This rule is intended to clarify the board's authority to issue an emergency suspension of a license when the public's health, safety, or welfare is at risk in accordance with the Administrative Procedure Act.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 9. Formal Adjudication**

**§903. Initiation of Proceedings**

A. - B. ...

C. If the public health, safety, and/or welfare imperatively requires emergency action, the board, through its president, may order an interim suspension of a dental or dental hygiene license pending formal disciplinary proceedings, as provided in R.S. 49:961(C). The president shall appoint one or more board members to hear the evidence in support of an immediate interim suspension and to make recommendations to the board president, who shall thereafter issue whatever order of interim suspension pending formal adjudication as is warranted by the circumstances.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760 (4), (8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1317 (October 1993), amended LR 22:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Emergency Suspension of Licenses**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation costs or savings to the Board of Dentistry or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9608#064

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Conscious Sedation with Parenteral Drugs  
(LAC 46:XXXIII.1505 and 1509)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1505, Conscious Sedation with Parenteral Drugs, and to amend LAC46:XXXIII.1509, Minimal Education Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Conscious Sedation with Parenteral Drugs, and General Anesthesia/Deep Sedation.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 15. Anesthesia/Analgesia Administration**

**§1505. Conscious Sedation with Parenteral Drugs**

- A. The board shall issue two types of conscious sedation with parenteral drugs permits.
  1. A "limited" permit will be issued to those dentists who qualify for such permit by meeting the minimal educational requirements specified in §1509. This permit will be limited to the administration of parenteral drugs via intramuscular (IM), submucosal (SM), intranasal (IN), and subcutaneous (SC) routes only.
  2. A "full" permit will be issued to those dentists who

qualify for such permit by meeting all minimal educational requirements specified in §1509.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:

**§1509. Minimal Education Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Conscious Sedation with Parenteral Drugs, and General Anesthesia/Deep Sedation**

A. ...

B. Conscious Sedation with Parenteral Drugs

1. To be granted a "limited" permit, the applicant must submit verification of formal post-doctoral training in the use of parenteral drugs via the intramuscular (IM), submucosal (SM), intranasal (IN), and subcutaneous (SC) routes of administration and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 10 documented cases of parenteral sedation.

2. To be granted a "full" permit, the applicant must submit verification of formal post-doctoral training in the use of parental drugs via the intramuscular (IM), submucosal (SM), intranasal (IN), subcutaneous (SC), and conscious IV sedation routes administration and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 20 documented cases of parenteral sedation.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice. No preamble has been prepared.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Conscious Sedation with Parenteral Drugs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation costs or savings to the Board of Dentistry or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefit to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9608#065

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Continuing Education Sponsors (LAC 46:LXIII.805)

Notice is hereby given, in accordance with R.S. 49:950 et seq. that the Department of Health and Hospitals, Board of Examiners of Psychologists intends to amend the following:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXIII. Psychologists**

**Chapter 8. Continuing Education**

**§805. Acceptable Sponsorship**

A. - D. ...

E. Activities (including home study courses) offered by the APA (American Psychological Association.)

F. Activities sponsored by the Board of Examiners of Psychologists.

G. Activities sponsored by the Louisiana Office of Citizens with Developmental Disabilities or the Louisiana Office of Mental Health, and approved by the chief psychologist of the sponsoring state office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:

All interested persons may submit written comments on the proposed rule within 30 days of the publication of this notice to: Brenda C. Rockett, Executive Director, Board of Examiners of Psychologists, 11924 Justice Avenue, Suite A, Baton Rouge, LA 70816.

John E. Mendoza, Ph.D.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Continuing Education Sponsors**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendment will result in any additional costs to state or local governmental units, outside of the cost of printing the rule in the *Louisiana Register* (approximately \$260).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendment will have any effect on the board's revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed rule amendment will have any costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendment will have any significant impact on competition or employment in either the public or private sector.

Brenda C. Rockett  
Executive Director  
9608#048

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Unlicensed Assistants (LAC 46:LXIII.Chapter 11)

Notice is hereby given, in accordance with R.S. 49:950 et seq. that the Department of Health and Hospitals, Board of Examiners of Psychologists intends to amend the following:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXIII. Psychologists**

**Chapter 11. Use of Assistants in Psychological Practice**

**§1101. General Provisions**

A. The board recognizes as legitimate the appropriate, ethical use of certain unlicensed individuals (assistants) to assist the psychologist in carrying out direct patient care responsibilities and in delivering other psychological services.

B. Assistants who provide psychological services shall do so only upon the order or direction of the psychologist-employer or supervising agency psychologist who, in order to maintain the ultimate legal and professional responsibility for the safety and welfare of the patient or client, shall be vested with functional authority over all psychological services provided by assistants.

C. Outside of those exceptions defined in this rule, the use of assistants is permissible only when a professional



relationship exists between the psychologist and the patient or client. Within this context, a professional relationship is defined as and requires sufficient direct, face-to-face contact with the patient or client to allow the psychologist to:

1. establish the doctor-patient relationship;
2. develop the provisional or working diagnoses;
3. adequately plan, prescribe, direct and/or monitor any diagnostic or therapeutic services to be rendered by the assistant; and
4. to clarify for the patient or client the role of the assistant for any services provided.

D. Assistants may provide services permitted under this rule in the absence of a professional relationship between the psychologist and patient or client in the following exceptional circumstances:

1. If deemed appropriate by the supervising agency psychologist, limited symptom screening may be conducted as part of an agency routine to determine if referral for a psychological evaluation or other referral is indicated. Such screening procedures may be ordered as a standing protocol by the psychologist provided that the psychologist establishes the objective criteria by which persons so screened are identified as candidates for psychological evaluation or referral. Such screening procedures shall not be considered sufficient to render a diagnosis of mental, emotional, cognitive or neurobehavioral disorder nor sufficient for treatment planning purposes. The psychologist is not required to establish a professional relationship with an individual so screened unless and until such time that the individual, by virtue of the results of such screening, is determined to be in need of psychological evaluation or other psychological services.

2. At the sole discretion of the psychologist-employer or supervising agency psychologist, an exemption can be made in those cases in which a referral is received for an established patient of another psychologist or physician who has assumed the ultimate responsibility for the psychological diagnosis and management of the patient or client and who is practicing in a licensed health care facility in which the diagnosis and/or management of mental, emotional, cognitive or neurobehavioral disorders is routine.

E. The use of assistants will be conducted in such a manner as to insure both the welfare of the patient or client and the ethical and legal protection of the unlicensed individual. In so doing, the psychologist-employer or supervising agency psychologist shall establish and maintain a level and frequency of contact with the assistant which is consistent with the complexity of psychological service functions provided, the experience and competence level of the assistant and prevailing professional and ethical standards.

F. Reasonable provisions shall be made to insure that assistants have ready access to the psychologist in the case of an emergency.

G. All work assignments or duties shall be consistent with provisions of this rule and commensurate with the demonstrated skill level of assistants.

H. Public announcement of services and/or fees, as well as contact with the lay or professional public, shall not be offered in the name of assistants.

I. Billing for psychological services shall not be in the name of assistants.

J. Referrals or consults shall not be accepted or made in the name of assistants.

K. A psychologist may not be employed or contracted by an assistant.

L. Assistants shall not be given work assignments or duties which involve professional psychological judgment or functions. Such professional functions include, but are not necessarily limited to, the diagnosis of mental, emotional, cognitive or neurobehavioral disorders, the prescription and/or selection of diagnostic procedures for patient examination, the interpretation, integration and written preparation of psychologic and/or neuropsychologic test results, consultation and the prescription and/or independent provision of therapeutic procedures, techniques or modalities for the treatment or management of mental, emotional, cognitive or neurobehavioral disorders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended LR 22:

### **§1103. Levels of Assistants**

Two levels of extenders are identified by education and training.

1. Technicians shall minimally possess a bachelor's degree in psychology or related science.

2. Advanced assistants shall minimally possess a master's degree in psychology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended LR 22:

### **§1105. Functions of Technicians and Advanced Assistants**

#### **A. Assessment Functions**

1. Technicians, advanced assistants and other staff, upon the order or direction of the psychologist, may instruct patients or clients in self-administered procedures and score those diagnostic test procedures, such as symptom checklists and objective personality inventories, which are objectively and clerically scored. Assistants or other staff performing these functions must have received appropriate in service training, the documentation of which is maintained by the psychologist.

2. Appropriately trained technicians and advanced assistants, upon the order or direction of the psychologist-employer or supervising agency psychologist, may administer and score other diagnostic psychological and/or neuropsychological test procedures for which they have received theoretical and technical education and/or instruction provided that the psychologist is able to document, in such form as may be required by the board, that the technician or advanced assistant is qualified to administer and score such test procedures. Such documentation shall be based, at least in part, on a sufficient number of protocols or procedures which are determined to meet specified criteria for accuracy and conformity to accepted test standards, as determined by the psychologist.

3. At the direction of the psychologist-employer or supervising agency psychologist, advanced assistants additionally may compile observations and actuarial test information into a preliminary written form for the psychologist. The psychologist, however, retains the responsibility for performing those professional components of assessment functions which include, but are not necessarily limited to, the integration and interpretation of the psychological or neuropsychological test findings, the formulation of any diagnoses or diagnostic impressions and any recommendation for further examination, referral, consultation or therapeutic intervention which are incorporated into any written document or oral report.

4. The psychologist-employer or supervising agency psychologist shall maintain documentation of the technician's and/or advanced assistant's education or instruction and qualification as it pertains to test administration and scoring.

5. The psychologist-employer or supervising agency psychologist shall also develop and maintain, in such form as may be required by the board, a written quality control plan of the evaluation of the work product of the technician and/or advanced assistant. This plan shall minimally include a procedure by which, at least annually, randomly selected work samples are inspected and evaluated by the psychologist according to criteria for accuracy and conformity to accepted test standards, as specified by the psychologist. Technicians or advanced assistants whose work products are determined to fall below the standards of performance established by the quality control plan subsequently shall have all work product reviewed by the psychologist until such time that minimal quality control standards are reestablished.

#### B. Intervention Functions

1. Technicians, upon the order or direction of the psychologist-employer or supervising agency psychologist, may execute specific, objective and well-defined intervention protocols. Such intervention protocols may include, but are not necessarily limited to, relaxation procedures, prescribed behavioral intervention techniques, prescribed biofeedback intervention procedures and prescribed neuropsychological or cognitive rehabilitation strategies.

2. Advanced assistants, upon the order or direction of the psychologist-employer or supervising agency psychologist, additionally may carry out limited, semi-structured psychological health procedures. Such procedures may include, but are not necessarily limited to, patient education, social skills training, orientation groups, parent effectiveness training, systematic desensitization or related behavioral procedures and assertion training. Advanced assistants may also assist the psychologist within the context of psychotherapeutic interventions so long as the psychologist is physically present and the limited role of the advanced assistant is made known to those to whom services are being rendered.

3. Those technicians and advanced assistants directed to execute intervention functions or assist the psychologist in the delivery of therapeutic services as described above must have documented instruction and/or training in such procedures or functions and must have been certified as competent in such

intervention activities by the psychologist based on documented observation and review of intervention procedures of each type undertaken by the technician or advanced assistant.

4. The psychologist-employer or supervising agency psychologist shall develop and maintain, in such form as may be required by the board, a written quality control plan. Such plan shall include, at a minimum, an annual random inspection or review of the technician's and/or advanced assistant's work product as it pertains to intervention functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 22:

#### §1107. Registration of Assistants

A. The psychologist-employer or supervising agency psychologist, upon hiring or otherwise accepting oversight/supervision responsibilities of an assistant, shall provide to the board written notification in such form and manner as the board might require.

B. Annually, at a time prescribed by the board and in a form and manner as the board might require, the psychologist-employer or supervising agency psychologist shall renew the registration of all assistants who provide psychological services under their direction.

C. The psychologist-employer or supervising agency psychologist, upon termination, reassignment of the assistant to another psychologist or substantive change in the duties or activities of the assistant, shall provide the board with written notification of such change within a timely fashion not to exceed 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 22:

#### §1109. Exemptions

A. Upon receipt of an affidavit by the psychologist-employer or supervising agency psychologist, that an assistant has been legally functioning under the direction and supervision of the psychologist for at least two years before January 1, 1997, the board may authorize the affiant to continue the use and supervision of that assistant under board rules in effect before January 1, 1997.

B. A matriculated graduate student whose activities constitute a plan of the course of study for a graduate degree in psychology at a school or college.

C. An individual pursuing post-doctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under Title 37, Chapter 28, Psychologists (Supp. 1998).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 22:

#### §1111. Failure to Comply

Any psychologist-employer or supervising agency psychologist who utilizes assistants in a manner which is in violation of these regulations shall be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 22:

Inquiries concerning the proposed rule may be directed in writing to: Brenda C. Rockett, Executive Director, Board of Examiners of Psychologists at the address below.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Board of Examiners of Psychologists, 11924 Justice Avenue, Suite A, Baton Rouge, LA 70816. Written comments must be submitted to and received by the board within 30 days of 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.

James W. Quillin, Ph.D.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Unlicensed Assistants**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will result in any additional costs to state or local governmental units, outside of the cost of printing the rule in the *Louisiana Register* (approximately \$260).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will have any effect on the board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is not anticipated that the proposed rule amendments will have any effect on costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that the proposed rule amendments will have any effect on competition and employment in the public and/or private sectors.

James W. Quillin, Ph.D.  
Chairman  
9608#049

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Respiratory Therapy—Continuing Education  
(LAC 46:XLV.2501-2551)**

Notice is hereby given, in accordance with R.S. 49:953, that the State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Respiratory Therapy Practice Act, R.S. 37:3351-3361, and the provisions

of the Administrative Procedure Act, intends to amend and supplement its rules governing the licensure of respiratory therapists and respiratory therapy technicians, LAC 46:XLV, Subpart 2, Chapter 25, §§2501-2551, to implement the requirements for continuing education as a condition of renewal of licensure as prescribed and authorized by R.S. 37:3357(D) (Acts 1995, Number 802). The proposed rules and rule amendments are set forth below.

**Title 46**

**PROFESSIONS AND OCCUPATIONS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 25. Respiratory Therapists and Respiratory Therapy Technicians**

**Subchapter E. Licensure, Issuance Termination, Renewal, Temporary Issuance and Reinstatement**

**§2541. Expiration of License**

A. Every license issued by the board under this Chapter shall expire, and thereby become null, void and to no effect, on the 31st day of December next following the date on which the license was issued.

B. The timely submission of an application for renewal of a license as provided by §2543 hereof shall operate to continue the expiring license in force and effect pending the board's issuance, or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 22:

**§2543. Renewal of License**

A. Every license issued by the board under this Subchapter shall be renewed annually on or before the date of its expiration by submitting to the board an application or renewal, upon forms supplied by the board, together with the applicable renewal fee prescribed in Chapter 81 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter G of these rules.

B. An application for renewal of license shall be mailed by the board to each person holding a license issued under this Chapter on or before the first day of November of each year. Such form shall be mailed to the most recent address of each licensed respiratory therapist or licensed respiratory therapy technician as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 22:

**§2545. Reinstatement of License**

A. A license which has expired without renewal may be reinstated by the board if application for reinstatement is made not more than two years from the date of expiration and subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of recommendation from responsible officers of the applicant's last employment as a licensed respiratory therapist

or as a licensed respiratory therapy technician, together with the applicable renewal fee, plus a penalty equal to twice the renewal fee.

C. With respect to an application for reinstatement made more than one year after the date on which the certificate expired, as a condition of reinstatement, the board may require that the applicant complete a statistical affidavit upon a form provided by the board, provide the board with a recent photograph, and/or possess a current, unrestricted license issued by another state, and evidence satisfaction of the requirements of Subchapter G with respect to continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 22:

#### **Subchapter F. Advisory Committee on Respiratory Care**

##### **2551. Delegation of Authority**

A. Authority is hereby delegated to the Advisory Committee on Respiratory Care to:

1. survey, by site visit or otherwise, each hospital or other institution located in this state which is affiliated with and at which is conducted a nontraditional respiratory care education and training program for the purpose of reporting to the board as provided by Subsection B hereof;

2. assist the board in the review of applicant's satisfaction of continuing education requirements for renewal of licensure under this Chapter as provided in Subsection D hereof.

B. The committee shall annually report to the board, in writing, on each such nontraditional respiratory care education and training program conducted in this state and, with respect to each such program, advise the board with respect to:

1. such program's compliance with the provisions of these rules relating to the conduct of such programs;

2. the number of students enrolled and participating in such program during the preceding year;

3. the number of graduates of such program having taken the National Board of Respiratory Care entry-level examination and the number of such graduates having successfully passed such examination; and

4. any recommendations the committee may have with respect to the future conduct of such program and regulation of the same by the board.

C. In discharging the responsibilities provided for by this Section, the committee shall have authority to:

1. periodically request and obtain necessary and appropriate information from hospitals or other institutions located in this state which are affiliated with and at which are conducted a nontraditional respiratory care education and training programs, from the coordinators of such program, and from students enrolled in such programs; and

2. periodically conduct visits of the hospitals or other institutions at which such programs are conducted in this state.

D. To carry out its duties of Subsection A.2, the advisory committee is authorized by the board to advise and assist the Board in the review and approval of continuing professional

education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Subchapter G of these rules, including the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing professional education programs for respiratory therapists and respiratory therapy technicians and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §2559 of these rules; and

2. review documentation of continuing professional education by respiratory therapists and respiratory therapy technicians, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

3. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

E. In discharging the functions authorized under this Section the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the advisory committee members pursuant to §2551.A.2 and D shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270(B)(6), R.S. 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 22:

#### **Subchapter G. Continuing Professional Education**

##### **§2553. Scope of Subchapter**

The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a respiratory therapist or respiratory therapy technician, as required by §2543 and §2555 of these rules, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

##### **§2555. Continuing Professional Educational Requirement**

A. Subject to the exceptions specified in §2569 of this Subchapter, to be eligible for renewal of licensure for 1998 and thereafter, a respiratory therapist or respiratory therapy technician shall, within each year during which he holds

licensure, evidence and document, upon forms supplied by the board, successful completion of not less than 10 hours, or 1.0 continuing education unit (CEU) of continuing education courses sanctioned by the American Association of Respiratory Care, the Respiratory Care Advisory Committee to the board, or their successors. Not less than six of the required hours shall be related to cardiopulmonary care.

B. One Continuing Education Unit (CEU) constitutes and is equivalent to 10 hours of participation in organized continuing professional education programs approved by the board and meeting the standards prescribed in this Subchapter. One hour of continuing education credit is equivalent to 50 minutes of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

### **§2557. Qualifying Continuing Professional Education Programs**

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of respiratory therapy;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of respiratory therapy;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of 50 continuous minutes in length.

B. Other approved continuing education activities include:

1. earning a grade of "C" or better in a course related to health care in an academic setting, or grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 15 contact hours.

2. programs on advanced cardiac life support (ACLS), pediatric advanced life support (PALS) or neonatal advanced life support (NALS), each of which will equal 10 contact hours;

3. successfully completing a recertification examination for the highest credential held by the respiratory therapist or respiratory therapy technician including certified respiratory therapy technician (CRTT), registered respiratory therapist (RRT), certified pulmonary function technologist (CPFT), registered pulmonary function technologist (RPFT), registered cardiovascular technologist (RCVT), and certified cardiovascular technologist (CCVT), with each such recertification examination equal to 10 contact hours;

4. initial certification as a CPFT, RPFT Perinatal/Pedi Specialist, RCVT or CCVT and each such certification will equal 10 hours;

5. any accredited home study/correspondence program issued by an approved organization as set out in §2559.A. Credit will be issued in the same manner as earning a grade of C or better in a course related to health care in an academic

setting within that one semester hour will equal 15 contact hours;

6. any instructor course taken in preparation for teaching a course.

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable CPE programs under these rules:

1. any program not meeting the standards prescribed by Subsection A of this Section;

2. independent study not approved or sponsored by one of the organizations identified as a program sponsor in Section 2559.A;

3. in-service education provided by a sales representative;

4. teaching, training or supervisory activities not specifically included in Subsection B of this section;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or in service activities;

7. giving or authorizing verbal or written presentations, seminars or articles or grant applications; or

8. passing basic cardiac life support (BCLS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

### **§2559. Approval of Program Sponsors**

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §2557 shall be deemed approved for purposes of satisfying continuing education requirements under this Subchapter, if sponsored or offered by the American Association for Respiratory Care (AARC), any AARC-chartered affiliate, the Louisiana Hospital Association, the Louisiana Nurses Association, the American Lung Association, the American Heart Association, the American College of Chest Physicians, the American Thoracic Society, the American Nursing Association, the American Society of Cardiovascular Professionals, the American Medical Association, the American College of Cardiology, the Louisiana Association for Home Care, the Louisiana Association of Cardiovascular and Pulmonary Rehabilitation, the Louisiana State Medical Society, any hospital or agency belonging to the Louisiana Hospital Association, any hospital or agency accredited by the Joint Commission on Accreditation of Health care Organizations (JCAHO), and Cardiovascular Credentialing International.

B. Upon the recommendation of the Advisory Committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §2557.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

### **§2561. Approval of Program**

A. A continuing professional education program or activity sponsored by an organization or entity not deemed

approved by the board pursuant to §2559.A may be pre-approved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under the Subchapter upon written request to the board therefore, upon a form supplied by the board, providing a complete description of the nature, location, date, content and purpose of such program and such other information as the board or advisory committee may request to establish the compliance of such program with the standards prescribed by §2557. Any such requests for pre-approval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of \$30.

B. Any such written request shall be referred by the board to the advisory committee for its recommendation. If the advisory committee recommendation is against the approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal to the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The advisory committee or board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting pre-approval of continuing professional education programs should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

#### **§2563. Documentation Procedure**

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each respiratory therapist or respiratory therapy technician subject to such requirements with the application for renewal of licensure form mailed by the board pursuant to §2543 of these rules. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. A respiratory therapist or respiratory therapy technician shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing education program.

C. The board or advisory committee shall randomly select for audit no fewer than 3 percent of the licensees each year for an audit of continuing education activities. In addition, the board or advisory committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, shall be referred to the advisory committee for its evaluation and recommendations pursuant to §2551.D.1. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

#### **§2565. Failure to Satisfy Continuing Professional Education Requirements**

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within 90 days, furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;
2. the applicant is exempt from such requirements pursuant to these rules; or
3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness or other good cause as may be determined by the board.

B. The license of a respiratory therapist or respiratory therapy technician whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board made not more than two years from the date of expiration or revocation, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs of \$50, together with documentation and certification that:

1. the applicant has, for each calendar since the date on which the applicant's license lapsed, expired or was revoked, completed eight hours (0.8 CEU) of qualifying continuing professional education, and if the application for reinstatement is made more than one year following the date on which such license lapsed, expired or was revoked, the applicant shall evidence completion of an additional four hours of qualifying continuing professional education since the date on which the applicant's license lapsed, expired or was revoked; or

2. the applicant has, within one year prior to making application of reinstatement taken and successfully passed the Recertification Examination of the National Board for Respiratory Care.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing education requirement will be subject to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

#### **§2567. Waiver of Requirements**

The board may, in its discretion upon the recommendation of the advisory committee, waive all or part of the continuing professional education required by these rules in favor of a respiratory therapist or respiratory therapy technician who makes written requests for such waiver to the board and evidences to the satisfaction of the board a permanent physical

disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

**§2569. Exceptions to the Continuing Professional Education Requirements**

The continuing professional education requirements prescribed by this Subchapter as requisite to renewal of licensure shall not be applicable to: (i) a respiratory therapist or respiratory therapy technician employed exclusively by, or at an institution operated by, any department or agency of the United States; or (ii) a respiratory therapist or respiratory therapy technician who has held an initial Louisiana license on the basis of examination for less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:

Inquiries concerning the proposed rules and 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 rules and rule amendments, in writing, to the Board of Medical Examiners, Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). Written comments must be submitted to and received by the board within 60 days 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: Respiratory Therapist—Continuing  
Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the proposed rule amendments will result in increased costs to the Board of Medical Examiners, for processing continuing education documentation and related forms and postage in the total amount of \$4,244 in FY 96-97, \$7,197 in FY 97-98, and \$7,531 in FY 98-99.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the proposed rule amendments will have any effect on the board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

Licensed respiratory therapists and respiratory therapy assistants who apply for annual renewal of licensure will be

required under the proposed rules to obtain and document to the board 1.0 continuing professional education units each year as a condition to renewal of their licensure, beginning with applications for licensure renewal for 1998. It is estimated that for each such applicant the cost of obtaining such continuing education may represent \$20-\$100 annually. In addition, each such applicant will be required to document the required continuing education in connection with application for licensure renewal, resulting in minimal additional paperwork involving one additional form. The rule amendments should not, however, result in or effect any material increase or reduction of costs or paperwork for such applicants.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

It is not anticipated that the proposed rule amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison  
Executive Director  
9608#059

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Orleans Parish Individual Sewage**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Health and Hospitals proposes to adopt the following rule governing the installation of individual sewage systems in certain areas of Orleans Parish.

Funds in the amount of \$12,500,000 from the federal and state governments as well as the New Orleans Sewerage and Water Board have been committed for the design and construction of a community sewage system for the following areas in Orleans Parish: property between Chef Pass and the Rigolets, outside the hurricane protection levee and; property on the Lake Pontchartrain side of the LandM Railroad tracks that parallel Hayne Boulevard, outside the hurricane protection levee and; property on either side of U.S. Highway 11 between Powers Junction and Interstate 10, commonly referred to as Irish Bayou.

This proposed rule is necessary to prohibit the increase of individual sewage disposal systems in organized, subdivision type camp developments for individual camps/dwellings which shall be provided with community type sewage disposal facilities. To continue to allow the installation of individual sewage treatment and disposal systems would only jeopardize continuation of funding for this much needed public health project as many of the existing systems are inadequate and are contributing to the pollution of the Lake Pontchartrain Basin.

**Proposed Rule**

The Department of Health and Hospitals, Office of Public Health prohibits the installation of individual sewage systems in the following areas of Orleans Parish:

- 1) property between the Chef Pass and the Rigolets, outside the hurricane protection levee; and

2) property on the Lake Pontchartrain side of the LandM Railroad tracks that parallel Hayne Boulevard outside the hurricane protection levee; and

3) property on either side of US Highway 11 between Powers Junction and Interstate 10, commonly referred to as Irish Bayou.

Interested persons may submit questions or written comments to the following address: Frank L. Deffes, Jr., Chief, Sanitarian Services, Box 60630, New Orleans, LA 70160. He is responding to inquiries regarding this proposed rule change. All questions or comments must be received by September 20, 1996. A public hearing on the proposed changes will be held on September 27, 1996 at the Department of Health and Hospitals, 1201 Capitol Access Road, Baton Rouge, LA 70821. The hearing will be conducted in the fourth floor conference room at 10:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Orleans Parish Individual Sewage**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated implementation costs or savings to state or local units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The property owners in affected areas will be denied a permit to install an individual sewage treatment system until the community treatment system is completed. Once the community system is completed, everyone will be allowed to connect.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no anticipated effect on competition and employment.

Bobby P. Jindal  
Secretary  
9608#054

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Sanitary Code—Bottled Water for Emergencies  
(Chapter VI)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office

of Public Health proposes to amend and enact rules pertaining to the processing and bottling of drinking water for limited use under emergency circumstances by those institutions and facilities that require a source of potable drinking water.

This measure will amend and enact certain sections of Chapter VI, Part 5 of the State Sanitary Code which governs the processing and bottling of bottled water. This proposal stems from requests by hospitals and nursing homes made to certain food processing plants to process and package bottled drinking water for their use as a source of potable drinking water for patients and residents of those facilities. These amendments to the Sanitary Code will provide guidance and set uniform rules for processing of drinking water strictly for use under emergency situations which may occur.

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

Interested persons may submit written comments or views on this proposal to William Swiler, Food and Drug Unit, Department of Health and Hospitals, Office of Public Health, 325 Loyola Avenue, Room 208, New Orleans, LA 70160. A public hearing on the proposed changes will be held September 27, 1996 at the Department of Health and Hospitals, 1201 Capitol Access Road, Baton Rouge, LA 70821. The hearing will be conducted in the fourth floor conference room at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bottled Water for Emergencies**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation costs will be less than \$50 for mailing expenses.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There should be no impact on revenue collections. It is estimated that not more than 20 food processing plants will qualify for and obtain permits to bottle water for emergency use. There will be no fee charged for this permit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Firms wanting to bottle drinking water for emergencies will need a permit to operate, must supply containers and labels for containers. Most companies should have necessary equipment but some may opt to buy or lease equipment. There will be no fee charged for this permit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There may be an effect on employment due to the fact that some firms may have to hire additional personnel, extend



production hours, overtime, or add another shift to keep up with production.

Bobby P. Jindal  
Secretary  
9608#053

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Insurance Commissioner of Insurance

#### Regulation 32—Group Coordination of Benefits

Under the authority of R.S. 22:3.2014 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance gives notice that the following proposed regulation is to be adopted and become effective January 1, 1997. This intended action complies with the statutory law administered by the Department of Insurance.

Existing regulation 32 of the Department of Insurance is to be repealed as of the effective date of this proposed regulation.

#### Proposed Regulation 32 Group Coordination of Benefits

##### Section 1. Authority

This regulation is adopted and promulgated by the Department of Insurance pursuant to the authority granted by R.S. 22:3.2014 and the Administrative Procedure Act, R.S. 49:950 et seq. This regulation replaces and repeals the regulation of similar purpose which took effect on January 20, 1994.

##### Section 2. Purpose and Applicability

The purpose of this regulation is to:

- A. permit, but not require, plans to include a coordination of benefits (COB) provision unless prohibited by federal law;
- B. establish a uniform order of benefit determination under which plans pay claims;
- C. provide authority for the orderly transfer of necessary information and funds between plans;
- D. reduce duplication of benefits by permitting a reduction of the benefits to be paid by plans that, pursuant to rules established by this regulation, do not have to pay their benefits first;
- E. reduce claims payment delays; and
- F. require that COB provisions be consistent with this regulation.

##### Section 3. Definitions

As used in this regulation, these words and terms have the following meanings, unless the context clearly indicates otherwise:

A. *Allowable Expense*—a health care service or expense including deductibles, coinsurance or copayments, that is covered in full or in part by any of the plans covering the person, except as set forth below or where a statute requires a different definition. This means that an expense or service or a portion of an expense or service that is not covered by any of the plans is not an allowable expense.

(1) The following are examples of expenses or services that are not an allowable expense:

(a) If a covered person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room, (unless the patient's stay in the private hospital room is medically necessary in terms of generally accepted medical practice, or one of the plans routinely provides coverage for private hospital rooms) is not an allowable expense.

(b) If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees, any amount in excess of the highest of the usual and customary fee for a specified benefit is not an allowable expense.

(c) If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense.

(d) If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement shall be the allowable expense for all plans.

(2) The definition of "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, prescription drug or hearing aids. A plan that limits the application of COB to certain coverages or benefits may limit the definition of allowable expenses in its contract to services or expenses that are similar to the services or expenses that it provides. When COB is restricted to specific coverages or benefits in a contract, the definition of allowable expense shall include similar services or expenses to which COB applies.

(3) When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered an allowable expense and a benefit paid.

(4) The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan:

(a) Because the covered person does not comply with the plan provisions concerning second surgical opinions or precertification of admissions or services; or

(b) Because the covered person has a lower benefit because he or she did not use a preferred provider.

(5) If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan shall pay or provide benefits as if it were primary when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan.

B. *Claim*—a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

- (1) services (including supplies);
- (2) payment for all or a portion of the expenses incurred;
- (3) a combination of Paragraphs (1) and (2) above; or
- (4) an indemnification.

C. *Claim Determination Period*—a period of not less than 12 consecutive months, over which allowable expenses

shall be compared with total benefits payable in the absence of COB, to determine whether overinsurance exists and how much each plan will pay or provide.

(1) The claim determination period is usually a calendar year, but a plan may use some other period of time that fits the coverage of the group contract. A person is covered by a plan during a portion of a claim determination period if that person's coverage starts or ends during the claim determination period.

(2) As each claim is submitted, each plan determines its liability and pays or provides benefits based upon allowable expenses incurred to that point in the claim determination period. That determination is subject to adjustment as later allowable expenses are incurred in the same claim determination period.

D. *Closed Panel Plan*—a health maintenance organization (HMO), preferred provider organization (PPO), exclusive provider organization (EPO), or other plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by the plan, and that limits or excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member.

E. *Coordination of Benefits*—a provision establishing an order in which plans pay their claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses.

F. *Custodial Parent*—the parent awarded custody of a child by a court decree. In the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation is the custodial parent.

G. *Hospital Indemnity Benefits*—benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

H. *Plan*—a form of coverage with which coordination is allowed. The definition of plan in the group contract must state the types of coverage that will be considered in applying the COB provision of that contract. The right to include a type of coverage is limited by the rest of this definition. Separate parts of a plan for members of a group that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan.

(1) The definition shown in the model COB provision in Appendix A is an example but any definition that satisfies this subsection may be used.

(2) This regulation uses the term "plan." However, a contract may use "program" or some other term.

(3) Plan may include:

(a) group insurance contracts and group subscriber contracts;

(b) uninsured arrangements of group or group-type coverage;

(c) group or group-type coverage through closed panel plans;

(d) group-type contracts. Group-type contracts are contracts which are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group, including franchise or blanket coverage. Individually underwritten and issued guaranteed renewable policies are not "group-type" even if purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer;

(e) the amount by which group or group-type hospital indemnity benefits exceed \$300 per day;

(f) the medical care components of group long-term care contracts, such as skilled nursing care;

(g) the medical benefits coverage in group, group-type and individual automobile "no fault" and traditional automobile "fault" type contracts; and

(h) medicare or other governmental benefits, as permitted by law, except as provided in Paragraph (4)(i) below. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program.

(4) Plan shall not include:

(a) individual or family insurance contracts;

(b) individual or family subscriber contracts;

(c) individual or family coverage through closed panel plans;

(d) individual or family coverage under other prepayment, group practice and individual practice plans;

(e) group or group-type hospital indemnity benefits of \$300 per day or less;

(f) school accident-type coverages. These contracts cover students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis;

(g) benefits provided in group long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

(h) medicare supplement policies;

(i) a state plan under Medicaid; or

(j) a governmental plan which, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan.

I. *Primary Plan*—a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan is a primary plan if either of the following is true:

(1) the plan either has no order of benefit determination rules, or its rules differ from those permitted by this regulation; or

(2) all plans that cover the person use the order of benefit determination rules required by this regulation, and under those rules the plan determines its benefits first.

J. *Secondary Plan*—a plan that is not a primary plan. If a person is covered by more than one secondary plan, the

order of benefit determination rules of this regulation decide the order in which secondary plans benefits are determined in relation to each other. Each secondary plan shall take into consideration the benefits of the primary plan or plans and the benefits of any other plan which, under the rules of this regulation, has its benefits determined before those of that secondary plan.

K. *This Plan*—in a COB provision, the part of the group contract providing the health care benefits to which the COB provision applies and which may be reduced because of the benefits of other plans. Any other part of the group contract providing health care benefits is separate from this plan. A group contract may apply one COB provision to certain of its benefits (such as dental benefits), coordinating only with similar benefits, and may apply another COB provision to coordinate with other benefits.

#### **Section 4. Use of Model COB Contract Provision**

A. Appendix A contains a model COB provision for use in group contracts. That use is subject to the provisions of Subsections B, C and D below and to the provisions of Section 5.

B. Appendix B is a plain language description of the COB process that explains to the covered person how insurers will implement coordination of benefits. It is not intended to replace or change the provisions that are set forth in the contract. Its purpose is to explain the process by which the two (or more) plans will pay for or provide benefits, how the benefit reserve is accrued and how the covered person may use the benefit reserve.

C. The COB provision (Appendix A) and the plain language explanation (Appendix B) do not have to use the specific words and format shown in Appendix A or Appendix B. Changes may be made to fit the language and style of the rest of the group contract or to reflect differences among plans that provide services, that pay benefits for expenses incurred and that indemnify. No substantive changes are permitted.

D. A COB provision may not be used that permits a plan to reduce its benefits on the basis that:

(1) another plan exists and the covered person did not enroll in that plan;

(2) a person is or could have been covered under another plan, except with respect to Part B of Medicare; or

(3) a person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

E. No plan may contain a provision that its benefits are "always excess" or "always secondary" except in accord with the rules permitted by this regulation.

F. Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider. In most instances, COB does not occur if a covered person is enrolled in two or more closed panel plans and obtains services from a provider in one of the closed panel plans because the other closed panel plan (the one whose providers were not used) has no liability. However, COB may occur during the claim determination period when the covered person receives emergency services that would have been covered by both plans. Then the secondary plan

must use the benefit reserve to pay any unpaid allowable expense.

#### **Section 5. Rules for Coordination of Benefits**

When a person is covered by two or more plans, the rules for determining the order of benefit payments are as follows:

A. The primary plan must pay or provide its benefits as if the secondary plan or plans did not exist.

B. A plan that does not contain a coordination of benefits provision that is consistent with this regulation is always primary. There is one exception: coverage that is obtained by virtue of membership in a group and designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits.

C. A plan may consider the benefits paid or provided by another plan only when it is secondary to that other plan.

D. Order of Benefit Determination. The first of the following rules that describes which plan pays its benefits before another plan is the rule to use:

(1) Non-dependent or Dependent. The plan that covers the person other than as a dependent, for example as an employee, member, subscriber or retiree, is primary and the plan that covers the person as a dependent is secondary. However, if the person is a Medicare beneficiary, and, as a result of the provisions of Title XVIII of the Social Security Act and implementing regulations, Medicare is:

(a) secondary to the plan covering the person as a dependent; and

(b) primary to the plan covering the person as other than a dependent (e.g. a retired employee), then the order of benefits is reversed so that the plan covering the person as an employee, member, subscriber or retiree is secondary and the other plan is primary.

(2) Child Covered Under More Than One Plan

(a) The primary plan is the plan of the parent whose birthday is earlier in the year if:

(i) the parents are married;

(ii) the parents are not separated (whether or not they ever have been married); or

(iii) a court decree awards joint custody without specifying that one parent has the responsibility to provide health care coverage.

(b) If both parents have the same birthday, the plan that has covered either of the parents longer is primary.

(c) If the specific terms of a court decree state that one of the parents is responsible for the child's health care expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with financial responsibility has no coverage for the child's health care services or expenses, but that parent's spouse does, the spouse's plan is primary. This subparagraph shall not apply with respect to any claim determination period or plan year during which benefits are paid or provided before the entity has actual knowledge.

(d) If the parents are not married or are separated (whether or not they ever were married) or are divorced, and there is no court decree allocating responsibility for the child's health care services or expenses, the order of benefit determination among the plans of the parents and the parents' spouses (if any) is:

- (i) the plan of the custodial parent;
- (ii) the plan of the spouse of the custodial parent;
- (iii) the plan of the noncustodial parent; and then
- (iv) the plan of the spouse of the noncustodial parent.

(3) Active or Inactive Employee. The plan that covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) is primary. If the other plan does not have this rule; and if, as a result, the plans do not agree on the order of benefits, this rule is ignored. Coverage provided an individual as a retired worker and as a dependent of that individual's spouse as an active worker will be determined under Subsection B(1).

(4) Continuation Coverage

(a) If a person whose coverage is provided under a right of continuation pursuant to federal or state law also is covered under another plan, the plan covering the person as an employee, member, subscriber or retiree (or as that person's dependent) is primary and the continuation coverage is secondary.

(b) If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

(5) Longer or Shorter Length of Coverage. If the preceding rules do not determine the order of benefits, the plan that covered the person for the longer period of time is primary.

(a) To determine the length of time a person has been covered under a plan, two plans shall be treated as one if the covered person was eligible under the second within 24 hours after the first ended.

(b) The start of a new plan does not include:

- (i) a change in the amount or scope of a plan's benefits;
- (ii) a change in the entity that pays, provides or administers the plan's benefits; or
- (iii) a change from one type of plan to another (such as, from a single employer plan to that of a multiple employer plan).

(c) The person's length of time covered under a plan is measured from the person's first date of coverage under that plan. If that date is not readily available for a group plan, the date the person first became a member of the group shall be used as the date from which to determine the length of time the person's coverage under the present plan has been in force.

(6) If none of the preceding rules determines the primary plan, the allowable expenses shall be shared equally between the plans.

**Section 6. Procedure to be Followed by Secondary Plan**

A. (1) When a plan is secondary, it shall reduce its benefits so that the total benefits paid or provided by all plans during a claim determination period are not more than 100 percent of total allowable expenses. The secondary plan shall

calculate its savings by subtracting the amount that it paid as a secondary plan from the amount it would have paid had it been primary. These savings shall be recorded as a benefit reserve for the covered person and shall be used by the secondary plan to pay any allowable expenses, not otherwise paid, that are incurred by the covered person during the claim determination period. As each claim is submitted, the secondary plan must:

- (a) determine its obligation, pursuant to its contract;
- (b) determine whether a benefit reserve has been recorded for the covered person; and
- (c) determine whether there are any unpaid allowable expenses during that claims determination period.

(2) If there is a benefit reserve, the secondary plan shall use the covered person's recorded benefit reserve to pay up to 100 percent of total allowable expenses incurred during the claim determination period. At the end of the claim determination period the benefit reserve returns to zero. A new benefit reserve must be created for each new claim determination period.

B. The benefits of the secondary plan shall be reduced when the sum of the benefits that would be payable for the allowable expenses under the secondary plan in the absence of this COB provision and the benefits that would be payable for the allowable expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not a claim is made, exceeds the allowable expenses in a claim determination period. In that case, the benefits of the secondary plan shall be reduced so that they and the benefits payable under the other plans do not total more than the allowable expenses.

(1) When the benefits of a plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of the plan.

(2) The requirements of Paragraph B(1) do not apply if the plan provides only one benefit, or may be altered to suit the coverage provided.

**Section 7. Notice to Covered Persons**

A plan shall, in its explanation of benefits provided to covered persons, include the following language: "If you are covered by more than one health benefit plan, you should file all your claims with each plan."

**Section 8. Miscellaneous Provisions**

A. A secondary plan that provides benefits in the form of services may recover the reasonable cash value of the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan that provides benefits in the form of services.

B. (1) A plan with order of benefit determination rules that comply with this regulation (complying plan) may coordinate its benefits with a plan that is "excess" or "always secondary" or that uses order of benefit determination rules that are inconsistent with those contained in this regulation (noncomplying plan) on the following basis:

- (a) if the complying plan is the primary plan, it shall pay or provide its benefits first;

(b) if the complying plan is the secondary plan, it shall, nevertheless, pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the complying plan were the secondary plan. In such a situation, the payment shall be the limit of the complying plan's liability; and

(c) If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the noncomplying plan are identical to its own, and shall pay its benefits accordingly. If, within two years of payment, the complying plan receives information as to the actual benefits of the noncomplying plan, it shall adjust payments accordingly.

(2) If the noncomplying plan reduces its benefits so that the covered person receives less in benefits than he or she would have received had the complying plan paid or provided its benefits as the secondary plan and the noncomplying plan paid or provided its benefits as the primary plan, and governing state law allows the right of subrogation set forth below, then the complying plan shall advance to or on behalf of the covered person an amount equal to the difference.

(3) In no event shall the complying plan advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid for the same expense or service. In consideration of the advance, the complying plan shall be subrogated to all rights of the covered person against the noncomplying plan. The advance by the complying plan shall also be without prejudice to any claim it may have against a noncomplying plan in the absence of subrogation.

C. COB differs from subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

D. If the plans cannot agree on the order of benefits within 30 calendar days after the plans have received all of the information needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be required to pay more than it would have paid had it been primary.

#### **Section 9. Effective Date; Existing Contracts**

A. This regulation is applicable to every group contract that provides health care benefits and that is issued on or after the effective date of this regulation, which is January 1, 1997.

B. A group contract that provides health care benefits and that was issued before the effective date of this regulation shall be brought into compliance with this regulation by the later of:

(1) the next anniversary date or renewal date of the group contract; or

(2) the expiration of any applicable collectively bargained contract pursuant to which it was written.

#### **APPENDIX A**

#### **Model Cob Contract Provisions Coordination of this Group Contract's Benefits with Other Benefits**

This coordination of benefits (COB) provision applies when

a person has health care coverage under more than one plan. "Plan" is defined below.

The order of benefit determination rules below determine which plan will pay as the primary plan. The primary plan that pays first pays without regard to the possibility that another plan may cover some expenses. A secondary plan pays after the primary plan and may reduce the benefits it pays so that payments from all group plans do not exceed 100 percent of the total allowable expense.

#### **Definitions**

A. *Plan*—any of the following that provides benefits or services for medical or dental care or treatment. However, if separate contracts are used to provide coordinated coverage for members of a group, the separate contracts are considered parts of the same plan and there is no COB among those separate contracts.

(1) *Plan* includes: group insurance, closed panel or other forms of group or group-type coverage (whether insured or uninsured); hospital indemnity benefits in excess of \$300 per day; medical care components of group long-term care contracts, such as skilled nursing care; medical benefits under group or individual automobile contracts; and Medicare or other governmental benefits, as permitted by law.

(2) *Plan* does not include: individual or family insurance; closed panel or other individual coverage (except for group-type coverage); amounts of hospital indemnity insurance of \$300 or less per day; school accident type coverage, benefits for nonmedical components of group long-term care policies; Medicare supplement policies, Medicaid policies and coverage under other governmental plans, unless permitted by law.

Each contract for coverage under (1) or (2) is a separate plan. If a plan has two parts and COB rules apply only to one of the two, each of the parts is treated as a separate plan.

B. The order of benefit determination rules determine whether this plan is a "primary plan" or "secondary plan" when compared to another plan covering the person.

When this plan is primary, its benefits are determined before those of any other plan and without considering any other plan's benefits. When this plan is secondary, its benefits are determined after those of another plan and may be reduced because of the primary plan's benefits.

C. *Allowable Expense*—a health care service or expense, including deductibles and copayments, that is covered at least in part by any of the plans covering the person. When a plan provides benefits in the form of services, (for example an HMO) the reasonable cash value of each service will be considered an allowable expense and a benefit paid. An expense or service that is not covered by any of the plans is not an allowable expense. The following are examples of expenses or services that are not allowable expenses:

(1) If a covered person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room, (unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice, or one of the plans routinely provides coverage for hospital private rooms) is not an allowable expense.

(2) If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees, any amount in excess of the highest of the usual and customary fees for a specific benefit is not an allowable expense.

(3) If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, an amount in excess of the highest of the negotiated fees is not an allowable expense.

(4) If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangements shall be the allowable expense for all plans.

(5) The amount a benefit is reduced by the primary plan because a covered person does not comply with the plan provisions. Examples of these provisions are second surgical opinions, precertification of admissions, and preferred provider arrangements.

**D. Claim Determination Period**—a calendar year. However, it does not include any part of a year during which a person has no coverage under this plan, or before the date this COB provision or a similar provision takes effect.

**E. Closed Panel Plan**—is a plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by the plan, and that limits or excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member.

**F. Custodial Parent**—a parent awarded custody by a court decree. In the absence of a court decree, it is the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation.

#### **Order of Benefit Determination Rules**

When two or more plans pay benefits, the rules for determining the order of payment are as follows:

A. The primary plan pays or provides its benefits as if the secondary plan or plans did not exist.

B. A plan that does not contain a coordination of benefits provision that is consistent with this regulation is always primary. There is one exception: coverage that is obtained by virtue of membership in a group that is designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits.

C. A plan may consider the benefits paid or provided by another plan in determining its benefits only when it is secondary to that other plan.

D. The first of the following rules that describes which plan pays its benefits before another plan is the rule to use.

(1) **Non-dependent or Dependent.** The plan that covers the person other than as a dependent, for example as an employee, member, subscriber or retiree is primary and the plan that covers the person as a dependent is secondary.

However, if the person is a Medicare beneficiary and, as a result of federal law, Medicare is secondary to the plan covering the person as a dependent; and primary to the plan covering the person as other than a dependent (e.g. a retired employee); then the order of benefits between the two plans is reversed so that the plan covering the person as an employee, member, subscriber or retiree is secondary and the other plan is primary.

(2) **Child Covered Under More Than One Plan.** The order of benefits when a child is covered by more than one plan is:

(a) The primary plan is the plan of the parent whose birthday is earlier in the year if:

(i) the parents are married;

(ii) the parents are not separated (whether or not they ever have been married); or

(iii) a court decree awards joint custody without specifying that one party has the responsibility to provide health care coverage.

If both parents have the same birthday, the plan that covered either of the parents longer is primary.

(b) If the specific terms of a court decree state that one of the parents is responsible for the child's health care expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. This rule applies to claim determination periods or plan years commencing after the plan is given notice of the court decree.

(c) If the parents are not married, or are separated (whether or not they ever have been married) or are divorced, the order of benefits is:

(i) the plan of the custodial parent;

(ii) the plan of the spouse of the custodial parent;

(iii) the plan of the noncustodial parent; and then

(iv) the plan of the spouse of the noncustodial parent.

(3) **Active or Inactive Employee.** The plan that covers a person as an employee who is neither laid off nor retired, is primary. The same would hold true if a person is a dependent of a person covered as a retiree and an employee. If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored. Coverage provided an individual as a retired worker and as a dependent of an actively working spouse will be determined under the rule labeled B(1).

(4) **Continuation Coverage.** If a person whose coverage is provided under a right of continuation provided by to federal or state law also is covered under another plan, the plan covering the person as an employee, member, subscriber or retiree (or as that person's dependent) is primary, and the continuation coverage is secondary. If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

(5) **Longer or Shorter Length of Coverage.** The plan that covered the person as an employee, member, subscriber or retiree longer is primary.

(6) If the preceding rules do not determine the primary plan, the allowable expenses shall be shared equally between the plans meeting the definition of plan under this regulation.

In addition, this plan will not pay more than it would have paid had it been primary.

#### **Effect on the Benefits of this Plan**

A. When this plan is secondary, it may reduce its benefits so that the total benefits paid or provided by all plans during a claim determination period are not more than 100 percent of total allowable expenses. The difference between the benefit payments that this plan would have paid had it been the primary plan, and the benefit payments that it actually paid or provided shall be recorded as a benefit reserve for the covered person and used by this plan to pay any allowable expenses, not otherwise paid during the claim determination period. As each claim is submitted, this plan will:

(1) determine its obligation to pay or provide benefits under its contract;

(2) determine whether a benefit reserve has been recorded for the covered person; and

(3) determine whether there are any unpaid allowable expenses during that claims determination period.

If there is a benefit reserve, the secondary plan will use the covered person's benefit reserve to pay up to 100 percent of total allowable expenses incurred during the claim determination period. At the end of the claims determination period, the benefit reserve returns to zero. A new benefit reserve must be created for each new claim determination period.

B. If a covered person is enrolled in two or more closed panel plans and if, for any reason, including the provision of service by a non-panel provider, benefits are not payable by one closed panel plan, COB shall not apply between that plan and other closed panel plans.

#### **Right to Receive and Release Needed Information**

Certain facts about health care coverage and services are needed to apply these COB rules and to determine benefits payable under this plan and other plans. [Organization responsibility for COB administration] may get the facts it needs from or give them to other organizations or persons for the purpose of applying these rules and determining benefits payable under this plan and other plans covering the person claiming benefits. [Organization responsibility for COB administration] need not tell, or get the consent of, any person to do this. Each person claiming benefits under this plan must give [Organization responsibility for COB administration] any facts it needs to apply those rules and determine benefits payable.

#### **Facility of Payment**

A payment made under another plan may include an amount that should have been paid under this plan. If it does, [Organization responsibility for COB administration] may pay that amount to the organization that made that payment. That amount will then be treated as though it were a benefit paid under this plan. [Organization responsibility for COB administration] will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

#### **Right of Recovery**

If the amount of the payments made by [Organization responsibility for COB administration] is more than it should

have paid under this COB provision, it may recover the excess from one or more of the persons it has paid or for whom it has paid; or any other person or organization that may be responsible for the benefits or services provided for the covered person. The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

### **APPENDIX B**

#### **CONSUMER EXPLANATORY BOOKLET COORDINATION OF BENEFITS**

##### **IMPORTANT NOTICE**

*This is a summary of only a few of the provisions of your health plan to help you understand coordination of benefits, which can be very complicated. This is not a complete description of all the coordination rules and procedures, and does not change or replace the language contained in your insurance contract, which determines your benefits.*

##### **Double Coverage**

It is common for family members to be covered by more than one health care plan. This happens, for example, when a husband and wife both and choose to have family coverage through both employers.

When you are covered by more than one group health plan, state law permits your insurers to follow a procedure called "coordination of benefits" to determine how much each should pay when you have a claim. The aim is to make sure that the combined payments of all plans do not add up to more than your covered health care expenses.

Coordination of benefits (COB) is complicated, and covers a wide variety of circumstances. This is only an outline of some of the most common ones. If your situation is not described, read your evidence of coverage or contact your state insurance department.

##### **Primary or Secondary?**

You will be asked to identify all the plans that cover family members. We need this information to determine whether we are "primary" or "secondary." The primary plan always pays first.

Any plan which does not contain your state's coordination of benefits rules will always be primary.

##### **When this Plan Is Primary**

If you or a family member are covered under another plan in addition to this one, we will be primary when;

##### **Your Own Expenses**

The claim is for your own health care expenses, unless you are covered by Medicare and both you and your spouse are retired.

##### **Your Spouse's Expenses**

The claim is for your spouse, who is covered by Medicare, and you are not both retired.

##### **Your Child's Expenses**

A. The claim is for the health care expenses of a child covered by this plan and;

B. your birthday is earlier in the year than your spouse's. This is known as the "birthday rule," or

C. you are not married and you have informed us of a court decree that makes you responsible for the child's health care expenses; or

D. there is no court decree, but you have custody of the child.

#### Other Situations

We will be primary when any other provisions of state or federal law require us to be.

#### How We Pay Claims When We Are Primary

When we are the primary plan, we will pay the benefits provided by your contract, just as if you had no other coverage.

#### How We Pay Claims When We Are Secondary

We will be secondary whenever the rules do not require us to be primary.

#### How We Pay Claims When We Are Secondary

When we are the secondary plan, we do not pay until after the primary plan has paid its benefits. We will then pay part or all of the allowable expenses left unpaid. An "allowable expense" is a health care service or expense covered by one of the plans, including copayments and deductibles.

1. If there is a difference between the amount the plans allow, we will base our payment on the higher amount. However, if the primary plan has a contract with the provider, our combined payments will not be more than the contract calls for. Health maintenance organizations (HMO) and preferred provider organizations (PPO) usually have contracts with their providers.

2. We will determine our payment by subtracting the amount the primary plan paid from the amount we would have paid if we had been primary. We will use any savings to pay the balance of any unpaid allowable expenses covered by either plan.

3. If the primary plan covers similar kinds of health care, but allows expenses that we do not cover, we will pay for those items as long as there is a balance in your benefit reserve, as explained below.

4. We will not pay an amount the primary plan didn't cover because you didn't follow its rules and procedures. For example, if your plan has reduced its benefit because you did not obtain pre-certification, we will not pay the amount of the reduction, because it is not an allowable expense.

#### Benefit Reserve

When we are secondary we often will pay less than we would have paid if we had been primary. Each time we "save" by paying less, we will put that savings into a benefit reserve. Each family member covered by this plan has a separate benefit reserve.

1. We use the benefit reserve to pay allowable expenses that are covered only partially by both plans. To obtain a reimbursement, you must show us what the primary plan has paid so we can calculate the savings.

2. To make sure you receive the full benefit or coordination, you should submit all claims to each of your plans.

3. Savings can build up in your reserve for one year. At the end of the year any balance is erased, and a fresh benefit reserve begins for each person the next year as soon as there are savings on their claims.

#### Questions about Coordination of Benefits? Contact Your State Insurance Department

A public hearing on this proposed regulation will be held on September 24, 1996 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, LA, at 8:30 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Lester Dunlap, Assistant Commissioner, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-5415. Comments will be accepted through the close of business at 4:30 p.m. September 24, 1996.

James H. "Jim" Brown  
Commissioner

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 32—Coordination of Benefits

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the adoption of proposed Regulation 32 would result in any implementation costs (savings) to the Department of Insurance; however, should any costs result from the adoption of Regulation 32, such costs would be absorbed by the Department of Insurance within its existing appropriation.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the adoption of proposed Regulation 32 will result in any impact on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of proposed Regulation 32 should eliminate the duplication of benefits by permitting a reduction of benefits to be paid by plans that, pursuant to rules established by this regulation, do not have to pay their benefits first and should reduce the claim-payment delays; however, there is insufficient data available at this time to determine the extent of any economic benefits to insurers or to insureds.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that adoption of Regulation 32 would have any effect on employment or competition.

Brenda St. Romain  
Assistant Commissioner/  
Management and Finance  
9608#075

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

#### NOTICE OF INTENT

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

Civil Penalties, Significant Services, Standards of Conduct and Ethics, and Definitions (LAC 42)

The Gaming Control Board hereby gives notice that it intends to adopt initial rules 105-107 and to amend the definition of key employee provided in LAC 42:XIII.1701, in



accordance with R.S. 27:1 et seq, and the Administrative Procedure Act, R.S. 49:950 et seq.

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

All interested persons may contact Tom Warner, Deputy Director, Attorney General's Gaming Division, telephone (504) 342-2465; and may submit written comments relative to these proposed rules through September 9, 1996, to 339 Florida Boulevard, Suite 402, Baton Rouge, LA 70801.

Hillary J. Crain  
Chairman

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Civil Penalties, Significant Services, Standards of Conduct and Ethics, and Definitions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs to state or local government units estimated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no effect on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No costs and/or economic benefits to directly affected persons or nongovernmental groups is estimated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition or employment is estimated.

Hillary J. Crain  
Chairman  
9608#074

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

#### NOTICE OF INTENT

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

Definitions; License Issuance/Renewal;  
Hearings, Chairman Delegation (LAC 42)

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt initial rules 101-104 in accordance with R.S. 27:1 et seq, and the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 42 LOUISIANA GAMING

##### §101. Definitions

*Board*—the Louisiana Gaming Control Board.

*Chairman*—the chairman of the Louisiana Gaming Control Board.

*Department*—the Department of Public Safety, Office of State Police.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

##### §102. Issuance and Renewal of Licenses by the Department

The department is authorized to issue to qualified applicants, non-key gaming employee permits and nongaming vendors' licenses, and to renew licenses for the operation of video draw poker devices at facilities with no more than three video draw poker devices at their licensed establishment. The department is authorized to determine the applicants' qualifications in accordance with law, including but not limited to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., and rules promulgated in accordance therewith, when such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

##### §103. Hearings on Rule 102 Disputes

A. Any person required to be licensed or permitted by the department by authority of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and whose license or permit, or the renewal thereof, has been denied by the department, may request a hearing by the board by filing a written request with the board. The request must be filed within 10 days of receipt of the certified mailing of the denial, or where the notice of denial has been personally served by the department, 10 days from service of the notice.

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

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

C. The board may reverse or modify an action if it finds that the action of the department, under facts determined by the board, was contrary to any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., or was contrary to the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., or the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., and any rules promulgated in accordance therewith, when such laws and rules are not in conflict with the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

**§104. Delegation to Chairman**

A. The chairman is authorized to exercise all powers and authority of the board except that the chairman shall not:

1. enter into contracts in excess of \$100,000;
2. adopt rules;
3. enter into the casino operating contract on behalf of the Louisiana Gaming Control Board;
4. issue a riverboat gaming operator license, provided that the chairman may determine that conditions imposed on a conditionally licensed riverboat gaming operator have been met;
5. approve changes of the berth or design specifications of a riverboat; or
6. approve transfers of ownership interests in a riverboat gaming operator licensee, the casino gaming operator, or a qualified video poker truck stop facility.

B. Any decision, order, or ruling of the chairman exercised pursuant to the provisions of this Rule shall be subject to veto as provided by the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

All interested persons may contact Tom Warner, Deputy Director, Attorney General's Gaming Division (504) 342-2465 and may submit written comments relative to these proposed rules through September 9, 1996, to 339 Florida Boulevard, Suite 402, Baton Rouge, LA 70801.

Hillary J. Crain  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Definitions, Issuance and Renewal of  
Licenses, Hearings, Delegation to Chairman**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs to state or local governmental units estimated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no effect on revenue collections of state or local government units estimated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No costs and/or economic benefits to directly affected persons or nongovernmental groups is estimated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition or employment is estimated.

Hillary J. Crain  
Chairman  
9608#073

H. Gordon Monk  
Chief Coordinator to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

Explosive Code (LAC 55:I.Chapter 15)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, proposes to repeal and repromulgate the Explosive Code, LAC 55:I.1501 et seq. as authorized by R.S. 40:1472.1 et seq. and in accordance with R.S. 49:950 et seq.

The full text of this proposed rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA; telephone (504)342-5015. Please refer to document number 9608#038 when inquiring about this proposed rule.

Interested persons may submit written comments to Paul Schexnayer, Attorney, Department of Public Safety and Corrections, Office of State Police, Legal Section, Box 66614, Baton Rouge, LA 70896.

Colonel William "Rut" Whittington  
Superintendent

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Explosive Code**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no implementation cost (savings) to state and 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 additional cost to the affected groups. These are updates of existing rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Thomas Normile  
Undersecretary  
9608#038

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue and Taxation  
Income Tax Division**

Inheritance and Estate Transfer Taxes (LAC 61:I.1701)

Under the authority of Revised Statute 47:2420 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue and Taxation proposes to adopt LAC

61:I.1701 concerning the interest on delinquent inheritance and estate transfer taxes.

This proposed regulation establishes the instances when interest on inheritance and estate transfer tax payments may be waived and the procedures to be followed to obtain waiver of interest.

#### **Title 61**

### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation**

#### **Chapter 17. Inheritance and Estate Transfer Tax §1701. Extension of Time to File; Waiver of Interest**

A. Definitions. For the purposes of this Section, the following terms are defined:

*Bona Fide Contested*—instances when the right of any heir or legatee to receive an inheritance or legacy is contested in the succession proceeding.

*Ignorant of the Inheritance*—instances when the heir, legatee, or beneficiary lacked knowledge of either his right to inherit or of the property to be inherited.

B. Waiver of Interest. Interest on inheritance and estate transfer taxes may be waived by the secretary if the settlement of the succession is bona fide contested or the beneficiary was ignorant of the inheritance. Beneficiaries or their legal representative requesting waiver of interest must make written application to the secretary including the reasons why waiver of interest should be granted.

C.1. Extension of Time to File. In all cases in which reasonable cause is established to the satisfaction of the court having jurisdiction over the succession, an extension of time to file an inheritance tax return without the payment of interest may be granted.

2. When it is shown that an estate is required to file a federal estate tax return, such fact shall be deemed reasonable cause for granting an extension to file without the payment of interest not to exceed 15 months from the date of death.

3. An application for an extension to file a return must be submitted to the court prior to the time that the tax becomes due. An extension of time to file a return without the payment of interest for periods exceeding 15 months from the date of death may be granted by the court if the secretary consents or is made a party to the proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2420.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Division, LR 22:

All interested persons may submit data, views, or arguments, in writing to Kenneth Comeaux, Director of the Income Tax Division, Department of Revenue and Taxation, Box 201, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m. Thursday, September 26, 1996. A public hearing will be held on Friday, September 27, 1996 at 10 a.m. in the Department of Revenue and Taxation secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Kenneth Comeaux  
Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Inheritance and Estate Transfer Taxes**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no impact on the department's costs to administer the inheritance tax laws.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is expected that state revenues will increase due to a reduction in the number of waivers of interest on inheritance taxes. The amount of the increases is estimated to be a minimum of \$250,000 per year.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Beneficiaries of inherited property who do not timely file and pay their inheritance tax must pay interest on the tax at the statutory interest rate. The amount of the increase is estimated to be a minimum of \$250,000 per year.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There should be no fiscal impact on competition or employment.

John Neely Kennedy  
Secretary  
9608#070

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

#### **NOTICE OF INTENT**

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

#### **Food Stamp Program (LAC 67:III.1978 and 2011)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

Pursuant to F.R. 61:19155-19160 of the United States Department of Agriculture, Food and Consumer Service, the Office of Family Support intends to prohibit an increase in food stamp benefits when a household's benefit from another federal, state or local means-tested assistance program decreases as a result of a penalty imposed on the household for intentionally failing to comply with a requirement of the other program. Previously, this special treatment of income applied only to decreases resulting from a recoupment of benefits attributed to an intentional program violation. This regulatory change was deemed necessary to more fully implement congressional intent that the Food Stamp Program reinforce, not mitigate, another program's penalties.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 3. Food Stamps**

#### **Chapter 19. Certification of Eligible Households**

#### **Subchapter I. Income and Deductions**

#### **§1978. Income Decreased for Failure to Comply with Another Program**

A. Effective November 27, 1996, an increase in food stamp benefits is prohibited when a household's benefit from

another federal, state or local means-tested assistance program is decreased (reduced, suspended or terminated) due to an intentional failure to comply with a requirement of the program that imposed the benefit decrease.

B. The procedures for determining food stamp benefits when there is such a decrease in income are as follows:

1. When a recipient's benefits under a federal, state, or local means-tested program (such as but not limited to SSI or AFDC) is decreased due to intentional noncompliance, the Food Stamp Program identifies that portion of the decrease which is a penalty.

2. OFS calculates the food stamp benefits using the benefit amount which would be issued by that program if a penalty had not decreased the recipient's benefit.

AUTHORITY NOTE: Promulgated in accordance with F.R. 61:19155 et seq., 7 CFR 272.1, 273.9 and 273.11.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:

### **Subchapter R. Claims Against Households**

#### **§2011. Recoupments for Intentional Non-compliance**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 49:48677 et seq., 7 CFR 273.18.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:95 (February 1985), LR 11:349 (April 1985), repealed by the Department of Social Services, Office of Family Support, LR 22:

Interested persons may submit written comments within 30 days to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 25, 1996 in the Second Floor Auditorium of the Department of Social Services, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call 504-342-4120 (Voice and TDD).

Madlyn B. Bagneris  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Food Stamp Program**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation costs to state government total approximately \$404, which includes the charge for publishing this notice and final rule (approximately \$200), the printing costs for publishing an Executive Bulletin (approximately \$29 for 2 pages) as well as revisions to Chapter 4, Financial Assistance Manual (approximately \$175 for 22 pages) to inform staff about the new requirements and procedures.

Revision will also be necessary to the following form: Form OFS 4, Application for Assistance. This change, however, can

be made at approximately the same time that the form reaches a low stock point in the warehouse and would need to be reprinted anyway. Therefore, the implementation costs relative to the form revision would be negligible.

The rule has no economic impact on local governmental units.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will prohibit an increase in food stamp benefits for households who intentionally fail to comply with a requirement of a federal, state or local means-tested program.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposal will have no impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9608#072

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

#### **NOTICE OF INTENT**

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

#### **JOBS Program (LAC 67:III.2911)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 5, Job Opportunities and Basic Skills Training Program.

Under the authority of 45 CFR 250.63(k) which allows a state to design and provide a work experience program for participants, the JOBS Program, known in Louisiana as Project Independence, proposes to expand the availability of work activities previously limited to the AFDC-unemployed parents population, in order to provide more opportunity to a wider range of people for worksite experience. This amendment only removes that limitation.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 5. Job Opportunities and Basic Skills Training Program**

#### **Chapter 29. Organization**

#### **Subchapter C. Activities and Services**

#### **§2911. Program components**

A.1. - 7. ...

8. Independence through Work. This is unsalaried job experience and training at clearly defined, well-supervised worksites, excluding private homes and worksites that do not lead to gainful employment. The minimum scheduled participation must be 20 hours per week.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR 250.63, 250.33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Office of Family Support, LR 17:1227

(December 1991), LR 19:504 (April 1993), LR 20:1130 (October 1994), LR 22:

Interested persons may submit written comments within 30 days to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 25, 1996 in the Second Floor Auditorium at the Department of Social Services, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: JOBS Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no costs associated with this rule other than state cost of approximately \$250 for publishing and printing the material necessary to effect the rule. The Independence through Work Component (ITW) is being expanded to include the AFDC-Basic population. The JOBS Program will require no increased funding to effect this change. There is no savings to the state or any local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will have no effect on revenue collections for either.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The rule produces no cost nor any anticipated economic benefit to any persons or nongovernmental groups, although the goal of the rule is long-range economic benefit for the participant through employment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated impact on competition or employment.

Vera W. Blakes  
Assistant Secretary  
9608#071

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Public Works**

**Dam Safety Program (LAC 70:XIII.Chapter 21)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and

Development intends to promulgate a rule entitled "Louisiana Dam Safety Program", in accordance with R.S. 38:24.

The full text of this proposed rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA; telephone (504)342-5015. Please refer to document number 9608#067 when inquiring about this proposed rule.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this notice of intent. Such comments should be submitted to the Public Works and Flood Control Directorate, Box 94245, Baton Rouge, LA 70804-9245, (504)379-1437.

Frank M. Denton  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Dam Safety Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The Dam Safety Program has been in existence since 1981; therefore, no additional employees are necessary to implement the program. There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
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)  
The Dam Safety Program benefits Louisiana citizens who purchase flood insurance. Federal Emergency Management Administration (FEMA) recognition of this program has caused the lowering of flood insurance rates.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition or employment.

Frank M. Denton  
Secretary  
9608#067

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Plan Document—Private Duty Nursing, Organ Transplants,  
Well Child Care

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate

rules with respect thereto, the Board of Trustees hereby gives notice of intent to amend the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document to provide for utilization management of benefits for private duty nursing services in order to assure that such services are available and provided when medically required, to clarify benefit limitations for transportation expenses associated with organ transplant procedures in light of recent litigation, and to extend well child care benefits until attainment of age 16 in order to promote the health and welfare of covered dependent children of employees.

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

Interested persons may present their views, in writing, to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, September 20, 1996.

James R. Plaisance  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Plan Document—Private Duty Nursing, Organ Transplants, Well Child Care

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the cost of these plan document amendments will cost the state and/or local governmental units from \$73,000 to \$134,000 in the first fiscal year. This rule change is to be effective June 13, 1996.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and/or local governmental units will not be affected.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The economic benefit of this rule change will be to plan members of the State Employees Group Benefits Program that utilize the well-child benefit that has been expanded to include children between the ages of 6 and 16. These children have previously been excluded from the well-child benefit. The impact of the changes associated with private duty nursing, and organ transplant transportation charges should be cost neutral.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

James R. Plaisance  
Executive Director  
9608#055

H. Gordon Monk  
Chief Coordinator of the  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Oyster Lease Moratorium for New Acreage (LAC 76:VII.Chapter 5)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend LAC 76:VII.500 relative to the oyster lease moratorium.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 5. Oyster

##### §500. Oyster Lease Moratorium for New Acreage

A. A moratorium on the taking of new oyster lease applications for new acreage is established and will extend through January 4, 1998.

B. The moratorium for the taking of oyster lease applications established by the Wildlife and Fisheries Commission in 1996 will be lifted on January 5, 1998. At that time, applications for oyster leases will be accepted in accordance with all applicable statutes, rules and regulations and the procedures set out below. One week prior to the date the moratorium is lifted, the date, time and place where applications are to be taken will be publicly advertised. For the purpose of and only for the purpose of this lifting of the moratorium, the New Orleans Canal Street Office will not be the site for taking applications.

C. On the date for taking of applications only one applicant at a time will be allowed in to the office and this applicant will be allowed to take only one application. Each applicant will have 15 minutes to designate the area he wishes to apply for.

D. After the applicant pays the application and survey fees, he may return to the end of the line for another application.

E. Applications will be taken 24 hours a day (on a first come basis) until the department feels the influx of people can be handled during regular office hours at the New Orleans Office, at which time anyone will be able to take an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:808 (August 1991), amended LR 22:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the amended rule to Mr. Philip Bowman, Programs Manager,

Glynn Carver  
Chairman

Fredrick J. Prejean, Sr.  
Undersecretary  
9608#024

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: New Oyster Lease Applications for New  
Acreage**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no additional costs to the state or local governmental units as a result of placing a moratorium on the taking of new oyster lease applications for new acreage.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Given the current rate of revenue collections from new oyster lease applications, it is estimated that approximately \$150,000 annually will be foregone. Rental revenues from the newly approved oyster leases of \$2 per acre will not be collected and could amount to as much as \$52,868 per year. Decrease in revenue collections from new oyster lease application fees and rental of new oyster lease acreage for fiscal years 1995-96, 1996-97 and 1997-98 are estimated at \$150,000, \$112,868, and \$0.00, respectively. These estimates are based on previous fiscal year revenue collection data. In addition, an undeterminable severance tax amount of two and a half cents per oyster barrel harvested on these newly leased areas will be foregone due to the moratorium.

No measurable effects on revenue collections from local governmental units are anticipated from the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR  
NONGOVERNMENTAL GROUPS (Summary)**

There will be no measurable increase in direct costs to oyster fishermen and no increase in workload or paperwork due to the proposed rule.

The proposed rule will not affect the harvest or sale of oysters by oystermen. However, those individuals wishing to lease water bottom from the state, for the purpose of cultivating oysters, may experience a slight negative impact in future revenues due to the moratorium placed on the taking of new oyster lease applications for new areas. This will curtail production activities during the moratorium period by prohibiting the expansion of new private oyster grounds. The exact amount of this impact cannot be estimated at this time.

Long-term economic benefits of an undetermined magnitude may occur in Louisiana's recreational and commercial fishing and hunting industries from coastal restoration projects by reducing the erosion of wildlife and fishery habitats and the creation of new habitats as well as storm protection in certain areas of Louisiana. The probability or dimensions of the possible benefits from these coastal restoration projects cannot be estimated at this time.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

Currently there are approximately 3,000 oyster fishermen in the state of Louisiana, over 382,000 acres of private leases and over 2 million acres of public oyster seed grounds and oyster seed reservations. Thus, it is anticipated that based on the time limitation of the moratorium, the proposed rule will have very

little effect on competition or present employment. Buyers and processors in the oyster industry may experience a slight increase in competition due to the curtailment of oyster production caused by the proposed moratorium.

## Potpourri

### POTPOURRI

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

#### Landscape Architect Examination

The Landscape Architect Registration Examination will be given December 8-9, 1996 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending application and fee is October 4, 1996.

Further information pertaining to the examination may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504/925-7772.

Any individual requesting special accommodations due to a disability should notify our office prior to October 4, 1996. Questions may be directed to 504/925-7772.

Bob Odom  
Commissioner

9608#081

### POTPOURRI

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

#### Retail Floristry Examination

The next retail floristry examination will be given October 21-25, 1996, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is September 24, 1996. No applications will be accepted after September 24, 1996.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone 504/925-7772.

Any individual requesting special accommodations due to a disability should notify our office prior to September 24, 1996. Questions may be directed to 504/925-7772.

Bob Odom  
Commissioner

9608#082

**POTPOURRI**

**Department of Health and Hospitals  
Board of Medical Examiners**

Hearing—Physicians and Surgeons Licensing  
(LAC 46:LXV.301-431)

Notice is hereby given, pursuant to R.S. 49:968(H)(2), that the Board of Medical Examiners will convene and hold a public hearing at 3 p.m., Thursday, September 19, 1996, at the offices of the board, 630 Camp Street, New Orleans, LA, for the purpose of receiving public comment on substantive changes which the board proposes to make to amendments of its existing rules governing the licensure of physicians and surgeons, previously noticed for adoption by notice of intent published in the November 20, 1995, edition of the *Louisiana Register*, 21 LR 1284-85. Interested persons may obtain a copy of the proposed changes from, and may submit written comments to, Delmar Rorison, Executive Director, Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, telephone (504) 524-6763.

At the scheduled public hearing all interested persons will be afforded an opportunity to make comments on the proposed changes. Written comments will be accepted through the close of business on the day of the hearing.

Delmar Rorison  
Executive Director

9608#078

**POTPOURRI**

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

Nursing Facility Reimbursement

Effective with dates of service July 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has established the following rates for the following levels of care:

Level of Care	Daily	Monthly
Skilled Nursing	\$ 63.15	\$1,920.81
Intermediate Care I	\$ 60.51	\$1,840.51
Intermediate Care II	\$ 60.51	\$1,840.51
Skilled Nursing - Infectious Disease	\$243.25	\$7,398.85
Skilled Nursing - Technology Dependent Care	\$153.20	\$4,659.83

It should be noted that the above rates include a provider fee of \$3.78. If additional information is required, please contact John Marchand at (504) 342-6116.

Bobby P. Jindal  
Secretary

9608#034

**POTPOURRI**

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

Private Intermediate Care Facilities

Effective with dates of service July 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adjusted the following rates, which include a provider fee of \$9.76, for the following levels of care:

Level of Care	1-8 Beds per Diem Rate	1-8 Beds Monthly Rate	9-32 Beds per Diem Rate	9-32 Beds Monthly Rate	33+beds per Diem Rate	33+beds Monthly Rate
2	\$123.56	\$3,758.28	\$ 89.30	\$2,716.21	\$ 75.68	\$2,301.93
3	\$132.02	\$4,015.61	\$ 97.07	\$2,952.55	\$ 82.26	\$2,502.08
4	\$135.20	\$4,112.33	\$105.51	\$3,209.26	\$ 89.41	\$2,719.55
5	\$135.95	\$4,135.15	\$114.68	\$3,488.18	\$ 97.18	\$2,955.89
6	\$140.56	\$4,275.37	\$124.65	\$3,791.44	\$117.46	\$3,572.74
7	\$161.85	\$4,922.94	\$157.33	\$4,785.45	\$126.86	\$3,858.66

If additional information is required, please contact John Marchand at (504) 342-6116.

Bobby P. Jindal  
Secretary

9608#035

**POTPOURRI**

**Department of Labor  
Office of Workers' Compensation**

Average Weekly Wage

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum worker's compensation weekly benefit amount will be based effective September 1, 1996 has been determined by the Department of Labor to be \$464.67.

Robin M. Houston  
Secretary

9608#079



**POTPOURRI**

**Department of Labor  
Office of Workers' Compensation**

**Weekly Compensation Benefits Limits**

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Department of Labor, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 1996 through August 31, 1997.

Average Weekly Wage	Maximum Compensation	Minimum Compensation
\$464.67	\$349.00	\$93.00

Robin M. Houston  
Secretary

9608#080

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OFFICE OF THE STATE REGISTER INSERTION ORDER (eff. 7/96)

1051 North Third Street Post Office Box 94095
Baton Rouge, LA 70804-9095 (504)342-5015 FAX 342-1057

(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)

[ ] EMERGENCY RULE (ER); [ ] NOTICE OF INTENT (NOI); [ ] RULE; [ ] POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

is your authority to publish in the (month) \_\_\_\_\_, 19 \_\_\_\_ Louisiana Register the document indicated above.

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Department under which office/board/commission is classified

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\*If sending a diskette, indicate the name of the file on diskette:

Important: If submitting both an ER and a NOI to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here: [ ]

Signature of Agency Head or Designee

Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # \_\_\_\_\_

ACS AGENCY: I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

AGENCY ORGANIZATION # OBJECT SUB-OBJECT REPORTING CATEGORY

NON-FACS AGENCY: I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Signature of Agency Head or Designee - Phone #

Agency Name

Street Address or Post Office Box

City ST Zipcode

Office of the State Register Use Only

1/4 PG + \_\_\_ Lines 1/2 PG + \_\_\_ Lines 3/4 PG + \_\_\_ Lines

Full PG(s) + \_\_\_ Lines Typesetting \_\_\_ TOTAL \_\_\_

**EMERGENCY RULE (ER) INSTRUCTIONS:**

- 1) For an ER which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI), send the **new ER** on \*diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.
- 2) For an ER which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous ER or as a NOI):
  - a) if **MINOR REVISIONS** are made, XEROX a copy of the previous ER or NOI from the *Louisiana Register*, and show changes/revisions with a red pen; or
  - \*b) if **MAJOR REVISIONS** are made, send a **new ER** on \*diskette and include in this order: opening/introductory paragraphs containing effective date and number of days ER in effect; and rule text in LAC codified form with updated Authority and Historical Notes.

**NOTICE OF INTENT (NOI) INSTRUCTIONS:**

- 1) For a NOI which **HAS NOT BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):
  - a) send the **new NOI** on \*diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.
- 2) For a NOI which **HAS BEEN PUBLISHED** in the *Louisiana Register* within recent months (either as a previous NOI or as an ER):
  - a) if **MINOR REVISIONS** are made, XEROX a copy of the previous NOI or ER from the *Louisiana Register*, and show changes/revisions with a red pen; send a \*diskette with opening/introductory paragraphs; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures; **OR**
  - \*b) if **MAJOR REVISIONS** are made, send a **new NOI** on \*diskette and include, in this order: opening/introductory paragraphs; rule text in LAC codified form with updated Authority and Historical Notes; interested persons paragraph; and public hearing paragraph (if one is scheduled). **ALSO** send first page of fiscal statement containing **ORIGINAL** signatures.

**RULE INSTRUCTIONS:**

- 1) If the NOI was published in full (rule text included) XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen.
- 2) If the NOI referenced the reader to rule text in an ER, XEROX the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and XEROX the entire ER from the *Louisiana Register* (including page numbers and document number at the end of the document); show changes/revisions with a red pen.
- 3) If the NOI was referenced (rule text was not printed) xerox the entire NOI from the *Louisiana Register* (including page numbers and document number at the end of the fiscal statement) and show changes/revisions with a red pen. **IMPORTANT: if changes/revisions have been made to the unpublished rule text since it was originally proposed through the NOI, send a NEW \*diskette of the rule text with all changes incorporated into the document.**

**POTPOURRI INSTRUCTIONS:**

Send a \*diskette containing the document.