

## CONTENTS

### I. EXECUTIVE ORDERS

EWE 92-57—Transfers Louisiana Imports and Exports Authority and its Functions to the Louisiana Public Facilities Authority	1038
EWE 92-58—Leave Policies for Unclassified State Employees	1038
EWE 92-59—Inspector General's Authority and Responsibilities	1042
EWE 92-60—Insurance Department Office Space	1043
EWE 92-61—Louisiana Emergency Response Commission Membership	1043
EWE 92-62—Hurricane Andrew JTPA Cleanup in St. Mary Parish	1043
EWE 92-63—Governor's Task Force on Navigability and Public Access	1044
EWE 92-64—Governor's Task Force on Multiple-Drug Resistant Tuberculosis	1044
EWE 92-65—Land Acquisition Task Force Additional Members	1045
EWE 92-66—Hurricane Andrew JTPA Cleanup in Iberia Parish	1045
EWE 92-67—Hurricane Andrew JTPA Cleanup in St. Martin Parish	1046
EWE 92-68—Hurricane Andrew Cleanup by Parish Employees in St. Mary, St. Martin and Iberia Parishes	1046
EWE 92-69—Creates a State Hazard Mitigation Team	1047

### II. EMERGENCY RULES

Economic Development Department:	
Office of the Secretary—Small Business Bonding Assistance Program (LAC 19:XI.Chapter I)	1047
Education Department:	
Board of Elementary and Secondary Education Bulletin 741—Deletion of Computer Literacy Standard	1051
Bulletin 741-Handbook for School Administrators	1052
Bulletin 1508-Pupil Appraisal Handbook	1052
Bulletin 1525 (Revised)-Personnel Evaluation	1052
MCOP Guide, FY 92-93	1065
Model Career Options Program Guide (MCOP)	1065
Technical Institute Name Change	1065
Temporary Employment Permit	1066
Waivers of Minimum Standards: Procedures	1066
Elections and Registration Department:	
Commissioner of Elections—Procurement and Certification of Voting Equipment (LAC 31:III.Chapter 11)	1066
Voting Machine Storage and Drayage (LAC 31:III.711)	1066
Environmental Quality Department:	
Office of Air Quality and Radiation Protection, Air Quality Division—Emission Standards Control (AQ60) (LAC 33:111.919)	1067
Permit Procedures (AQ66) (LAC 33:III.504)	1069
Governor's Office:	
Division of Administration, Facility Planning and Control—Historic Restoration Prequalification (LAC 34:III.151)	1077
Office of Elderly Affairs—Long-term Care Assistance Program	1078
Health and Hospitals Department:	
Office of Human Services—Community Care Program	1078
Labor Department:	
Office of Worker's Compensation—Medical Reimbursement Schedules	1079
Public Safety and Corrections Department:	
Public Safety Services—Riverboat Gaming (LAC 55:I.Chapter 33)	1080
Social Services Department:	
Office of Family Support—Food Stamp Program (LAC 67:III.Chapter 17 and 19)	1091
Food Stamp Program—(LAC 67:III.Chapter 19)	1092
JOBS—Project Independence/Aid to Families with Dependent Children (LAC 67:III.Chapter 11 and 29)	1092
Treasury Department:	
Board of Trustees of State Employees Group Benefits Program—Fee Schedule	1093
Plan Document	1093
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Black Bass	1114
Mullet Harvest	1114

This public document was published at a total cost of \$6,800.00. 1,300 copies of this public document were published in this monthly printing at a cost of \$4,800.00. The total cost of all printings of this document including reprints is \$6,800.00. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971. 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.

### III. RULES

Agriculture and Forestry Department:	
Office of Animal Health Service, Livestock Sanitary Board—Brucellosis Requirements Testing-Cattle (LAC 7:XXI.11740)	1115
Culture, Recreation and Tourism Department:	
Office of Cultural Development, Division of the Arts—Guide to Arts Programs (LAC 25:I.Chapter 3)	1115
Economic Development Department:	
Office of Financial Institutions, Commissioner of Securities—Oil and Gas Auction Exemptions (LAC 64:901)	1115
Stock Exchange Exemptions (LAC 64:1101)	1116
Used Motor Vehicle and Parts Commission—Meeting Schedule and Location Fee (LAC 46:V.2701 and 3701)	1116
Education Department:	
Board of Elementary and Secondary Education—Bulletin 741-Computer Literacy Standard Deletion	1117
Bulletin 921-Tuition Exemption Guidelines	1117
Teaching Certificate Revocation for Felony Offense	1117
Technical Institute Name Change (LAC 28:I.111)	1118
Student Financial Assistance Commission, Office of Student Financial Assistance—Guarantee and Duration of Guarantee Commitment	1118
LA-OP Full-Time Student Requirement	1118
Tuition Assistance Plan Entitlement Reinstatement	1119
Tuition Assistance Plan-Tuition Waiver	1119
Environmental Quality Department:	
Office of Air Quality and Radiation Protection—Biomedical Waste Incinerator Performance Standards (AQ64) (LAC 33:III.5191)	1119
Air Quality Division—Emission Standards for Asbestos (AQ58) (LAC 33:111.5151)	1121
Volatile Organic Compounds Storage, (AQ65) (LAC 33:III.2103 et seq.)	1121
Health and Hospitals Department:	
Board of Medical Examiners—Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV) (LAC 46:XLV.Chapter 67)	1123
Board of Practical Nurse Examiners—Education and Licensure (LAC 46:XLVII.Chapters 1-17)	1126
Office of Public Health—Neonatal Screening (LAC 48:V.6303)	1130
Office of the Secretary, Bureau of Health Services Financing—Controlled Dangerous Substances (LAC 48:I.Chapter 39)	1132
FQHC Reimbursement	1132
Free-standing Psychiatric Facilities	1132
Inpatient Hospital Services Reimbursement (Infants Under One Year)	1132
Social Services Department:	
Office of Family Support—Food Stamp Fraud and Recovery (LAC 67:III.19105)	1133
Office of the Secretary—Child Care/Development Block Grants; Title IV-A At Risk Child Care (LAC 67:1.101)	1133
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Game Breeder's License (LAC 76:V.107)	1134
Hunting Preserve Regulations-Wild Birds (LAC 76:V.305)	1136

### IV. ADMINISTRATIVE CODE UPDATE

Cumulative, January 1992 through September 1992	1137
---	------

### V. NOTICES OF INTENT

Economic Development Department:	
Office of Financial Institutions—Acquisition of Loan Pools (LAC 10:I.551-559)	1138
Exchange of Other Real Estate (LAC 10:I.541-545)	1141
Financing Other Real Estate (LAC 10:I.531-535)	1142
Loan Production Offices (LAC 10:1.1733-1735)	1144
Education Department:	
Board of Elementary and Secondary Education—8(g) Policy Manual Amendment	1147
Bulletin 1508-Pupil Appraisal Handbook	1147
Bulletin 1573-Complaint Management System	1148
Bulletin 1706-Exceptional Children's Act	1148
Louisiana Components of Effective Teaching (LCET)	1149
Student Financial Assistance Commission, Office of Student Financial Assistance—Tuition Assistance Plan Billing Procedures	1149
Environmental Quality Department:	
Office of Air Quality and Radiation Protection, Air Quality Division—Benzene Emissions from Benzene Storage Tanks (AQ35) (LAC 33:III.5143)	1150
Toxic Air Pollutants (AQ62) (LAC 33:III.5171)	1151
Office of Water Resources—Ground Water (GW04) (LAC 33:XIII.Chapter 11)	1151
Governor's Office:	
Division of Administration, Facility Planning and Control—Historic Restoration Prequalification	1154

Health and Hospitals Department:	
Board of Examiners of Psychologists—Continuing Education (LAC 46:LXIII.Chapter 8)	1155
Board of Veterinary Medicine—Temporary Permits (LAC 46:LXXXV.307)	1156
Louisiana Health Care Authority—Annual Service Agreement	
Office of Public Health—Sanitary Code-Mechanical Wastewater Treatment Plants (Chapter XIII)	1159
Labor Department:	
Office of Workers, Compensation—Medical Reimbursement Schedules (LAC 40:I.Chapters 25-51)	1163
Social Services Department:	
Office of Family Support—Food Stamp Disaster Program (LAC 67:III.1713)	1164
Individual and Family Grant Program (LAC 67:III.Subpart 10)	1165
Transportation and Development Department:	
Board of Registration for Professional Engineers and Land Surveyors—Bylaws (LAC 46:LXI.Chapter 27)	1166
Certification, Registration, Temporary Permits (LAC 46:LXI.Chapter 3)	1168
Office of General Counsel—Bus Stops within Highway Right-of-Way (LAC 70:I.201-207)	1170
Wildlife and Fisheries Department:	
Wildlife and Fisheries Commission—Alligator Harvest	1171
Bait Dealers Permit (LAC 76:VII.329)	1172

## VI. POTPOURRI

Environmental Quality Department:	
Office of Air Quality and Radiation Protection, Air Quality Division—Ozone Attainment for New Orleans	1174
SIP Public Hearing	1174
Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division—Semi-annual Regulatory Agenda	1174
Governor's Office:	
Office of the Oil Spill Coordinator—Louisiana Oil Spill	1175
Health and Hospitals Department:	
Board of Embalmers and Funeral Directors—Examinations	1175
Board of Veterinary Medicine—Examinations	1175
Natural Resources Department:	
Office of the Secretary, Fishermen's Gear Compensation Fund—Claims	1175
Social Services Department:	
Office of Family Support—Food Stamp Program	1175
Transportation and Development Department:	
Sabine River Compact Administration—Fall Meeting	1176

# Executive Orders

EXECUTIVE ORDER EWE 92-58

## EXECUTIVE ORDER EWE 92-57

WHEREAS, Act 135 of 1970 LSA-R.S. 9:2341, et seq., created the Louisiana Public Trust laws; and

WHEREAS, the Louisiana Public Facilities Authority ("LPFA") and the Louisiana Imports and Exports Trust Authority ("LIETA") are created pursuant to these acts and are governed by LSA-R.S. 9:2341, et seq.; and

WHEREAS, "LIETA" executed its trust indenture on March 24, 1985 and amended it on November 25, 1985 and January, 1987. Section 4.1 of this trust indenture states that this authority has a specific purpose to "promote, encourage, and further the accomplishment of activities associated with international trade and investment which are or may become of benefit to the state of Louisiana"; and

WHEREAS, the authority has no significant funds of its own to support its operations and to execute and fulfill its purposes; and

WHEREAS, since its operations began in 1985 it was necessary for "LIETA" to borrow funds in the amount of \$250,000 from the LPFA in order to continue its operations and serve its public function; and

WHEREAS, "LIETA" will, once again, be required to rely on the "LPFA" or terminate its operation in order to remain in existence and that there seems to be no future resolution to their economic condition; and

WHEREAS, the "LPFA" is willing to take LIETA into and under its authority in order to continue the promotion of international trade and investment which they believe may become of benefit to the state of Louisiana.

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby issue the following executive order:

SECTION 1: The Louisiana Imports and Exports Authority and its functions are hereby transferred to the Louisiana Public Facilities Authority and shall be accomplishing the same public purpose as stated in Section 4.1 of its original trust indenture.

SECTION 2: Each department, office, asset, liability, etc., of said authority shall now be under the sole authority of the Louisiana Public Facilities Authority.

SECTION 3: The Louisiana Public Facilities Authority and Louisiana Imports and Exports Authority shall execute any and all legal documents necessary to accomplish this transfer.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of August, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

WHEREAS, there are no permanent rules or policies on annual and sick leave for certain unclassified state employees; and

WHEREAS, Executive Order BR 88-23 provided rules and policies on annual and sick leave for certain unclassified state employees; and

WHEREAS, pursuant to LSA-R.S. 49:215(C), Executive Order BR 88-23 will terminate on August 21, 1992;

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

### SECTION 1: Applicability

A. Except as provided in Section 1:B of this executive order, the rules and policies herein established are applicable to all officers and employees in the unclassified state service, including all appointees on leave without pay from classified positions, career employees whose classified positions have been declared unclassified by the Civil Service Commission, and all employees of the Executive Department in the Office of the Governor.

B. The rules and policies established by this executive order shall not apply to the following persons:

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

2. other officers of the state who are appointed by the governor;

3. elected officials;

4. members of boards and commissions who are appointed by the governor or who are elected as members of the same;

5. student employees, as defined under Civil Service rules;

6. temporary, intermittent, and seasonal employees;

7. employees of a system that is authorized by the Constitution or legislative act to manage and supervise its own system;

8. the commissioner of administration, the executive assistant commissioners of administration, the deputy commissioner of administration, and the assistant commissioners of administration;

9. the executive director or equivalent chief administrative officer of all boards, commissions, and authorities who are appointed by the board, commission, or authority;

10. officials of the Executive Department in the Office of the Governor with the following titles: administrative aide, assistant executive counsel, chief of staff, deputy chief of staff, deputy oil spill coordinator, director of coastal activities, director of minority affairs, director of oil spills, director of permits, director of rural development, education advisor, environmental liaison, executive assistant, executive counsel, special assistant to coastal wetlands, special assistant for health care and hospitals, and special counsel.

C. The accrued annual and sick leave balances shall be held in abeyance for persons who become ineligible to earn leave pursuant to this executive order. These accrued balances shall be available to such persons when they again become eligible to earn annual and sick leave, or when they

separate from state service.

D. Nothing in this executive order shall be applied in a manner which violates or is contrary to the Fair Labor Standards Act or any other applicable federal law.

#### SECTION 2: Definitions

Unless the context of this executive order clearly indicates otherwise, the following words and terms shall be defined as follows:

A. "Annual leave" is leave with pay granted an employee for the purpose of rehabilitation, restoration and maintenance of work efficiency, or the transaction of personal affairs.

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

C. "Career unclassified position" means any permanent position that was historically classified and has been declared by the State Civil Service Commission to be in the unclassified service.

D. "Compensatory leave" means time credited for hours worked outside the regularly assigned work schedule.

E. "Intermittent employee" means a person employed who is not hired on a regularly scheduled basis.

F. "Leave of absence without pay" is leave or time off from work granted by the appointing authority, for which period the employee receives no pay.

G. "Overtime hour" is an hour worked by an employee at the direction of the appointing authority:

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

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

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

4. in excess of 40 hours worked during any regularly recurring and continuous seven-day calendar work period where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked;

5. in excess of 80 hours worked during any regularly recurring and continuous seven-day calendar work period where excessive hours are systematically scheduled. Any holiday observed during this work period is counted as a day worked;

6. in excess of the hours worked in a regularly established, continuous, and regularly recurring work period where hours average 40 hours per week, regardless of the manner in which scheduled, and where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked;

7. a day on which a department or a division thereof is closed pursuant to R.S. 1:55 by direction of the appointing authority because of an emergency.

H. "Seasonal employee" means a person employed on a non-continuous basis for a recognized peak work load period.

I. "Sick leave" is leave with pay granted employees who an illness or injury which prevents them from reporting to duty; have a medical, dental, or optical consultation or treatment; or for pregnancy.

J. "State service" for leave earning purposes shall include service in a state supported school, agency, or university; public parish school system; public student employment; and service as a member of a public board or commission. All such service must have been performed for a Louisiana public entity.

K. "Temporary employee" means a person continuously employed for a period not to exceed three calendar months.

#### SECTION 3: Full-time Employees

For each full-time officer and employee, each appointing authority shall establish administrative work weeks of not less than 40 hours per week.

#### SECTION 4: Earning of Annual and Sick Leave

A. Except as otherwise provided by law, the persons listed in Section 1:B of this executive order shall not earn annual or sick leave. At the discretion of their appointing authority, these persons may be granted time off for vacation, illness, or emergency.

B. Subject to the exceptions of this executive order, annual and sick leave shall be earned by all full-time and part-time officers and employees who have a regular tour of duty.

C. The earning of such leaves shall be based on the equivalent of years of full-time state service and shall be creditable at the end of each calendar month, or at the end of each regular pay period, in accordance with the following general schedule:

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

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

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

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

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

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

1. for any overtime hour;

2. for any hour of leave without pay;

3. while on paid annual leave, provided that such leave earned during annual leave shall be credited upon their return to active duty;

4. for any hour in on-call status outside their regular duty hours;

5. for any hour of travel or other activity outside their regular duty hours;

6. for any hour of a holiday or other non-work day which occurs while on leave without pay.

#### SECTION 5: Carrying Leave Forward

Accrued unused annual and sick leave earned by an officer or employee shall be carried forward to succeeding calendar years without limitation.

#### SECTION 6: Use of Annual Leave

A. Annual leave must be applied for by the officer or employee and may be used only when approved by the appointing authority.

B. Annual leave shall not be charged for non-work

days.

C. The minimum charge to annual leave records shall be in increments of not less than one-half hour.

D. An appointing authority may require an officer or employee who has sufficient annual leave to their credit to take annual leave whenever it is best for the employee or the department. However, the employee shall not be required to reduce their accrued annual leave below the equivalent of 30 working days.

E. Except for the military leave provisions in Section 13:A of this executive order, an employee may be required to take any part or all of their accrued annual leave prior to being granted leave without pay.

#### SECTION 7: Transfer of Annual and Sick Leave

A. Classified employees or unclassified employees subject to this executive order shall have all accrued annual and sick leave credited to them when they transfer without a break in service into a position covered by this executive order.

B. Employees shall have all accumulated annual and sick leave credited to them when they transfer without a break in service from a department not covered by this executive order into a department covered by this executive order.

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

#### SECTION 8: Payment for Annual Leave Upon Separation

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

1. When employees are paid on an hourly basis, multiply their regular hourly rate received at the time of termination by the number of hours of accrued annual leave, not to exceed 300 hours.

2. When employees are paid on a basis other than an hourly basis, determine their hourly rate by converting their salary received at the time of termination to a working hourly rate. Multiply their converted hourly rate by the number of hours of accrued annual leave, not to exceed 300 hours.

B. Employees shall be given credit for the number of hours of annual leave for which they have made reimbursement. Employees shall buy back the number of hours for which they were paid which exceed the number of work hours which occurred during the break in their service, when:

1. an unclassified employee has been paid under this executive order for accumulated annual leave is reemployed in a classified or unclassified position;

2. a classified employee has been paid for accumulated leave under the Civil Service rules is reemployed in a unclassified position in leave earning status.

C. When unclassified employees in leave earning status accept positions which are not in leave earning status, they shall be paid for unused accumulated annual leave only upon final termination from state service, subject to the pay

limitations provided in this executive order.

#### SECTION 9: Use of Sick Leave

A. Sick leave with pay may be used by employees who have sufficient leave to their credit for the following:

1. illness or injury which prevents them from reporting to duty;

2. medical, dental, or optical consultation or treatment;

3. pregnancy.

B. A medical certificate is not required to use sick leave, but the appointing authority may require such certificate as justification for absences.

C. Sick leave shall not be charged for non-work days.

D. The minimum charge to sick leave records shall be in increments of not less than one-half hour.

E. In no instance shall an employee be paid for any accrued sick leave remaining at the time of termination from the unclassified service.

F. There shall be no advance of sick leave.

G. Annual leave and leave without pay may be granted for disability purposes at the discretion of the appointing authority.

#### SECTION 10: Continuance of Annual and Sick Leave

All unpaid annual leave and all unused sick leave accrued by employees shall be credited to them if they are later employed in the unclassified service within a period of five years from date of termination, and are covered by this executive order.

#### SECTION 11: Compensatory Leave

A. An appointing authority may require an employee to work overtime on a holiday or at a time that the employee is not regularly required to be on duty. Compensatory leave may be granted for overtime hours worked outside the regularly assigned work schedule or holidays at the discretion of the appointing authority.

B. If the appointing authority permits the earning of compensatory leave, then the amount of such leave shall be equal to the number of extra hours the employee is required to work.

C. Compensatory leave shall be promptly credited to the employee and may be used at a future time, with the approval of the appointing authority. Not more than 45 working days, or the equivalent thereof in hours, of accrued unused compensatory leave shall be carried forward into any calendar year.

D. An appointing authority may require employees to use their earned compensatory leave at any time.

E. At the discretion of the appointing authority, employees may be paid the value of their accrued compensatory leave upon separation from his unclassified position. The employees may only be paid an amount equal to the number of hours of compensatory leave earned, multiplied by the employee's hourly rate of pay at the time the leave was earned.

F. In the event that an employee transfers without a break in service to another position within the state service, compensatory leave may be credited to the employee at the discretion of the new appointing authority. Compensatory leave shall be terminated when an employee separates from state service.

#### SECTION 12: Civil, Emergency, and Special Leave

Employees shall be given time off without loss of pay, annual leave or sick leave when:

A. performing jury duty;

B. summoned to appear as a witness before a court,

grand jury, or other public body or commission.;

C. performing emergency civilian duty in relation to national defense;

D. their appointing authority determines that they are prevented by an Act of God from performing duty;

E. voting in a primary, general, or special election which falls on his scheduled work day, provided not more than two hours of leave shall be allowed an employee to vote in the parish where he is employed, and not more than one day to vote in a parish outside the one where he is employed;

F. participating in a State Civil Service examination on a regular work day, or taking a required examination pertinent to the examinee's state employment before a state licensing board;

G. The appointing authority determines that because of local conditions or celebrations, it is impracticable for employees in such locality to work;

H. the employee is ordered to report for preinduction physical examination incident to possible entry into the military forces of the United States;

I. the employee is a member of the National Guard and is ordered to active duty incident to local emergency, Act of God, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergency nature which threatens or affects the peace or property of the people;

J. engaged in the representation of a client in a civil or criminal proceeding pursuant to an order of a court of competent jurisdiction. If compensation for such services is available from another source, the employee may not accept the special leave and the compensation;

K. the employee is a current member of Civil Air Patrol and incident to such membership is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed 15 working days in any one calendar year and shall not be used for unit meetings or training conducted during such meetings.

#### SECTION 13: Military Leave

A. An employee who is a member of a reserve component of the armed forces of the United States or the National Guard shall be granted leave of absence from his position, without loss of pay, time, annual or sick leave, when ordered to active duty for field training or training authorized in lieu thereof, when the individual is given constructive credit for such training, for a period not to exceed 15 working days in any calendar year. An appointing authority may grant an employee annual leave, leave without pay or both for a period which exceeds 15 working days in any calendar year, in accordance with other provisions of this executive order.

B. An employee is inducted or ordered to active duty to fulfill his reserve obligation or who is ordered to active duty in connection with reserve activities for indefinite periods or for periods in excess of his annual field training is eligible for the leave with pay as provided in this executive order.

#### SECTION 14: Other Leave

A. Workers' Compensation Payments - Optional Leave with Pay

Employees who are absent from work due to disabilities for which they are entitled to workers' compensation have the option to use sick and annual leave, which shall not exceed the amount necessary to receive total payments for leave and workers compensation equal to their regular salary.

B. Law Enforcement - On Duty Disability

When employees engaged in law enforcement work are disabled while in the performance of duty of a hazardous nature and become unable to perform their usual duties, because of such disability, their appointing authority may, with prior approval of the commissioner of administration, grant such disabled employees leave of absence with full pay during the period of such disability without charge against accrued sick or annual leave, provided such employees pay to their department all amounts received as workers' compensation benefits.

#### C. Funeral Leave

An employee may be given time off without loss of pay, annual leave, or sick leave, when attending the funeral or burial rites of a parent, step parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grandparent, or grandchild, provided such time off shall not exceed two days on any one occasion.

#### D. Educational Leave

1. Leave without pay for educational purposes may be granted an employee for a period equivalent to the period of attendance at the educational institution.

2. Educational leave with pay may be granted to employees for a maximum of 30 calendar days in one calendar year if the course of instruction to be taken is pertinent to their work. Employees may be granted such leave for a maximum of 90 calendar days in one calendar year if their approving authority required them to take special training.

3. Employees granted educational leave without pay may be granted a stipend if there are funds available for that purpose.

#### E. Leave of Absence Without Pay

1. An appointing authority may extend leave of absence without pay to employees for a period not to exceed one year, provided that such leave shall not prolong the period of their appointment.

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

3. An appointing authority, on its own initiative or at the request of the employee, may curtail a period of leave of absence without pay extended to an employee, provided such curtailment is for the best interest of the state service and reasonable and proper notice thereof is furnished to the employee.

#### SECTION 15: Holidays

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

B. Employees shall be eligible for compensation on holidays observed except:

1. when the employee's regular work schedule averages less than 20 hours a week;

2. when the employee is a temporary, intermittent, or seasonal employee;

3. when the employee is on leave without pay immediately preceding and following the holiday period.

#### SECTION 16: Recordkeeping

Daily attendance and leave records shall be maintained for each unclassified employee eligible to accrue annual and sick leave. These records shall conform to the same requirements as established by the Department of Civil

Service.

**SECTION 17: Compliance**

All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to comply with the provisions of this executive order.

**SECTION 18: Effective Date**

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of August, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

**EXECUTIVE ORDER EWE 92-59**

WHEREAS, the prevention of waste, inefficiencies, mismanagement, and abuse in the departments, agencies, boards, commissions, authorities, task forces, and divisions ("covered agencies") which come under the authority of the governor is an important responsibility of the state; and

WHEREAS, the prevention of waste, inefficiencies, mismanagement, and abuse in the covered agencies of the Governor's Office is dependent in part upon the development, implementation, and enforcement of sound policies and procedures directed to that end; and

WHEREAS, there should be constant vigilance in each covered agency of the Governor's Office as to the adequacy of such policies and procedures and as to the fact of compliance therewith; and

WHEREAS, the establishment of the Office of Inspector General in the Executive Department, Division of Administration, will facilitate the carrying out the obligation of vigilance as described above:

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the authority vested through the Constitution and laws of the state of Louisiana, do hereby establish the Office of Inspector General in the Executive Department, Office of the Governor, Division of Administration, and do hereby order and direct as follows:

**SECTION 1: The Inspector General**

A. The state inspector general shall be appointed by and serve at the pleasure of the governor.

B. The state inspector general shall exercise the authority as specified in this order to fulfill the duties and responsibilities as specified to establish such internal procedures and guidelines as may be necessary, including recommendations for specific corrective actions within the departments, agencies, boards, commissions, authorities, task forces, and divisions of the Governor's Office.

**SECTION 2: The Office of the Inspector General**

The state inspector general shall have the necessary

staff and resources to fulfill the duties and responsibilities as specified.

**SECTION 3: Authority of the State Inspector General**

A. The state inspector general is authorized to examine and investigate the management and affairs of the covered agencies concerning waste, inefficiencies, mismanagement, and abuse and, if there exists reasonable grounds that justify further inquiry, he may conduct investigation into such areas, including but not limited to:

1. misuse of state owned automobiles, planes, watercraft, and all other movable and immobile property;
2. evidence of a pattern of excessive bills on state contracts;
3. unauthorized use of leave;
4. mismanagement of governmental operations;
5. waste or abuse of things of value belonging to or used by the agencies, departments and division of the Governor's Office.

**SECTION 4: Duties and Responsibilities of the State Inspector General**

A. The state inspector general shall help prevent waste, inefficiencies, mismanagement, and abuse in covered agencies by periodically reviewing policies and procedures and monitoring operations and making recommendations for improvement.

B. The state inspector general shall receive complaints of fraud, waste, inefficiencies, mismanagement, abuse, or corruption in covered agencies, and determine whether they warrant investigation by the state inspector general or by appropriate federal, state, or local agencies.

C. The state inspector general shall investigate complaints of waste, inefficiencies, mismanagement, and abuse and, when appropriate, determine whether disciplinary action, or further investigation by appropriate federal, state, or local agencies is warranted, and take further action as appropriate.

D. The state inspector general shall report complaints of fraud, abuse, or corruption to such federal, state, or local agencies when there is evidence that non-state agency personnel have engaged in what may be criminal activity and when otherwise appropriate, and shall otherwise cooperate with them in any further action.

E. The state inspector general shall report to the governor.

**SECTION 5: Responsibilities of Covered Agencies**

All officers and employees in covered agencies shall extend full cooperation and all reasonable assistance to the state inspector general and his designees. No provision of this order shall be construed to diminish the responsibility of said officers and employees to be vigilant in preventing and reporting waste, inefficiencies, mismanagement, and abuse.

**SECTION 6: Area of Authority**

A. All departments, agencies, boards, commissions, authorities, task forces, and divisions of the Governor's Office are covered by provisions of this order.

B. The area of authority for the state inspector general shall not include the state universities and colleges, or other statewide elected officials.

**SECTION 7: Miscellaneous**

Nothing herein shall be construed to impair the rights, duties and obligations of state employees covered by collective bargaining agreements or the functions, powers, and duties of the state Civil Service Commission and other pertinent federal and state laws.



**SECTION 8: Compliance**

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

**SECTION 9: Effective Date**

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

**EXECUTIVE ORDER EWE 92-60**

WHEREAS, the Department of Insurance has a need for additional office space; and

WHEREAS, the state of Louisiana has existing office space available for use by the Department of Insurance;

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the authority vested in me through the constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The southeast quarter of the first floor of the State Office Building in New Orleans, including rooms 103, 104, 105, and 106, is designated for use by the Department of Insurance.

SECTION 2: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Department of Insurance in implementing the provisions of this executive order.

SECTION 3: This executive order is effective upon signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 31st day of August, 1992.

Edwin W. Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

**EXECUTIVE ORDER EWE 92-61**

WHEREAS, there is a need for additional effort to facilitate the implementation of local community, emergency response plans; and

WHEREAS, Executive Order EWE 92-17 was executed to create the Louisiana Emergency Response Commission; and

WHEREAS, the Louisiana Emergency Response Commission, as created by Executive Order EWE 92-17, with the assistance of an additional member representing local emergency managers;

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the state of Louisiana, do hereby amend and reenact Executive Order EWE 92-17 as follows:

SECTION 1: The Louisiana Emergency Response Commission shall be composed of an additional member representing local emergency managers, who shall be appointed by and serve at the pleasure of the governor.

SECTION 2: All other orders and directions of Executive Order EWE 92-17 remain in effect.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Louisiana Emergency Response Commission in implementing the provisions of this executive order.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana at the Capitol, in the City of Baton Rouge on this 31st day of August, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

**EXECUTIVE ORDER EWE 92-62**

WHEREAS: Hurricane Andrew caused extensive damage in St. Mary parish; and

WHEREAS: the residents of St. Mary parish need all available assistance to clean up the debris left by Hurricane Andrew; and

WHEREAS: certain people who are paid from the Job Training Partnership Act program are available to assist the cleanup of the debris left by Hurricane Andrew;

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

SECTION 1: Persons who are paid from the Job Training Partnership Act program are authorized to coordinate and cooperate with St. Mary Parish officials to remove debris left by Hurricane Andrew on all property that the Parish President deems appropriate.

SECTION 2: On all work performed on private property, the St. Mary Parish officials in charge of the supervision of the cleanup crew shall execute and maintain with the private landowner all necessary waivers of liability which shall ensure

that the state of Louisiana will be held harmless for any and all damages.

SECTION 3: On all work performed on abandoned property, the St. Mary Parish officials in charge of the supervision of the cleanup crew shall make a special effort to identify and document any and all damages to the abandoned property prior to the cleanup or removal of debris.

SECTION 4: Any and all personnel and equipment of the National Guard that may be available under the circumstances to assist in the removal of debris are authorized to coordinate and cooperate with St. Mary Parish officials in this effort.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with St. Mary Parish officials in implementing the provisions of this executive order.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of September, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 92-63

WHEREAS, Executive Order EWE 92-52 was executed to create the Governor's Task Force on Navigability and Public Access within the Executive Department, Office of the Governor; and

WHEREAS, the Governor's Military Advisory Commission contains members that are affected by the decisions that would be made by the Governor's Task Force on Navigability and Public Access, as created by Executive Order EWE 92-52; and

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby amend and reenact Executive Order EWE 92-52 as follows:

SECTION 1: The Governor's Task Force on Navigability and Public Access within the Executive Department, Office of the Governor, shall be composed of one additional member from the Governor's Military Advisory Commission, said appointment shall be made by the governor.

SECTION 2: All other orders and directions of Executive Order EWE 92-52 remain in effect.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Governor's Task Force on Navigability and Public Access in implementing the provisions of this executive order.

SECTION 4: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana at the Capitol, in the city of Baton Rouge on this 8th day of September, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 92-64

WHEREAS, multiple drug-resistant Tuberculosis (MDRTB) is a highly contagious disease that poses serious public health problems in civilian and penal populations; and

WHEREAS, treatment for MDRTB is complicated and includes expensive medication, quarantine, and isolation; and  
WHEREAS, AIDS patients are particularly susceptible to MDRTB; and

WHEREAS, as of July 19, 1992, 12 cases of MDRTB had been identified out of over 400 known tuberculosis-infected patients in Louisiana; and

WHEREAS, it is essential that immediate steps be taken to protect the public and to contain MDRTB;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the state of Louisiana, do hereby establish the Governor's Task Force on Multiple-Drug Resistant Tuberculosis within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: The Governor's Task Force on Multiple-Drug Resistant Tuberculosis is created and established within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the Governor's Task Force on Multiple-Drug Resistant Tuberculosis include, but are not limited to, identifying and examining all issues necessary to combat MDRTB in Louisiana, recommending viable solutions to the problems raised by those issues, evaluating the existing and proposed measures which are designed to combat MDRTB in Louisiana, and other duties and functions as directed by the governor.

SECTION 3: The Governor's Task Force on Multiple-Drug Resistant Tuberculosis shall be composed of 23 members who shall be appointed by and serve at the pleasure of the governor. These members shall be representative of the following:

- A. Louisiana State Medical Society
- B. Louisiana Chapter, American Academy of Pediatrics
- C. Louisiana Family Practitioners Association
- D. Louisiana Hospital Association
- E. Louisiana Nursing Home Association
- F. Louisiana State Nurses Association
- G. American Lung Association of Louisiana
- H. Louisiana Health Care Authority

- I. Tulane University School of Medicine
- J. Louisiana State University School of Medicine
- K. Louisiana State University School of Medicine at Shreveport
- L. Ochsner Foundation Medical Center
- M. Louisiana Sheriff Association
- N. Louisiana District Attorney Association
- O. Louisiana Department of Corrections (Adult)
- P. Louisiana Department of Corrections (Adolescent)
- Q. Secretary, Department of Health and Hospitals
- R. Assistant Secretary, Office of Public Health
- S. Medical Director, Tuberculosis Section, Office of Public Health
- T. HIV Program Office, Department of Health and Hospitals
- U. City of New Orleans Department of Health
- V. Designated member, Louisiana House of Representatives
- W. Designated member, Louisiana Senate
- X. Two members at large

SECTION 4: The members of the Governor's Task Force on Multiple Drug-Resistant Tuberculosis shall receive no compensation for their services. Actual expenses of the Governor's Task Force on Multiple Drug-Resistant Tuberculosis may be reimbursed upon the approval of the Commissioner of Administration.

SECTION 5: The state health officer shall serve as the chairman of the Governor's Task Force on Multiple Drug-Resistant Tuberculosis. The governor shall appoint the vice chairman of the Governor's Task Force on Multiple Drug-Resistant Tuberculosis.

SECTION 6: The Governor's Task Force on Multiple Drug Resistant Tuberculosis shall report their findings and recommendations to the governor through the secretary of the Department of Health and Hospitals.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Governor's Task Force on Multiple Drug Resistant Tuberculosis in implementing the provisions of this executive order.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 8th day of September, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 92-65

WHEREAS, there is a need to address issues relative to the land and natural habitats of the state of Louisiana; and

WHEREAS, Executive Order EWE 92-32 was executed to establish a Land Acquisition Task Force; and

WHEREAS, the Land Acquisition Task Force, as created by Executive Order EWE 92-32 could perform its duties and functions in a more efficient and effective manner with the assistance of additional members;

NOW, THEREFORE, I EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby amend and reenact Executive Order EWE 92-32 as follows:

SECTION 1: The Land Acquisition Task Force shall be composed of the secretary of the Department of Wildlife and Fisheries, the commissioner of Agriculture, the director of the Office of State Parks, a representative of the Louisiana Nature Conservancy, the commissioner of Administration, a representative of the Louisiana Sierra Club, a representative of the Louisiana Wildlife Federation, one state representative appointed by the governor, one state senator appointed by the governor, the state forester, two representatives of the governor's office, or any of their designees, four at-large members. The governor shall appoint the chairman and vice-chairman.

SECTION 2: All other orders and directions of Executive Order EWE 92-32 remain in effect.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Land Acquisition Task Force in implementing the provisions of this executive order.

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 9th day of September, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 92-66

WHEREAS: Hurricane Andrew caused extensive damage in Iberia Parish; and

WHEREAS: the residents of Iberia Parish need all available assistance to clean up the debris left by Hurricane Andrew; and

WHEREAS: certain people who are paid from the Job Training Partnership Act program are available to assist the cleanup of the debris left by Hurricane Andrew;

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

SECTION 1: Persons who are paid from the Job Training Partnership Act program are authorized to coordinate and cooperate with Iberia parish officials to remove debris left

by Hurricane Andrew on all property that the parish president deems appropriate.

**SECTION 2:** On all work performed on private property, the Iberia Parish officials in charge of the supervision of the cleanup crew shall execute and maintain with the private landowner all necessary waivers of liability which shall ensure that the state of Louisiana will be held harmless for any and all damages.

**SECTION 3:** On all work performed on abandoned property, the Iberia Parish officials in charge of the supervision of the cleanup crew shall make a special effort to identify and document any and all damages to the abandoned property prior to the cleanup or removal of debris.

**SECTION 4:** All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with Iberia Parish officials in implementing the provisions of this executive order.

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

**IN WITNESS WHEREOF,** I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of September, 1992.

Edwin Edwards  
Governor

**ATTEST BY**  
**THE GOVERNOR**  
Fox McKeithen  
Secretary of State

#### **EXECUTIVE ORDER EWE 92-67**

**WHEREAS:** Hurricane Andrew caused extensive damage in St. Martin Parish; and

**WHEREAS:** the residents of St. Martin Parish need all available assistance to clean up the debris left by Hurricane Andrew; and

**WHEREAS:** certain people who are paid from the Job Training Partnership Act program are available to assist the cleanup of the debris left by Hurricane Andrew;

**NOW, THEREFORE, I EDWIN W. EDWARDS, Governor** of the state of Louisiana, by virtue of the authority vested in me through the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

**SECTION 1:** Persons who are paid from the Job Training Partnership Act program are authorized to coordinate and cooperate with St. Martin Parish officials to remove debris left by Hurricane Andrew on all property that the parish president deems appropriate.

**SECTION 2:** On all work performed on private property, the St. Martin Parish officials in charge of the supervision of the cleanup crew shall execute and maintain with the private landowner all necessary waivers of liability which shall ensure that the state of Louisiana will be held harmless for any and all damages.

**SECTION 3:** On all work performed on abandoned property, the St. Martin Parish officials in charge of the supervision of the cleanup crew shall make a special effort to identify and document any and all damages to the abandoned

property prior to the cleanup or removal of debris.

**SECTION 4:** All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with St. Martin Parish officials in implementing the provisions of this executive order.

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

**IN WITNESS WHEREOF,** I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of September, 1992.

Edwin Edwards  
Governor

**ATTEST BY**  
**THE GOVERNOR**  
Fox McKeithen  
Secretary of State

#### **EXECUTIVE ORDER EWE 92-68**

**WHEREAS,** Hurricane Andrew caused extensive damage in St. Mary, St. Martin, and Iberia parishes; and

**WHEREAS,** the residents of St. Mary, St. Martin, and Iberia parishes need all available assistance to clean up the debris left by Hurricane Andrew; and

**WHEREAS,** the parish governing authority of these particular affected areas may have regular employees who may be available to assist in the cleanup of the debris left by Hurricane Andrew;

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

**SECTION 1:** Regular employees of St. Mary, St. Martin and Iberia parishes who may be available to assist in removing debris left by Hurricane Andrew shall have the authority to perform work on private property in order to expedite the cleanup efforts.

**SECTION 2:** On all work performed on private property, the St. Mary, St. Martin, and Iberia parish officials in charge of the supervision of the cleanup crew shall execute and maintain with the private landowner all necessary waivers of liability which shall ensure that the state of Louisiana will be held harmless for any and all damages.

**SECTION 3:** On all work performed on abandoned property, the St. Mary, St. Martin and Iberia Parish officials in charge of the supervision of the cleanup crew shall make a special effort to identify and document any and all damages to the abandoned property prior to the cleanup or removal of debris.

**SECTION 4:** On any and all work performed by parish employees on private property, the parish officials in charge of said cleanup work shall limit said employees time on said private property to normal working hours.

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

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

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of September, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 92-69

WHEREAS, the protection and overall well-being of the citizens of this state is of primary importance to this administration and the future of the state is dependent on the same; and

WHEREAS, the Military Department/Office of Emergency Preparedness has been designated as the lead agency for the state of Louisiana in Hazard Mitigation; and

WHEREAS, Title 44 CFR, Part 206 Subpart M (Hazard Mitigation Planning) under the Federal Disaster Relief Act of 1974 states the procedures for implementing Section 406 under Public Law 93-288, as amended; and

WHEREAS, the state of Louisiana in this act has prescribed Hazard Mitigation responsibilities to perform as a result of a major disaster or emergency being declared in the state by the governor; and

WHEREAS, Hazard Mitigation activities under this Section is a condition for federal support;

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

SECTION 1: A State Hazard Mitigation Team is created within the Military Department/Office of Emergency Preparedness.

SECTION 2: This team shall be composed of designated state representatives from the following agencies:

- A. Office of Emergency Preparedness
- B. Department of Transportation and Development
- C. Department of Wildlife and Fisheries
- D. Department of Environmental Quality
- E. Division of Administration/Office of State Planning
- F. Geological Survey

SECTION 3: The chairman of the State Hazard Mitigation Team shall be the state hazard mitigation officer.

SECTION 4: Immediately following a state or presidential declaration of a disaster the State Hazard Mitigation Team will identify the following:

- A. hazard evaluation and mitigation measures that must be incorporated into the recovery process;
- B. possible measure for funding under the Hazard Mitigation Grant Program, or under other disaster assistance programs;
- C. issues for inclusion in the Section 409 Hazard Mitigation plan;
- D. technical assistance needed at the local level in the development of mitigation measures;
- E. measures to mitigate natural hazards within the state and write a Hazard Mitigation Plan within 180 days to be submitted to FEMA Region VI.

SECTION 5: This team shall meet quarterly and at other

times as called by the chairman. A majority of the members shall constitute a quorum for the transaction of business.

SECTION 6: This order shall remain in effect until amended or modified by the governor or until terminated by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th of September, 1992.

Edwin Edwards  
Governor

ATTEST BY

GOVERNOR  
Fox McKeithen  
Secretary of State

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Economic Development  
Office of the Secretary

### Small Business Bonding Assistance Program

The Department of Economic Development has exercised provision R.S. 49:953(B) of the Administrative Procedure Act to adopt the following emergency rules, effective for a period of 120 days, relative to the Small Business Bonding Assistance Program. The effective date of the rules is October 20, 1992. This program sunsets at the end of FY 1993. Emergency rules are necessary to have six months of program activity to determine the efficacy of continuing the program.

These emergency rules set forth policy and procedures relevant to the Louisiana Contractors Accreditation Institute, making grants to construction contractors and issuing guarantee agreements between the state of Louisiana and surety companies as authorized by Acts 1990, No. 851, Regular Session; R.S. 51:1120 et seq.

## Title 19

### CORPORATIONS AND BUSINESS

#### Part XI. Small Business Bonding Assistance Program

##### Chapter 1. Program Activities

##### §103. Louisiana Contractors Accreditation Institute

A. Eligibility. All small, minority and women construction contractors, as defined by the Office of Minority and Women's Business Enterprises, Department of Economic Development, are eligible to attend the institute. Small businesses are those that conform to the definition of small businesses as promulgated by the U. S. Small Business Administration.

B. Standard and Procedure for Determining Course Content. The executive director will once a year consult with the heads of the construction schools at Louisiana State University and Northeast Louisiana State University to ensure that current course content adequately prepares the students to run their construction firms in a businesslike manner.

C. Attendance. Attendance is open to all small contractors. There is no application to fill out. However, the contractor must advise the Louisiana Small Business Bonding Assistance Program (BAP) staff of his plans to attend so that an adequate supply of materials can be prepared. There is no criteria for acceptance other than size.

D. Accreditation without Institute Attendance. A firm may request to be certified without attendance. The executive director will conduct a review of the firm. If the contractor can present evidence he conducts business within standards set by *Best Practices*, the executive director may certify the firm.

E. 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.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1120 et seq.

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

#### **§105. Professional Service Assistance to Contractors**

A. Eligibility. The primary goal of the Small Business Bonding Assistance Program (BAP) is to increase the number of construction-related bonds received by minority and women construction contractors on reasonable terms. Towards this end, only minority and women contractors are eligible to receive the professional service assistance provided for by statute. A firm qualifies if it is independently owned and operated and qualifies as a small minority or women-owned business under R.S. 39:1952 et seq. and R.S. 39:1731 et seq. All minority and women contractors will be deemed to have the required level of capability necessary to be eligible for professional assistance if they are accredited pursuant to §103.C, D, and E of these rules. The executive director may also recognize as being eligible those contractors certified by other state departments, political subdivisions or private businesses when those entities have adequate certification procedures. The contractor must demonstrate economic need.

B. Contents of Application to Receive Professional Services. An accredited contractor shall apply for professional service assistance by sending a letter to BAP stating the following:

1. they are requesting professional service assistance;
2. they agree to cooperate should they be selected to participate in surveys designed to evaluate the effectiveness of the services received and to assure that the services were adequately performed;
3. they authorize BAP to furnish relevant information to the assigned professional although it is expected to be held in strict confidence by the professional; and
4. they waive all claims against BAP, the Department of Economic Development, and the State of Louisiana arising from this assistance.

C. Eligible Professionals. The professional selected to deliver the services will be mutually agreed upon by the contractor, the local Small Business Development Center

(SBDC) Director, and the BAP Executive Director.

D. Successful Completion of Contract. The local SBDC's procurement policies and procedures will be used to monitor contract performance. The SBDC will allow BAP personnel to inspect all relevant files to ensure the services were adequately performed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1120 et seq.

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

#### **§107. Direct Bonding Assistance**

##### **A. Surety Companies**

1. Criteria for eligibility and continuation in the program.

a. Prior to guaranteeing, a surety company must have a certificate of authority from and its rates approved by the State of Louisiana Department of Insurance. Should a surety choose to use a local agent, the surety must furnish BAP a copy of the power-of-attorney that states the dollar amount and any limitations on such power. BAP accepts surety bond guarantee applications only from those representatives of a surety who are empowered in writing by the surety to issue a final bid, payment, or performance bond on behalf of the surety.

b. BAP, at its sole discretion, may refuse to issue further guarantees to a participating surety where the administration finds any of the following:

- i. fraud or misrepresentation in any of the sureties business dealings, BAP related or not;
- ii. imprudent underwriting standards;
- iii. excessive losses (as compared to other participating sureties);
- iv. failure of a surety to consent to BAP audit;
- v. evidence of discriminatory practices; and
- vi. consideration of other relevant factors.

c. BAP at its sole discretion may refuse to issue further guarantees to a participating surety where the Department of Economic Development finds that the surety has failed to adhere to prudent underwriting standards or other practices relative to those of other sureties participating in the BAP. Any surety which has been denied participation in the program may file an appeal in writing delivered by certified mail to the secretary of the Department of Economic Development who will review the adverse action and will render the final decision for the department. Appeals must be received no later than 30 days from issuance of the executive director's decision.

2. Application for Guaranty. Application for a bond is made by the contractor to a surety on the surety's normal forms. The surety applies for the guarantee, not the contractor. The surety's application, in the form of a letter, must include a disclosure authorization from the contractor, a copy of the general indemnity agreement and the amount of the fees charged to the contractor. In making the application:

- a. surety shall represent that the bond or bonds being issued are appropriate to the contract;
- b. surety shall represent that the terms and conditions of the bond or bonds executed are in accordance with those generally used by the surety industry for the type of bond or bonds involved;
- c. surety shall affirm that without the BAP guarantee to surety, it will not issue the bond or bonds to the

contractor;

d. include a brief description of the job, including location, obligee, and contract term;

e. for all work on hand, whether jobs have been started or not, give the total number and dollars of contracts on hand and the total dollars to be completed; and

f. work on hand shall be submitted with each request, but not more often than quarterly. More frequent submissions may be required by the office in individual cases.

### 3. Calculation of Guarantee Fee Deduction

a. No application fee nor bid bond guarantee fee will be charged by BAP if the surety does not charge a bid bond fee.

b. Upon the contractor obtaining the contract for which BAP is guaranteeing a bid, payment or performance bond, the surety shall pay BAP a portion of the fee paid by the contractor as discussed infra.

c. The surety's guarantee fee is to be submitted with the application package. These fees are held in the BAP office until final action is taken by BAP on the application. Additional guarantees will not be issued unless all surety's guarantee fees have been paid, including additional fees generated by change orders and overruns.

d. The surety shall pay BAP a guarantee fee equal to 20 percent of the bond premium. If there is a subsequent increase in the contract amount or an increase in the face amount of the bond, the surety will remit to BAP a supplemental guarantee fee of 20 percent of the premium increase. Premium adjustments in favor of BAP or surety which do not amount to more than \$15 are to be disregarded.

e. BAP will deem acceptable bond premium charges which are:

i. authorized by the appropriate State Insurance Department rules or by applicable statutes, or

ii. a minimum bond premium regardless of the contract price, if this minimum charge does not exceed \$50 and has been authorized by the appropriate State Insurance Department.

f. BAP will not approve an application for a bond guarantee where the surety makes any charge above the standard premium for the bond, except where other services are performed for the contractor and the additional charge or fee is permitted by the appropriate State Insurance Department. BAP shall not receive any portion of any non-premium charges.

g. In underwriting a BAP-guaranteed bond, the surety is expected to adhere to the surety industry's general principles and practices used in evaluating the credit, capacity, and character of a principal, taking into consideration the reason a BAP guarantee is needed. Surety is also expected to adhere to those rules, principles, and practices as may be published from time to time by the BAP.

h. The payment of any bonus, brokerage fee, or commission in connection with BAP financing is prohibited. Thus, BAP will not approve placement or finders fees, fees for the use or attempted use of influence in obtaining or trying to obtain a surety bond guarantee, or fees based solely upon a percentage of the guarantee or any part thereof. Agents and brokers shall be compensated by surety companies for their efforts through the commission system, based upon premiums charged the applicant contractor.

4. Sub-suretyship. A lead or primary surety must be designated by those sureties who desire to bond a contract together. BAP will issue a guarantee only to one surety. This

does not mean that sub-surety agreements cannot be entered. In a default situation, BAP will indemnify only the lead or primary surety, which will have an indemnification agreement with its sub-surety partners.

B. Contractors. Once an application for a bond guarantee is received a review will be conducted in order to determine whether the contractor is eligible for BAP's surety bond guarantee assistance. This review will focus on the contractor's size, the presence of a requirement for surety bonds, and other statutory requirements.

#### 1. Eligibility

a. Any contracting concern, together with its affiliates, would be eligible for surety bond guarantee assistance if it is independently owned and operated and qualifies as a small minority or women-owned business under R.S. 39:1952 et seq. and R.S. 39:1731 et seq. The executive director may also recognize as being eligible, at his sole discretion, those contractors certified as being small minority or women-owned firms by other state departments, political subdivisions or private businesses when those entities have adequate certification procedures.

b. When there is a question as to eligibility, the determination will be made by the executive director. That decision will be final unless the adversely affected company wishes to appeal to the secretary.

c. Only the company whose status was determined may file an appeal. Any other interested party which has protested the small business status of another concern may not appeal to the secretary. All appeals must be in writing and delivered by certified mail no later than 30 days from the issuance of the executive director's written decision.

d. In order to be eligible for a surety bond guarantee the contractor must possess good character and reputation. A contractor will be deemed to meet this standard if its owners, officers, directors, or partners possess good character and reputation. The surety also must satisfy the BAP that there is reasonable expectation that the contractor will perform the covenants and conditions of the contract with respect to which a bond is required. BAP's evaluation will consider the contractor's experience, reputation, and its present and projected financial condition. Finally, BAP must be satisfied as to the reasonableness of cost and the feasibility of successful completion of the contract. The BAP's determination will take into account the standards and principles of the surety industry.

e. The form of an organization is not a determining factor with respect to eligibility as a small business concern.

f. While some degree of subcontracting is permissible, the principal should perform actual work and not be a mere broker or project manager.

2. Collateral. There are no statutory requirements with respect to collateral or security for surety bond guarantees. A surety bond guarantee shall not be declined solely because of inadequate collateral. However, refusal of a contractor to pledge collateral when available may be sufficient reason for declination. The contractor should be as willing to demonstrate faith in its own abilities as it expects the surety and BAP to show.

#### C. Bonds

1. There must be a specific contract amount in dollars or obligee estimate of the contract amount in writing on other than firm fixed price contracts.

2. There must be nothing in the contract or the

proposed bond that would prevent the surety, at its election, from performing the contract rather than paying the penalty.

3. BAP, having guaranteed the bid bond, might refuse to guarantee the required payment and performance bonds when the actual contract price exceeds the original bid and BAP doubts the contractor's ability to complete the project at the higher amount. In such an instance, the surety would either issue the payment and performance bond without BAP's guarantee or suffer default in fulfilling the bid bond, which should result in claims against the surety and surety's claim against BAP.

4. Types. BAP guarantees will be limited to certain bid, performance, and payment bonds issued in connection with a contract. Generally bid, performance, and payment bonds listed in the "Contract Bonds" section, *Rate Manual of Fidelity, Forgery and Surety Bonds*, published by the Surety Association of America, will be eligible for a BAP guarantee. In addition, the BAP guarantee may be expressly extended, in writing, to ancillary bonds incidental to the contract and essential to its performance.

5. Ineligible bond situations

a. If the contracted work is already underway, no guarantee will be issued unless the executive director, in writing, consents to an exception.

b. While it should not be a common occurrence, and is in fact to be discouraged, applications for surety bonds may occasionally be submitted for consideration after a job is in process. In such cases, the surety must submit as part of the application the following additional information:

i. evidence from the contractor that the surety bond requirement was contained in the original job contract;

ii. adequate documentation as to why a surety bond was not previously secured and is now being required;

iii. certification by contractor: list of all suppliers indicating that they are paid up to date, attaching a waiver of lien from each; that all labor costs are current; that all subcontractors are paid to their current position of work and a waiver of lien from each;

iv. certification by obligee that the job has been satisfactorily completed to present status; and

v. certification from the architect or engineer that the job is in compliance with plans, specifications and satisfactory to the present.

c. There are prepared forms published by the American Institute of Architects (AIA) which may be used for the purposes listed above. However, any format will suffice.

D. Guaranty

1. Amount of Guaranty

a. The secretary of the Department of Economic Development, may at his discretion, guarantee up to 100 percent of the loss incurred and paid under a bond on a contract up to \$1,000,000 in face value and up to 90 percent of the loss incurred and paid under a bond on a contract in excess of \$1,000,000 in face value.

b. On multiple requests for bond guarantees by one contractor on one project, the aggregate amount of the contracts shall not exceed \$15,000,000 in face value.

c. When the aggregate contract amount of bond requests exceeds \$15,000,000 on what BAP, in its sole discretion, considers a single project, the requesting surety must demonstrate that it is not a single project. In such an instance one of the BAP criteria is a competitive bid by a separate contractor.

d. A contract for which a bond guarantee has been granted shall not be included in the aggregate total set forth above, if said contract has been completed and the principal has been completely released in writing by the obligee.

2. Surety Bond Guaranty Agreement

a. Terms and Conditions

i. The Guaranty Agreement is made exclusively for the benefit of BAP and the surety; it does not confer any rights or benefits on any other party including any right of action against BAP by any person claiming under the bond. When problems occur on a contract substantive enough to involve the surety, the surety is authorized to take actions it deems necessary. Regardless of the extent or outcome of surety's involvement, the surety's services, including legal fees and other expenses, will be chargeable to the contractor unless otherwise settled.

ii. Any agreement by BAP to guarantee a surety bond issued by a surety company shall contain the following terms and conditions:

(a). the surety represents that the bond or bonds being issued are appropriate to the contract requiring them;

(b). the surety represents that the terms and conditions of the bond or bonds executed are in accordance with those generally used by the surety or construction industry for the type of bond or bonds involved;

(c). the surety affirms that without the BAP guarantee to surety, it will not issue the bond or bonds to the principal;

(d). the surety shall take all steps necessary to mitigate any loss resulting from principal's default;

(e). the surety shall inform BAP of any suit or claim filed against it on any guaranteed bond within 30 days of surety's receipt of notice thereof. Unless BAP decides otherwise, and so notifies surety within 30 days of BAP's receipt of surety's notice, surety shall take charge of the suit for claim and compromise, settle or defend such suit or claim until so notified. BAP shall be bound by the surety's actions in such matters. BAP may, by written notice, require the surety to obtain written BAP approval before any settlement. In such cases the surety will be liable to BAP for any damages BAP sustains as a result of a settlement which BAP has not approved;

(f). the surety shall not join BAP as a third party in any lawsuit to which surety is a party unless BAP has denied liability in writing or BAP has consented to such joinder; and

(g). the surety shall pay BAP a portion of the bond premium in accordance with BAP rules.

b. Variances. The terms and conditions of BAP's guarantee commitment or actual bond guarantee may vary from surety to surety and contract to contract depending on BAP's experience with a particular surety and other relevant factors. In determining whether BAP's experience with a surety warrants terms and conditions which may be at variance with terms and conditions applicable to another surety, BAP will consider, among other things, the adequacy of the surety's underwriting, the adequacy of the surety's substantiation and documentation of its claims practice, the surety's loss ratio and its efforts to minimize loss on BAP guaranteed bonds, and other factors. Any surety which deems itself adversely affected by the executive director's exercise of the foregoing authority may file an appeal with the secretary of the Department of Economic Development. The secretary will render the final decision.

c. Change Orders. Even though a change order may



seem to change the contract amount to a different guarantee percentage bracket, the guarantee percentage shall remain at the level of original approval.

3. Reinsurance Agreement. In all guarantee situations, BAP agrees to reimburse the participating surety up to the agreed-upon percentage of any and all losses incurred by virtue of a default on a particular contract. The participating surety agrees to handle all claims, with recoveries being shared on a pro rata basis with BAP. This includes reinsurance agreements between the surety and any other licensed surety or reinsurance company. In other words, no indemnity agreement can be made to inure solely to the benefit of the surety to recover its exposure on any bond guaranteed by BAP without BAP participating in its pro rata share.

#### 4. Default

a. Notice of default. Ordinarily, BAP first is notified by the surety that a particular contractor is in trouble. Where BAP receives information from other sources indicating a contractor is in trouble, the information is to be relayed to the surety for its information and appropriate action.

b. Default claims, indemnity pursuit, and settlement.

i. The sole authority and responsibility in BAP for handling claims arising from a contractor's default on a surety bond guaranteed by the BAP shall remain with the executive director. The executive director will process and negotiate all claims matters with surety company representatives.

ii. In those situations where BAP's share is \$500 or less the surety should notify the contractor by letter of its outstanding debt with no further active pursuit undertaken by the surety for which BAP would be requested to reimburse.

iii. In those situations where BAP's share is over \$500 through \$2,500 the surety should promptly develop financial background information on the debtor contractor. These findings will determine whether it is economically justified to further pursue indemnity recovery or to close the file. The surety should consider strongly the use of a collection agency versus attorneys on all indemnity actions, if it appears feasible and economically beneficial.

iv. In those situations where BAP's share is over \$2,500 the surety should pursue recovery through its normal method, assessing and comparing the estimated cost of recovery efforts with the probable monetary gain from the effort.

v. The surety should advise BAP of attempts made to contact indemnitors or to attach other assets, and the outcome of these attempts. The surety may offset the deductible from indemnity recovery, but may not offset the deductible from contract proceeds or collateral held. The surety should insure that BAP is credited with its respective apportionment of all recovery within 90 days of the recovery.

vi. At the culmination of subrogation and indemnity recovery efforts, the surety should notify the obligor of the total amount outstanding. A copy of the notice sent to the contractor should be promptly forwarded to the BAP. After recovery efforts have been exhausted, the surety and BAP will make final reconciliation on the defaulted case, and close the file on that particular contractor's project. Prior to closing the file, surety should conduct a recapitulation of the account to assure that BAP has been correctly credited with all funds recovered from any and all sources.

vii. Under the terms and conditions of the surety bond guarantee agreement the authority to act upon proposed

settlement offers in connection with defaulted surety bonds lies with the surety and not with the BAP. A settlement occurs when a defaulted contractor and its surety agree upon a total amount and/or conditions which will satisfy the contractor's indebtedness to the surety, and which will result in closing the loss file. The surety must pay BAP its pro rata share of such settlement. BAP immediately upon receipt of same, closes the file.

5. Reinstatement. A contractor's contractual relationship is with the surety company. Therefore, all matters pertaining to reinstatement must be arranged with and through the surety. BAP's contractual relationship is with the surety company only. Because of these relationships, BAP neither will negotiate nor discuss with a contractor amounts owed the surety by the contractor, or settlement thereof.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1120 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, LR 19: **§109. Audit**

At all reasonable times, BAP may audit in the office of either a participating surety, its attorneys, or the contractor or subcontractor completing the contract all documents, files, books, records and other material relevant to the surety bond guarantee commitments. Failure of a surety to consent to such audit will be grounds for BAP to refuse to issue further surety guarantees until such time as the surety consents to such audit. However, when BAP has so refused to issue further guarantees the surety may appeal such action to the secretary of the Department of Economic Development. All appeals must be in writing and delivered by certified mail within 30 days of the executive director's written issuance of notice that no further guarantees will be issued.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1120 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, LR 19: **§111. Ancillary Authority**

The executive director will have the authority to commit funds and enter into agreements which are consistent with and further the goals of this program; this authority would include, but not be limited to, designating a pool of funds upon which only a particular surety has recourse to, in the event of a contractor default.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1120 et seq.

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

Kevin P. Reilly  
Secretary

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 741 - Deletion of Computer Literacy Standard

The Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act, and readopted

as an emergency rule, an amendment to page 68 of Bulletin 741, to delete Standard 2.090.07 relative to computer literacy. Computer literacy remains an option of the local education agency.

For clarification, Standard 2.090.07 of Bulletin 741 which has been deleted, read:

"By completion of the eighth grade, students shall have received the equivalent of one semester of instruction in Computer Literacy."

This amendment to Bulletin 741 was readopted as an emergency rule in order to continue the present emergency rule until it becomes effective as a rule on October 20, 1992. Effective date of this emergency rule is September 24, 1992.

Carole Wallin  
Executive Director

#### DECLARATION OF EMERGENCY

##### Board of Elementary and Secondary Education

##### Bulletin 741-Handbook for School Administrators

The State Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act R. S. 49:953(B) and re-adopted as an emergency rule, the numerous amendments to Bulletin 741 Louisiana Handbook for School Administrators. These revised amendments were adopted as an emergency rule, effective June 26, 1992 and printed in full in the July, 1992 issue of the *Louisiana Register*. Effective date of this emergency rule is October 26, 1992. Re-adoption is necessary in order to continue the present policy until it becomes finalized as a rule.

Carole Wallin  
Executive Director

#### DECLARATION OF EMERGENCY

##### Board of Elementary and Secondary Education

##### Bulletin 1508 - Pupil Appraisal Handbook

The State Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted the following amendment to the Interim Changes to Bulletin 1508, *Pupil Appraisal Handbook* which were adopted as an emergency rule and printed in the August 20, 1992 issue of the *Louisiana Register*.

These two paragraphs relative to Independent Evaluations in Bulletin 1508 were inadvertently omitted from the revisions to Bulletin 1508 which were printed in the August 20, 1992 issue of the *Louisiana Register*. Emergency adoption is necessary in order to comply with federal mandates. Effective date of these revisions is September 24,

1992. The notice of intent appearing in this month's publication of the *Louisiana Register* will include these amendments.

\* \* \*

#### H. Independent Individual Evaluation

\* \* \*

3. Parents have the right to obtain an individual evaluation at their own expense. It is advisable for parents to determine if Bulletin 1508 criteria will be met.

\* \* \*

b. Parents should be advised that in considering the privately obtained independent evaluation, the school system must:

\* \* \*

add

(5) Inform parents of decisions reached regarding the evaluation and actions proposed by the school system.

(6) Consider the results in any decision made with respect to provision of a free appropriate public education.

Carol Wallin  
Executive Director

#### DECLARATION OF EMERGENCY

##### Board of Elementary and Secondary Education

##### Revised Bulletin 1525 - Personnel Evaluation

The Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted revised Bulletin 1525, Personnel Evaluation. Revised Bulletin 1525 incorporates pages 13-18 of the Louisiana Components of Effective Teaching (the work of Panel I) and pages 1-22 of the Procedure Manual for the local teacher evaluation program (the work of Panel II). As an addendum to Bulletin 1525, the emergency rule which adopted the Panel II report, printed in full in the September 20, 1992 issue of the *Louisiana Register*, is superseded by this emergency rule. However, the emergency rule which adopted the Panel I report, printed in full in the September 20, 1992 issue of the *Louisiana Register*, continues because the Panel I report will be utilized in other areas in addition to Bulletin 1525. Effective date of this emergency rule is October 20, 1992.

Emergency adoption is necessary in order for revised Bulletin 1525 to be disseminated to the local school districts no later than December 31, 1992 and in order to meet this deadline, the Department of Education must have Bulletin 1525 printed and mailed by December 10, 1992.

#### Introduction

As required by R.S. 17:391.5, R.S. 17:24.3 (Act 621 and Act 9) of the 1977 Louisiana Legislature; and R.S. 17:391.10 (Act 605) of 1980, all local educational agencies (LEAs) in Louisiana developed accountability plans to fulfill the requirements as set forth by the laws. Specifically, Act 621 of 1977 established school accountability programs for all certified and other professional personnel. Act 9 of 1977

established a statewide system of evaluation for teachers and principals. Act 605 of 1980 gave the Louisiana Department of Education (LDE) the authority to monitor the LEAs' personnel evaluation programs. In passing these acts, it was the intent of the legislature to establish within each LEA a uniform system for the evaluation of certified and other professional personnel.

Act 506, R.S. 17:391.5 as enacted and amended during the 1992 Regular Session of the Louisiana Legislature, revised and reenacted previous LEA accountability legislation. It includes provisions to strengthen and make more uniform the local teacher evaluation practices within the public schools of Louisiana. During the spring of 1992 the State Board of Elementary and Secondary Education (SBESE) authorized the convening of a Local Teacher Evaluation Program Panel (Panel II) to develop guidelines for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. Superintendents, principals and teachers were represented on this panel. The panel operated under the assumption that local teacher evaluation programs would be standardized if they are as follows:

grounded in the same statement of philosophy and purposes;

use common criteria to evaluate teachers; and

include procedures that comply with uniform guidelines for teacher evaluation programs.

During the spring of 1992 the SBESE authorized the convening of a Louisiana Components of Effective Teaching (LCET) panel to determine and define the components of effective teaching for Louisiana's teachers. The components were to reflect what actually takes place in the classroom of an effective teacher. This 35 member panel was comprised of a majority of teachers. The resulting LCET are a descriptive framework of effective teacher behavior and are intended to be a uniform element of the evaluation criteria in the local teacher evaluation programs.

The guidelines to strengthen local teacher evaluation programs and the Louisiana Components of Effective Teaching were approved by the SBESE in September 1992. This content, along with the requirements of the local accountability legislation, forms the basis for the revised Bulletin 1525.

The guidelines approved by SBESE entitled "Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs" are integrated in the content of this document and included in entirety in Appendix A.

The revised Bulletin 1525 seeks to achieve the following objectives:

to establish one set of guidelines that incorporates the requirements of all local accountability legislation;

to establish one set of guidelines that strengthens and makes more uniform the local teacher evaluation practices within the public schools of Louisiana; and

to develop one set of guidelines that are designed to facilitate the program development at the local level.

The revised state guidelines are presented as a framework that local school systems must use in the development of personnel evaluation programs which:

1) fulfill the requirements of the enacted legislation;

2) establish a uniform system of evaluation; and

3) denote the philosophy and unique characteristics of the local school system.

## Philosophy and Purposes of Personnel Evaluation

As we move through the decade of the nineties, it is clear that public schools must provide a high quality education that prepares our youth for the demands of the twenty-first century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this, the SBESE has established uniform guidelines for personnel evaluation.

Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving instruction and the learning environment for all students.

Supplementing many of the traditional concepts of personnel evaluation, the LDE affirms and supports the belief that evaluation is a humanistic process directed toward the growth and development of all professional personnel who determine the educational programs in the state. This vast human potential will ultimately determine the direction the educational programs will follow. Therefore, it is crucial that every effort possible be expended toward the identification and retention of the most competent and qualified personnel.

The purposes for which personnel evaluation will be used in Louisiana are as follows:

(1) to assure the public that

a) the educational system is providing the best opportunities for all children to learn,

b) the best qualified personnel are employed in every position, and

c) effective teaching continues in the classroom;

(2) to foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators;

(3) to provide support for the professional development of new teachers during their period of internship;

(4) to provide procedures necessary to fulfill the objectives of retaining competent professional employees, to embrace sound educational principles, and to ensure the strengthening of the formal learning environment;

(5) to provide procedures for self-evaluation, personal reflection and peer collaboration; and

(6) to promote positive interpersonal relationships among all school personnel to continually increase professional competencies.

## Timelines for Implementation of Personnel Evaluation Programs

In accordance with Act 506, these guidelines will be used to strengthen and standardize local personnel evaluation programs over a three-year period. A schedule for implementation is presented below.

### **September/October 1992**

Orientation to new guidelines and procedures for using them provided to LDE and Regional Service Center (RSC) staff

Orientation to new guidelines and procedures for using them provided to LEA superintendents and personnel evaluation contact persons

New guidelines and procedures for strengthening local personnel evaluation provided to teachers and administrators

\*\*LDE submits summary of LEA personnel evaluation to the Louisiana Legislative Committees on Education

### **October 1992**

LEA forms Personnel Evaluation Steering Committee  
**October/November 1992**

Orientation to new guidelines and procedures for using them provided to LEA Core Team

Core Team from each LEA trained by LDE to serve as personnel evaluation staff development resource to LEA and steering committee

**December 1992**

Orientation to the new guidelines and procedures for using them provided to Steering Committee by Core Team

LEA Steering Committee develops and implements a plan to review and revise its personnel evaluation program

**January 1993**

LEA Steering Committee submits Personnel Evaluation Self-Assessment Report to LDE by February 1, 1993

LEA Steering Committee shares Self-Assessment Report with administrators, instructional personnel and support services personnel in the LEA

**February/March 1993**

LDE conducts regional workshops to orient LEA personnel evaluation resource persons to the process for reviewing Personnel Evaluation Self-Assessment Reports

State review teams examine all LEA Personnel Evaluation Self-Assessment Reports to determine compliance

**March 1993**

LDE shares review teams' findings with LEAs in a Status Report

LEA Steering Committee reviews Status Report

\*\*LDE reports summary results of LEA school personnel evaluation to the legislature

**March/May 1993**

LEA Steering Committee follows its plan for making changes/modifications in its personnel evaluation program

LDE conducts 5-day training program for Core Team members to enable them to train their colleagues in critical teacher evaluation skills

**June 1993**

LEA Steering Committee completes its plan for implementing the local personnel evaluation program during the 1993-94 school year and submits that plan to the LDE by June 15, 1993

**July/August 1993**

LEA Steering Committee conducts workshops with teachers and administrators to prepare them for the 1993-94 implementation of the new program

\*\*LEA reports summary results of personnel evaluation to the LDE by July 15, 1993

**September 1993 - May 1994**

LEA Steering Committee implements its revised personnel evaluation program with LEA Board approval

LEA Steering Committee meets monthly to monitor implementation

LEA provides ongoing staff development for teachers and administrators

**November 1993 and March 1994**

\*\*LDE Review Teams conduct fall and spring site visits

\*\*LEA Steering Committee indicates what staff development resources it would like to see provided through the RSC

\*\*Review Team prepares a Site Visit Report and shares it with the LDE and RSC staff

**June 1994**

\*\*LEA Steering Committee reviews and refines its plan

for implementing local personnel evaluation program during the 1994-95 school year and submits those revisions to the LDE by June 15, 1994

LEA Steering Committee orients its teachers and administrators to revised plan

**July/August 1994**

LEA Steering Committee conducts workshops with teachers and administrators to prepare them for the 1994-95 implementation of the refined program

**September 1994 - May 1995**

\*\*LEA Steering Committee implements its refined personnel evaluation program with LEA Board approval and meets monthly to monitor its implementation

\*\*LEA provides ongoing staff development for teachers and administrators

*\*\*Activities will be reviewed and implemented annually thereafter.*

**LDE Personnel Evaluation Glossary**

In order that consistency in terminology be maintained on a statewide basis, the LDE has established a list of terms and the definitions of each which should be given careful consideration during the development of the LEA personnel evaluation programs. The definitions presented herein must be utilized by all LEAs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included.

1. *Accountability*—shared responsibility for actions relating to the education of children.

2. *Assistance level*—denotes the number of times assistance has been prescribed.

3. *Certified School Personnel*—those persons whose positions require LDE certification.

4. *Criteria*—demonstrable levels of performance upon which a judgment or decision may be based.

5. *Due Process*—fair and impartial treatment as guaranteed under the law, including, but not limited to, the First, Fifth and Fourteenth Amendments to the Constitution of the United States, Section 1983 of the Civil Rights Act of 1971, Title VII of the Civil Rights Act of 1964, and Title IX of the Educational Amendment of 1972, relative to substantive and procedural requirements.

6. *Duties*—those actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

7. *Educational Accountability*—reflects the respective shared responsibilities and duties of the following groups:

a. local school boards, administrators, principals, teachers, and other personnel;

b. the LDE;

c. parents and students; and

d. other governing authorities as specified by the constitution and laws of the state.

8. *Evaluatee*—one who is evaluated.

9. *Evaluation*—the process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

10. *Evaluator*—one who evaluates.

11. *Goal*—a statement of broad direction or intent which is general and timeless and is not concerned with a particular achievement within a specified time period.

12. *Instructional Personnel*—those LEA personnel who provide classroom instruction (e.g., classroom teacher, special education teacher, special projects teacher).

13. *Intensive Assistance Plan*—the plan that is implemented when experienced personnel do not meet the local school system's standards of performance through the personnel evaluation process. This plan specifies what the evaluatee needs to do to strengthen his/her performance, what assistance/support is provided by the local system, the timelines and procedures for monitoring the progress, and the action that will be taken if improvement is not demonstrated.

14. *Job Description*—a statement of the position title, qualifications, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria that specify the level of job skill required (The Louisiana Components of Effective Teaching must be included for instructional personnel). Space must be provided for signature and date.

15. *LEA*—local educational agency; parish/city school board; local school system.

16. *LEA Core Team*—a local school district team comprised of two resource persons, the superintendent (or his/her designee) and the personnel evaluation contact person. This team will be trained by the LDE through the RSCs to serve as a personnel evaluation staff development resource to the LEA and its steering committee. Also, the two resource persons on this team will assist the LDE in its review of the personnel evaluation programs of other school districts in the service region.

17. *LEA Steering Committee*—a local school district committee representing instructional, certified and other professional personnel to review the current personnel evaluation program.

18. *LDE*—Louisiana Department of Education.

19. *Multi-opportunity*—more than one opportunity.

20. *Non-instructional Certified and Other Professional School Personnel*—those LEA personnel who do not provide classroom instruction.

21. *Objective*—a devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

22. *Observation*—the process of gathering facts, noting occurrences and documenting evidence of performance.

23. *Other Professional School Personnel*—all school employees whose positions do not require a teaching certificate but require a college degree and/or employees without a college degree who assume major management functions by directing, administering, or managing significant departments or divisions within the LEA.

24. *Performance Criteria*—general and specific standards by which personnel may be evaluated and on which judgments and decision making may be based.

25. *Period of Evaluation*—that time, determined by the LEA, which has been designated for conducting a systematic personnel evaluation and assessment of an individual's performance.

26. *Philosophy*—a composite statement of the relationship between the individual and society based upon beliefs, concepts, and attitudes from which the goals and purposes of the district's philosophy are derived.

27. *Professional Growth Plan*—a written plan

formulated by the satisfactorily performing evaluatee to enhance his/her skills and performance. The plan includes specific goal(s), objective(s), action plans, timelines and evaluation criteria.

28. *Public Schools*—public elementary and secondary schools governed by parish or city school boards and under the supervision of the State Board of Elementary and Secondary Education (SBESE).

29. *School Board*—parish or city school board governing public elementary and secondary schools.

30. *School District*—the area of each parish or municipality under the jurisdiction of a local school board.

31. *School Personnel*—teachers, librarians, counselors, administrators, and other professional personnel of the public schools of the state, including members of the professional staff of the LDE.

32. *Self-evaluation*—the process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the characteristics of the given situation, and the specific standards or performance pre-established for the position; to be submitted by the individual to the appropriate superordinate for use in the compilation of the individual's evaluation report.

33. *Single Official Personnel File*—single personnel file maintained in the LEA central office.

34. *Staff Development*—process designed for groups of LEA personnel with similarities guided by school/district goals and plans. Encourages collective growth in a common direction and leads to enhanced repertoire of skills/concepts.

35. *Standard*—that which is set up and established by an authority or by mutual acceptance as a basis for the measure of quantity, value, or quality.

36. *Standard of Performance*—an authoritative or mutually established level of accomplishment.

37. *Triennial*—occurring every third year.

38. *Uniform Evaluation System*—a system of evaluation that applies the same procedures in a consistent manner to all employees of each type or class of certified employees, as well as other professional school personnel.

#### **LEA Guidelines for Personnel Evaluation Program**

It shall be the responsibility of each local school board to provide a program for the evaluation of certified and other professional personnel within the school systems of the state. Each school board shall have the priority to institute programs which it deems appropriate and responsible that address the particular needs of the school district it represents and the guidelines developed by the LDE pursuant to the laws.

This Section of the guidelines is of particular importance to LEA personnel whose responsibility will be the actual construction of the personnel evaluation programs. Certain requirements relative to the design and development of the programs have been set forth in an effort to facilitate this construction process. LEA programs that fail to meet the requirements of this Section will not be considered for approval by the LDE. Emphasis has been placed on the following:

1. *Program Format*. Each LEA personnel evaluation program must address each numerical section and subsection in the guidelines. The numbering of the sections and subsections in each LEA program must be consistent with that of the appropriate requirements herein presented. Adherence to this procedure will provide for a faster and

more efficient evaluation of programs by the LDE. Also, the numerical outline will assist all parties involved so that common points of reference will be established.

2. Requirement Explanations. In each section of the LEA programs, certain guidelines will be addressed relative to content, scope, etc. The LDE has provided a complete explanation of the requirements that are to be addressed in each respective section in order to reduce misunderstanding.

The LEA personnel evaluation programs must be designed and developed in regard to the following:

#### **Section 1.0: Focus on Educational Improvement**

The LEA personnel evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of LDE personnel evaluation. A clear message is provided as to how LEA personnel evaluation will be used to better facilitate the attainment of short and long term goals for educational improvement at the district and school building levels.

This overview must conform to the guidelines listed below:

1) The LEA explains how its philosophy and educational goals are related to the LDE's philosophy and purpose of personnel evaluation. (See **Philosophy and Purposes of Personnel Evaluation.**)

2) The LEA explains how the LEA personnel evaluation program is related to goals for educational improvement at the district level.

3) The LEA explains how the LEA personnel evaluation program is related to goals for educational improvement at the school building level.

#### **Section 2.0: Staff Involvement in the Personnel Evaluation Program**

The LEA will form a personnel evaluation steering committee that is representative of administrators, instructional, and support services personnel who are selected by each of these groups. This standing committee is responsible for assessing the strengths and weaknesses of the LEA's personnel evaluation program in light of the new guidelines. Furthermore, it will oversee the planning and implementation of any revisions necessary to strengthen the personnel evaluation process. Periodically, at least every three years, this committee will evaluate the extent to which the purposes of the local personnel evaluation program are being achieved.

In this Section of the LEA personnel evaluation program description, the LEA describes the personnel evaluation steering committee and explains how that committee will accomplish its tasks.

The make-up of the steering committee must conform to the guidelines listed below:

1) The steering committee has balanced representation of administrators, instructional personnel, and support services personnel.

2) Steering committee members are selected by the groups that they represent.

The tasks of the steering committee must conform to the guidelines listed below:

1) The steering committee reviews the current LEA personnel evaluation program to assess the strengths and weaknesses of that plan in light of the new state guidelines.

2) The steering committee develops a plan for

strengthening the current LEA personnel evaluation program where necessary. This plan is presented to the LEA Board for its approval prior to submission to the LDE.

3) The steering committee oversees the planning and implementation of any necessary revisions to the current LEA personnel evaluation program.

4) The steering committee develops a plan for periodically evaluating the extent to which the purposes of the LEA's personnel evaluation program are being achieved. This evaluation will be conducted at least every three years.

#### **Section 3.0: Philosophy and Purposes of Personnel Evaluation**

The philosophy and purposes for which personnel evaluation is used in the local school district are stated clearly in writing. This philosophy is grounded in the belief that all students can learn, that good teaching increases the opportunities for students' learning, and that a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for effective teaching.

A purpose of the LEA personnel evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the best qualified personnel are employed in every position, and that effective teaching continues in the classroom.

Another purpose of the LEA personnel evaluation program is the improvement of the teaching-learning process. This includes the encouragement of creativity and innovation in the planning and implementation of teaching strategies that are consistent with contemporary research on effective classroom processes. The LEA personnel evaluation program includes promoting the professional growth and development of staff, as well as providing support for new teachers during their period of internship.

In summary, LEA personnel evaluation is pursued with the spirit that it is a productive process.

In this Section of the LEA personnel evaluation program description, the LEA delineates its philosophy and purposes for the LEA personnel evaluation.

The philosophy must conform to the guidelines listed below:

1) The philosophy of the LEA personnel evaluation program is stated clearly in writing.

2) The philosophy of the LEA personnel evaluation program is explained to and discussed with all evaluatees.

3) The philosophy is grounded in sound principles of effective teaching and learning that are supported by contemporary research.

The purposes must conform to the guidelines listed below:

1) The purposes of the LEA personnel evaluation program are stated clearly in writing.

2) The purposes of the LEA personnel evaluation program have been explained to and discussed with all evaluatees.

3) The purposes provide the public assurances that only effective certified and other professional personnel continue to be employed by the school district.

4) The purposes reflect sound principles of effective teaching and learning that are supported by contemporary research.

5) The purposes support the improvement of the teaching-learning process as well as the continued professional growth and development of instructional personnel.

#### Section 4.0: LEA Personnel Evaluation Glossary

This Section must include a complete listing of terms and the definition of each term in order for the meaning and/or interpretation of the program to remain consistent. The list presented in the LDE Personnel Evaluation Glossary will be considered as a minimum. If other terms and their definitions are necessary, they should be included.

In this Section, the LEA must adhere to the following guidelines:

- 1) The LEA must include a complete listing of terms and the definition of each term.
- 2) The terms presented in the LDE Personnel Evaluation Glossary will be considered as a minimum.
- 3) The LEA must include any other terms and definitions which are necessary.

#### Section 5.0: Impact of Personnel Evaluation

The impact of the LEA personnel evaluation process on improving teaching and learning at the school building and district levels is documented and discussed by the staff each spring. The accomplishments of certified and other professional personnel in this regard are celebrated and shared with the school community.

The process must conform to the guidelines listed below:

- 1) The impact of the personnel evaluation process on improving teaching and learning at the school building and district levels is documented and discussed each spring.
- 2) The accomplishments of certified and other professional personnel in this regard are celebrated and shared with the school community.

#### Section 6.0: Evaluation Process Description

This Section must address the LEA's evaluation procedures. The various procedures involved in the evaluation of personnel must be presented in such a way as to offer responses to the guidelines of the subsections within this Section. All explanations must be presented, as required, in order that the procedures be readily discernible to all individuals involved.

Section 6.0, the Evaluation Process, of revised Bulletin 1525 incorporates the work of Panel II as it applies to classroom teachers. Furthermore, it integrates and applies the content to the extent applicable and appropriate to all certified and other professional personnel.

#### Information Included in the Evaluation Process for Instructional Personnel

The evaluation of instructional personnel is based on one or a combination of the following:

- 1) The evaluator's assessment of teaching based on the criteria specified in the teacher's written job description, including the Louisiana Components of Effective Teaching,
- 2) The evaluator's assessment of the progress the teacher has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator, and
- 3) The teacher's self-evaluation of teaching, as well as progress toward achieving those objectives included in his/her professional growth plan.

In this Section of the personnel evaluation description, the LEA defines its evaluation criteria.

#### Section 6.1: Evaluation Criteria

The evaluation criteria for all certified and other professional personnel must be defined clearly in writing in the job description. The LEA must design evaluation

instruments for all certified and other professional personnel.

#### Section 6.1A: Instructional Personnel

Instructional personnel are evaluated on the basis of job descriptions that include the Louisiana Components of Effective Teaching (Appendix B) and any other appropriate criteria identified by the local school district. The Louisiana Components of Effective Teaching are a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all the criteria in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching.

The evaluation criteria must conform to the guidelines listed below:

1. The evaluation criteria for all instructional personnel are stated clearly in writing in the job description.
2. The Louisiana Components of Effective Teaching are included in the job descriptions of instructional personnel.
3. The evaluation criteria provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness.

#### Section 6.1B: Non-instructional Certified and Other Professional Personnel

The LEAs must design an appropriate instrument(s) for use in the evaluation of non-instructional certified and other professional personnel. The design of the instrument(s) must provide for the evaluation of standard criteria (the job description for which non-instructional personnel are held responsible) and the specific professional growth plan designed by the evaluatee and the evaluator.

The design of the instrument must conform to the guidelines listed below:

- 1) must provide for the evaluation of standard criteria that are addressed in the job description.
- 2) must provide for the evaluation of the criteria that are addressed in the specific professional growth plan.

#### Section 6.2: Accountability Relationships

Accountability relationships are defined clearly in writing. These relationships are communicated effectively so all certified and other personnel know who is accountable to whom for the purposes of personnel evaluation.

In this Section of the LEA personnel evaluation program description, the LEA clearly defines its accountability relationships for all certified and other professional personnel.

This description must conform to the guidelines listed below:

- 1) Accountability relationships are defined clearly in writing.
- 2) All evaluatees are informed each year as to who is responsible for their evaluation.

Example: Accountability Relationships Register

<i>Evaluatee</i>	<i>Evaluator</i>
A. teachers	principal
B. principals	supervisor
C. supervisors	superintendent

#### Section 6.3: Program Instruments Register

The LEA should delineate which instruments will be

used in the personnel evaluation process.

The program instruments register must conform to the guidelines listed below:

1. The LEA provides a list of all instruments to be used in the evaluation process.

2. A numerical coding system may be designed for identifying the various forms. This number must be placed in the upper right portion of the form in a manner and letter size appropriate for easy recognition.

Examples of numerical codes are as follows:

Form No. 101

F.N. - 101;

Instrument No. 101

I.N. - 101

Evaluation System Instrument No. 101

E.S.I.N. - 101

These are examples presented only as instruments of illustration and are not intended for use by authorities in any particular LEA.

The list of instruments should include, but not necessarily be limited to, the following:

- A. professional growth plan form(s)
- B. personnel observation form(s)
- C. personnel evaluation form(s)
- D. self-evaluation form(s)
- E. intensive assistance form(s)

#### **Section 6.4: Observation Process**

##### **All Certified and Other Professional Personnel**

The observation procedures are for all certified and other professional personnel. A detailed narrative of the procedures to be employed must be included in this Subsection.

The observation process must conform to the guidelines listed below:

1) The LEA must specify who will conduct the observation(s). The evaluator must conduct at least one of the required number of observation(s).

2) The LEA must specify how often observations will occur.

3) The LEA must specify if the evaluatee will be notified in advance when observation(s) will occur. LEAs must define types, if different types of observations are used.

4) The LEA must specify how the post-observation conference will be conducted.

5) The LEA must specify how copies of the completed observation forms will be disseminated and filed.

6) The LEA must specify how intensive assistance, if necessary, will be initiated following the observation procedures.

##### **Instructional Personnel**

In addition to the aforementioned guidelines, the following observation procedures are for instructional personnel.

Classroom observation is a critical aspect of the teacher evaluation process. The evaluator conducts observations that are of sufficient duration to see the lesson begin, develop, and culminate. A pre-observation conference is conducted to review the teacher's lesson plan. A post-observation conference is arranged to discuss and analyze the lesson, as well as to prepare an observation report. The primary purpose of this report is not to rate the teacher on a scale or checklist, but rather, to reach consensus on commendations, as well as recommendations for strengthening or enhancing

teaching. Follow-up classroom visits and observations are conducted to determine what impact these recommendations have had on improving the quality of the teaching-learning process in the teacher's classroom.

In this Section of the LEA evaluation program description, the LEA delineates its classroom observation process for teachers.

The observation process must conform to the guidelines listed below:

1) Teaching is evaluated through periodic classroom observations.

2) A pre-observation conference is held to review the teacher's lesson plan. This does not preclude superordinates from conducting unannounced observations.

3) Observations are of sufficient duration to see the lesson begin, develop, and culminate.

4) A post-observation conference is held to discuss and analyze the lesson as well as to prepare an observation report.

5) The primary purpose of the classroom observation is not to rate the teacher, but rather, to reach consensus on commendations, as well as recommendations to strengthen or enhance teaching.

6) Follow-up classroom visits and observations are conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.

##### **Section 6.5: Developing the Professional Growth Plan**

Periodic evaluation conferences are conducted to discuss and analyze job performance for the purpose of developing longer term (one - two year) professional growth plans to strengthen or enhance the job performance of all certified and other professional personnel. These professional growth plans should be developed at the beginning of the evaluation period and be based on a descriptive analysis of job performance rather than only on the results of a checklist or a rating scale. Appropriate timelines must be determined in regard to these procedures. Usually such plans include two to three objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. For successful, experienced personnel, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the evaluatee's progress, as well as observable evaluation criteria that the evaluatee and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria should show clearly how achievement of the objective will impact the quality of the job performance.

In this Section of the LEA personnel evaluation program description, the LEA delineates its process for developing the professional growth plan.

That process must conform to the guidelines listed below:

1) All certified and other professional personnel develop longer-term professional growth plans to strengthen or enhance their job performance.

2) The professional growth plan is developed at the beginning of the evaluation period. Appropriate timelines must be determined in regard to these procedures and such timelines must be given in the narrative of this Subsection. The LEA must develop forms for the professional growth plan.



3) Professional growth plans are based on objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually.

4) A plan of action and evaluation criteria are specified for each objective.

5) For successful, experienced personnel, objectives are used to explore new, untried, innovative ideas or projects.

6) The evaluator(s) and evaluatee(s) must sign and date each completed professional growth plan form prior to dissemination and filing.

7) The evaluator and the evaluatee must maintain a copy of all completed forms.

#### **Section 6.6: Personnel Self-Evaluation**

All certified and other professional personnel must be encouraged to assume significant responsibility for the evaluation of their performances. Ample opportunities should be provided throughout the personnel evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports which certified and other professional personnel submit as part of the personnel evaluation process. Training must be provided for all certified and other professional personnel in techniques for reflection and self-evaluation. For instructional personnel, additional staff development opportunities are provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

In this Section, the LEA delineates its personnel self-evaluation process.

That process must conform to the guidelines listed below:

1) Training is provided for certified and other professional personnel in techniques for personal reflection, self-evaluation and peer collaboration.

2) Certified and other professional personnel are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration.

3) Certified and other professional personnel include a self-evaluation as part of the overall evaluation process.

#### **Section 6.7: The Evaluation Period**

All certified and other professional personnel are evaluated in writing each year. How staff are evaluated may vary depending on their experience and proficiency. The evaluation process for intern teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for successful, experienced certified and other professional personnel tends to focus on professional growth and school improvement. Beginning teachers and those new to the school district or new to a position will be evaluated each year through observations for the first three years in that position. More experienced certified and other professional personnel will be evaluated on the basis of observations at least once every three years. Successful, experienced certified and other professional personnel may be evaluated on a multi-year cycle that encourages staff to pursue longer-term professional growth and school improvement initiatives. For example, a three year cycle may be implemented as follows:

Year One: Certified and other professional personnel are evaluated formally based on observations.

Year Two - Three: Certified and other professional personnel are evaluated on the basis of progress toward those objectives in their professional growth plan. Periodic classroom visits and/or observations may be conducted as necessary at the discretion of the evaluator or at the request of the evaluatee.

It is imperative that all certified and other professional personnel clearly understand the procedures and timelines that will be used to evaluate their performances.

In this Section of the LEA personnel evaluation program description, the LEA defines its evaluation period.

That description must conform to the guidelines listed below:

1. The LEA specifies the number of evaluators per evaluatee.

2. The LEA specifies how the evaluatee will be informed of the criteria of expected performance.

3. All certified and other professional personnel are evaluated in writing each year.

4. The evaluation process is tailored to the levels of experience and proficiency of the certified and other professional personnel.

5. Successful, certified and other professional personnel are evaluated on a multi-year cycle that encourages staff to pursue more meaningful, longer-term professional growth and school improvement initiatives.

6. The LEA specifies how the post-evaluation conference will be conducted.

7. The LEA specifies how copies of the completed evaluation forms will be disseminated and filed.

The LDE recommends that personnel who are determined, through the evaluation process, to be in need of intensive assistance and/or reinforcement, be evaluated until such performance(s) is/are corrected or dismissal is recommended. Procedural due process is mandatory in the personnel evaluation programs, and a breach in this matter will be considered serious.

#### **Section 6.8: Intensive Assistance Programs**

This program must be designed for use by all evaluators when it becomes necessary to prepare an intensive assistance program\* for an evaluatee who has been determined to be in need of certain assistance.

If it is determined through the evaluation process that an evaluatee does not satisfactorily meet the local school district's standards of performance, then that evaluatee is placed in an intensive assistance program. When the evaluatee is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the evaluatee. This plan specifies:

(a) what the evaluatee needs to do to strengthen his/her performance and includes a statement of the objective(s) to be accomplished and the expected level(s) of performance,

(b) what assistance/support is provided by the school district,

(c) a timeline for achieving the objectives and the procedures for monitoring the evaluatee's progress including observations and conferences, and

(d) the action that will be taken if improvement is not demonstrated. Evaluatees should continue to be evaluated until the need for intensive assistance no longer exists.

LEAs should delineate the procedures to be followed if the evaluatee fails to improve within the timelines of the

intensive assistance program.

Experienced evaluatees can assume that they are performing satisfactorily unless they have been placed in an intensive assistance program.

In this Section of the LEA evaluation program description, the LEA delineates its process for intensive assistance.

That process must conform to the guidelines listed below:

1) An intensive assistance program is provided for evaluatees who do not meet the local school district's standards of satisfactory performance.

2) Any evaluatee\* placed in an intensive assistance program is informed in writing of the reason(s) for this placement.

3) An intensive assistance plan is developed for any evaluatee placed in such a program.

4) The local school district provides the professional development support necessary to enable the certified and other professional personnel to meet the objectives of this plan.

5) The local school district takes appropriate action in accordance with legislative, SBESE and local school board mandates if satisfactory improvement is not demonstrated.

6) The intensive assistance plan must specify the following:

a) what the evaluatee needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance.

b) who will be responsible for designing the plan.

c) what assistance/support is provided by the school district.

d) evaluatee and evaluator(s) names and position titles.

e) space for indicating the date that the assistance program is to begin.

f) space for the date when the assistance program is to be completed.

g) evaluator and evaluatee signature and date lines. Signatures and dates must be affixed at the time the assistance is prescribed and again after follow-up comments are completed.

h) the timeline for achieving the objectives and procedures for monitoring the evaluatee's progress.

i) explanation of provision for multiple opportunity to improve. (The intensive assistance programs must be designed in such a manner as to provide the evaluatees with more than one opportunity to improve.)

j) the action that will be taken if improvement is not demonstrated.

k) The intensive assistance form must be designed in a manner that would provide for the designation of the level of assistance and a description of performance.

\*The intensive assistance program does not apply to intern teachers.

### Section 6.9: Induction of Intern Teachers

Mentor support should be provided through the LEA personnel evaluation process for the induction and professional growth of intern teachers. A concerted effort should be made to insure that intern teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the LEA personnel evaluation is coordinated with the state support

and assessment program for any beginning teacher with a provisional or temporary teaching certificate.

In this Section, the LEA describes its process for coordinating the induction of intern teachers.

That process must conform to the guidelines listed below:

1) Mentor support is provided for the induction of intern teachers.

2) The Louisiana Components of Effective Teaching are a focus for the evaluation of beginning teachers.

3) Assistance made available through the LEA personnel evaluation process is coordinated with the state support and assessment program for beginning teachers.

### Section 6.10: Procedures for Resolving Conflict -- Due Process

The LEA personnel evaluation program should include procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. All due process mandates in R.S. 17:391.5; R.S. 17:24.3 must be included in the evaluation process.

The components that must be addressed in this Section are as follows:

1) The evaluator will provide the evaluatee with a copy of the evaluation results within 15 working days after the completion of the evaluation. (The LDE strongly recommends that this same procedure be employed with regard to observation reports.)

2) A post-observation conference must be held following the evaluation and prior to the end of the school year in order that the results of the evaluation can be discussed. (This discussion should concern the strengths and weaknesses of the evaluatee.)

3) The evaluation program includes procedures for resolving conflict in a fair, efficient, effective, and professional manner.

4) The evaluatee may file his/her own written response to the evaluation. (This may or may not be by means of a self-evaluation form provided the evaluatee by the LEA.)

5) The evaluatee may file a written response to the evaluation which will become a permanent attachment to the evaluatee's single official personnel file. The response may be a signed statement clarifying or rebutting the issue in question. (LDE recommends that a timeline for the written response be given.)

6) The evaluatees not performing satisfactorily must be informed in writing of such determination.

7) The evaluatee has the right to receive proof, by documentation, of any item contained in the evaluation that the evaluatee believes to be inaccurate, invalid or misrepresented. If documentation does not exist, the item in question must be amended or removed from the evaluation.

8) The evaluatee must be provided with ample assistance to improve performance.

9) The evaluatee may request that an evaluation be conducted by another source. (LDE recommends that the LEA name the source from which another evaluator may be selected.)

10) The confidentiality of evaluation results must be maintained as prescribed by law. (The LDE strongly recommends that copies of all observation reports and documentation of performance be maintained in the files of the evaluator and evaluatee.). The school board in each school district must take official action in regard to naming

the individuals who shall be authorized to enter the official personnel files. The ranks of these individuals must be included in this Subpart.

11) The grievance procedures that follow the proper lines of authority as it relates to personnel evaluation must be established. (If grievance procedures are presently in existence within the school district, a copy of the procedures relating to personnel evaluation must be included here.)

#### **Section 7.0: Staff Development for Personnel Involved in Teacher Evaluation**

The school district provides training on a continuing basis for all staff involved in the teacher evaluation process (e.g., district level administrators and supervisors, principals and assistant principals, and classroom teachers). This training is supported by the LDE and coordinated through the regional service centers. In this Section of the LEA personnel evaluation program description, the LEA delineates its plan for staff development.

Initial training focuses on developing the following:

1) a positive, constructive attitude toward teacher evaluation,

2) a knowledge of state laws and LEA policies governing the teacher evaluation process and associated due process procedures,

3) an understanding of the Louisiana Components of Effective Teaching, and

4) an understanding of the LEA's personnel evaluation program, including the philosophy and purposes, criteria, and procedures.

Further training of evaluators should focus on developing those skills needed to diagnose, strengthen, and/or enhance teaching effectively.

The LEA provides further training in the following skill areas:

1) data collection skills necessary to document a teacher's performance accurately;

2) data analysis skills necessary to make accurate judgments about a teacher's performance;

3) conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance;

4) skills in developing and facilitating meaningful professional growth plans that strengthen or enhance teaching effectiveness; and

5) skills in writing effective evaluation reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom.

#### **Section 8.0: Process Instruments**

The LEA must submit a copy of each instrument used in the evaluation process.

The process instruments must conform to the guidelines listed below:

1) A professional growth plan form is developed for all certified and other professional personnel. This form includes space for objectives, as well as a plan of action and evaluation criteria for each objective.

2) An observation form is developed to complement the evaluation form. For instructional personnel, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description.

3) An evaluation form is designed for use in the evaluation process. For instructional personnel, only a checklist or rating scale is not recommended; rather, space

should be provided for a narrative description of the evaluator's commendations and recommendations for the evaluatee.

4) A self-evaluation form is developed for all personnel to use in assessing their own performances.

5) An intensive assistance plan form is developed for use in the evaluation process. Space should be provided for evaluators to delineate what the evaluatee needs to do to strengthen his/her performance, what assistance/support is provided by the school district, and the timelines and procedures for evaluating the teacher's progress.

#### **Section 9.0: Job Descriptions**

The LEA must submit a copy of all job descriptions. The minimum scope of development for job descriptions by the LEA is as follows:

Administration

(1) Superintendents

(2) Assistant Superintendents

(3) Directors

(4) Supervisors

(5) Principals

(6) Assistant Principals

(7) Any employee whose position does not require certification but does require a minimum education attainment of a bachelor's degree from an accredited institution of higher learning.

(8) Any employee whose position requires certification, but whose position is not given in this list.

(9) Any employee who holds a major management position, but who is not required to have a college degree or certification.

Instructional:

(1) Classroom Teacher

(2) Special Education Teacher

(3) Special Projects Teacher (Example: Chapter I)

Support Services:

(1) Guidance Counselors

(2) Librarians

(3) Therapists

(4) Any employee whose position does not require certification but does require a minimum educational attainment of a bachelor's degree from an accredited institution of higher learning.

(5) Any employee whose position requires certification, but whose position is not given in this list.

(6) Any employee who holds a major management position, but who is not required to have a college degree or certification.

If the LEA has established job descriptions indicating a more specific level of involvement, these must also be included. The LDE recommends that the LEA use only one format in presenting the job descriptions. Other formats may be utilized by the LEA if such formats include provision for the following:

The descriptions must conform to the guidelines listed below:

1. Position title.

2. Position qualifications must be at least the minimum requirements as stated in LDE Bulletin 746, Louisiana Standards for State Certification of School Personnel. Qualifications must be established for the position rather than the evaluatee.

3. To whom the evaluatee reports.

4. Whom the evaluatee supervises.
5. Performance responsibilities of the evaluatee.
6. Space for evaluatee's signature and date (job descriptions must be reviewed annually). Current signatures must be on file to document annual review and/or receipt.

Job descriptions for instructional personnel must include the Louisiana Components of Effective Teaching as part of the performance responsibilities.

#### **Section 10.0: Employment Requirements**

R.S. 17:391.5(H) requires that any school board wishing to hire a person who has been evaluated pursuant to Act 506, whether that person is already employed by that school system or not, shall request such person's evaluation results as part of the application process. The board to which application is being made shall inform the applicant that as part of the mandated process, the applicant's evaluation results will be requested. The applicant shall be given the opportunity to apply, review the information received, and provide any response or information the applicant deems appropriate.

In the Employment Requirements Section, the LEA should delineate its policy for providing evaluation results to any school board wishing to hire a person evaluated by the LEA.

The Employment Requirements Section must conform to the guidelines listed below:

- 1) The school board requests the evaluation results of any person it wishes to hire.
- 2) The school board provides other school boards with evaluation results of persons that the other school boards wish to hire.
- 3) The evaluatee is given the opportunity to review those evaluation results and provide any response or information that the evaluatee deems appropriate.

#### **Section 11.0: Evaluation Exemption**

R.S. 17:391.5(I) requires that any teacher assessed by the state in accordance with the legislative provisions shall be exempt from mandated local evaluation for the year in which such state assessment occurs.

In this Section, the LEA describes its procedures for exempting from local evaluation those persons assessed under statewide evaluation during the year(s) in which they are assessed.

The Evaluation Exemption Section must conform to the guidelines listed below:

- 1) Teachers assessed under statewide assessment programs are exempt from local evaluation during the year(s) that they are assessed.
- 2) LEAs maintain the right to make employment decisions.

#### **Section 12.0: Statement of Assurance**

The LEA must submit a statement signed by the superintendent of schools and by the president of the school board assuring that the LEA personnel evaluation program has been revised and approved by the school board that governs the affairs of the LEA.

The statement of assurance must conform to the guidelines listed below:

- 1) The statement of assurance includes a statement from the LEA that the LEA personnel evaluation program has been reviewed and approved by the school board that governs the LEA, and that the LEA personnel evaluation program will be implemented as written.

2) The statement of assurance must be signed by the LEA superintendent of schools and by the president of the LEA school board.

#### **Reporting Format**

Information included in the reporting format reflects data deemed necessary in presenting annual reports to the Louisiana Legislative Committees on Education, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items are reported by the LEAs on forms provided by the LDE and include, but are not limited to, the following:

1. the types of degrees obtained from accredited institutions and the number of certified personnel holding each type of degree.
2. the years of experience of teachers, administrators, central office staff (years in position).
3. the number of teachers teaching in area of certification, as well as the number of administrators who are certified for their specific tasks.
4. the total number of teachers employed in the system, including T-certified personnel and personnel given an emergency permit, an internship, or SBESE waiver.
5. the total number of administrators, by categories (principals, assistant principals, certified central office personnel), employed in the system.
6. the number of certified and other professional personnel evaluated by categories (teachers, principals, etc.) under previous systems as opposed to the number evaluated under the current evaluation programs based on written, documented evaluations from the preceding year.
7. the number of certified and other professional personnel, by categories, who were evaluated as performing satisfactorily.
8. the number of certified and other professional personnel, by categories, who were evaluated as performing unsatisfactorily.
9. the number of certified and other professional personnel, by categories, who resigned because of less than satisfactory evaluations or for other reasons related to job performance.
10. the number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment. Include reasons for termination.
11. the number of evaluations, by categories, used to evaluate certified and other professional personnel during the reporting period. Distinguish between the number of evaluations performed for personnel in position 0-3 years as opposed to personnel in position 4 or more years.
12. the number of certified personnel, by categories, who improved (from unsatisfactory to satisfactory) as a result of the evaluation process. Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.
13. the types of in-service programs utilized to elicit the improvement of certified and other professional personnel. The types of programs proved to be most beneficial and the types of programs proved to be least beneficial.
14. the areas of common weaknesses existing for personnel in position 0-3 years as opposed to personnel in position 4 or more years.

15. the areas of common strengths existing for personnel in position 0-3 years as opposed to personnel in position 4 or more years.

16. the number of formal grievances filed because of unsatisfactory performance ratings or disagreement with evaluation results.

17. the number of formal hearings held because of unsatisfactory performance or disagreement with evaluation results.

18. the number of court cases held because of unsatisfactory job performance. The number reinstated. Basic reasons for reinstatement of personnel.

19. the impact of effectiveness of the personnel evaluation accountability program in the system. The improvement in performance noted for

- (a) teachers,
- (b) school administrators,
- (c) central office personnel, and
- (d) other professional school personnel.

The evidence to substantiate answers.

20. the number of evaluatees who received intensive assistance.

#### **Technical Assistance Program**

The LDE will develop a program of technical assistance for the purpose of providing the LEAs with professional advice and assistance in all matters concerned with personnel evaluation. This assistance and advice will be provided through visits to local systems by LDE personnel, visits to the LDE by the LEA's personnel evaluation authorities, by LDE position papers, and by assistance papers relative to particular problems that LEAs might encounter in personnel evaluation endeavors. The LDE will seek to provide LEAs with assistance that is requested, so long as funds and personnel are available.

#### **Monitoring Guidelines**

The legislative mandate through R.S. 17:391.10 requires the LDE to periodically monitor all programs of educational accountability established pursuant to the provisions of R.S. 17:391.1 — 17:391.10. To fulfill the requirements of the legislation as it relates to the component of LEA personnel evaluation, the LDE is mandated to develop and implement guidelines to audit the programs formulated and submitted by the LEAs to the LDE. Act 506 states that each LEA shall be monitored to be certain that assessment and evaluation are taking place and that the LEA is providing directions and opportunities for the professional improvement of its professional employees.

To attest to the operation of LEA personnel evaluation programs as formulated by the LEAs and submitted to the LDE, the LDE established methodology to be used in monitoring such programs. The process is designed to assess the consistency with written plans and the implementation thereof and to provide assurance of compliance with the requirements of enacted legislation.

#### **Purpose of Monitoring**

The overall intent of the monitoring process as it relates to LEA personnel evaluation is to determine whether such programs as formulated by LEAs for the assessment of the performance of all certified and other professional school personnel have been implemented, to what extent they have been implemented, and whether such programs comply with the provisions of shared accountability legislation.

The monitoring, or compliance auditing, is designed to

attest to the assurance that the submitted and approved policies and procedures are in actuality the processes being implemented within the LEA. Monitoring will specifically observe the process to ascertain the extent to which the LEA is, or is not, following through on the process designated in the submitted plan.

#### **LDE Goals and Objectives for Monitoring LEA Personnel Evaluation Programs**

The LDE establishes the following goals and objectives in the process of monitoring LEA personnel evaluation throughout the state:

##### **A. Goals:**

1. The implementation of R.S. 17:391.10;
2. The development of the monitoring process;
3. The improvement of shared educational accountability programs;
4. The consistence between written plans and implemented process.

##### **B. Objectives:**

1. During the current year of monitoring, on-site visits will be made by the LDE team to implement R.S. 17:391.10 according to established procedures as evidenced by records and materials on file in the Bureau of Professional Accountability.
2. During the current year of monitoring, data will be collected and compiled by visits to LEA central office sites and building sites as evidenced by records and materials filed in the Bureau of Professional Accountability.
3. During the current year of monitoring, data will be disseminated to proper authorities as evidenced by records on file in the Bureau of Professional Accountability.
4. At the termination of the on-site visitation, documentation will exist to attest to the implementation of the personnel evaluation plan formulated by the LEA.
5. During the current year of monitoring, files will be maintained to provide appropriate records of the monitoring process.
6. Annually, a review of the monitoring guidelines will be conducted by LDE personnel.
7. Annually, necessary revisions will be made to the monitoring guidelines.

#### **Approach**

Written notification will be provided to the LEAs prior to on-site visitation to establish dates of the visit. Communication following the visitation will include a letter and a data gathering report.

The LDE team will function as a unit to monitor LEA personnel evaluation programs. Data will be collected during visits to LEA central offices and school building sites. Records will be reviewed and interviews will be completed as means of documentation. After the LEA visitation, the LDE team will submit a report to the appropriate authorities, which will include, but not necessarily be limited to, the state superintendent of education, the SBESE, and the superintendent of the LEA.

#### **Procedures for Monitoring LEAs' Personnel Evaluation Programs**

The LDE, each year, will schedule visits to selected LEAs for the purpose of monitoring the implementation of the process of personnel evaluation.

The LDE team will perform the following tasks:

1. Determine by random sampling the LEAs to be monitored.

2. Notify the LEA superintendent and contact person by means of Act 605 information sheet.

3. Prepare a pre-monitoring report.

4. Visit LEA (length of time spent in LEA will be determined by size of LEA) to determine compliance or failure to comply.

a) Conduct a pre-monitoring conference (LDE team).

b) Meet with superintendent or designee to inform him/her of the nature and duration of the visit.

c) Meet with the contact person and/or other appropriate personnel to discuss the schedule. Sites to be visited will be decided upon by the LDE personnel evaluation staff.

d) Review the pre-monitoring report with the contact person and/or other appropriate personnel.

e) Conduct on-site visits. During on-site visits, the LDE team will determine compliance or failure to comply through completion of interviews and by viewing records. The areas of the LEA's personnel evaluation programs to be checked are:

1) dissemination of a written personnel evaluation program;

2) achievement of the purposes of the LEA personnel evaluation program;

3) verification of listing of evaluators/observers in Section 6.2 - Accountability Relationships;

4) verification that all certified and other professional personnel are included in the evaluation process;

5) verification that professional growth plans have been established by the evaluatees;

6) determination that stated observation procedures have been implemented;

7) determination that stated evaluation procedures have been implemented;

8) verification of evaluatees' knowledge of evaluation criteria;

9) verification of dissemination of job descriptions;

10) verification of necessary intensive assistance schedules.

f) Conduct a post-monitoring conference (LDE team).

g) Conduct a "close-out" session with the LEA superintendent, contact person and/or other appropriate personnel.

5. Inform the LEA in writing of compliance, the areas of noncompliance, and of recommendations.

6. Notify the SBESE of system(s) that are in compliance and those that failed to comply.

7. Make recommendations to the SBESE.

#### LEA Monitoring Schedule

Beginning FY 1992-93, visits will be made to the LEAs to conduct the monitoring process. LEAs will be monitored at least once during a three-year period. Those LEAs that fail to comply will be monitored at least once a year until such failure is corrected. The monitoring schedule is listed below:

1992-93		
Calcasieu	Jefferson Davis	St. Landry
Caldwell	Lincoln	St. Martin
Catahoula	Madison	Tensas
East Feliciana	Orleans	Vernon
Evangeline	Ouachita	Webster
Franklin	Red River	Winn
Iberia	Richland	
Jefferson	St. Helena	

#### 1993-94

Allen	Iberville	St. John the Baptist
Ascension	Jackson	St. Mary
Assumption	Lafayette	St. Tammany
Avoyelles	LaSalle	Vermilion
Beauregard	Livingston	West Baton Rouge
Caddo	Morehouse	West Feliciana
DeSoto	Pointe Coupee	SSD#1
Grant	St. Charles	Department of Corrections

#### 1994-95

Acadia	Lafourche	Terrebonne
Bienville	Natchitoches	Union
Bossier	Plaquemines	Washington
Cameron	Rapides	West Carroll
Claiborne	Sabine	Monroe City Schools
Concordia	St. Bernard	Bogalusa City Schools
East Baton Rouge	St. James	SBESE Special Schools
East Carroll	Tangipahoa	

#### Revisions

To establish an effective system of monitoring the implementation of LEA personnel evaluation programs, an annual review of Bulletin 1525, revised 1992 will be conducted and necessary revisions will be made. Submission for approval will be made to the appropriate governing authorities.

#### Legislative Report

Information included in the Legislative Report for Personnel Evaluation will include data collected during the monitoring process mandated through R.S. 17:391.10. The recording of such information will include a variety of responses directed toward the collection of data to assist the LDE in determining whether such programs of personnel evaluation for all certified and other professional personnel as formulated by the LEAs have been implemented, to what extent they have been implemented, and whether such programs comply with the provisions of shared accountability legislation. Responses will be recorded on forms that will reflect, but not be limited to, answers for the following questions:

1) Have completed copies of the LEA personnel evaluation plan been provided to all employees that are affected by the educational accountability program?

2) Have the LEA goals been achieved?

3) Is the evidence that measures achievement available for review?

4) Are all certified and other professional personnel listed as evaluatees under Section 6.2?

5) Are the observers the same as the designated evaluators?

6) Are the evaluators the same as the designated personnel?

7) Are the process instruments being utilized the same as those listed under Section 6.3?

8) Are all forms that are listed under Section 6.3 being utilized in the process?

9) Did the evaluators adhere to stated procedures for establishing the professional growth plan?

10) Did the evaluatees meet specified timelines for establishing the professional growth plan?

11) Have the evaluatees completed a professional growth plan?

12) Are established growth plans for the evaluatees disseminated as required by the LEA's plan?

13) Are the actual observers those persons specified under Section 6.4?

14) Has the required number of observations been conducted?

15) If the LEA has not completed the required number of observations, is the observation process on schedule?

16) Does the LEA adhere to the pre-established procedures for observations?

17) Is a post-observation conference part of the process?

18) If a post-observation conference is part of the process, is the conference conducted?

19) Is the post-observation conference conducted within the established time period?

20) Are copies of the completed observations disseminated as required by the LEA's plan?

21) Does the LEA initiate necessary intensive assistance following an observation?

22) Do evaluations occur as scheduled?

23) Have the evaluatees been properly informed of the criteria of expected performance as stated under Section 6.17

24) Is a post-evaluation conference conducted?

25) Are copies of the completed evaluations disseminated as required by the LEA's plan?

26) Are evaluatees provided a written copy of evaluation results within 15 working days?

27) Have the necessary intensive assistance schedules been completed?

28) Are the intensive assistance forms completed by the proper authority?

29) Do the LEA records reflect current signatures for receipt of job descriptions?

Carole Wallin  
Executive Director

#### DECLARATION OF EMERGENCY

##### Board of Elementary and Secondary Education

##### MCOP Guide FY 92-93

The Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and readopted revisions to Bulletin 1895, *Model Career Options Program (MCOP) Guide, FY 92-93* as an emergency rule.

Readoption of this bulletin as an emergency rule is necessary in order for the present emergency rule to continue until it becomes effective as a rule. Effective date of this emergency rule is October 20, 1992.

Bulletin 1895 was previously adopted as an emergency rule, effective June 20, 1992 and printed in full in the June 20, 1992 issue of the *Louisiana Register*.

Carole Wallin  
Executive Director

#### DECLARATION OF EMERGENCY

##### Board of Elementary and Secondary Education

##### Model Career Options Program Guide (MCOP)

The State Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act, R. S. 49-953(B) and adopted a revision to the Louisiana Model Career Options Program Guide (MCOP) as stated below.

The MCOP Guide affects teachers who are eligible to participate in the Model Career Options Program in the 1992-93 school year. Emergency adoption is necessary in order for this revision to be distributed to all eligible teachers so that they have essential information for implementation of the MCOP in the 1992-93 school year. Effective date of emergency rule is October 20, 1992.

##### Amendment to Model Career Options Program Guide (MCOP)

On page 23, delete the following paragraph:

Because the additional services provided by the MCOP teacher do not meet the definition of "Earnable Compensation" in R. S. 17:541(9), neither the employee's nor employer's share of the additional MCOP compensation shall be remitted to the Teacher's Retirement System of Louisiana. Therefore, no deduction for the teacher's retirement shall be made from the MCOP teacher's compensation.

On page 23, add the following paragraph:

If funds are available from the Louisiana Legislature for the MCOP, the employer's portion of the contribution to the teacher's retirement fund will be provided to the LEAs as a part of the overall MCOP funding.

Carole Wallin  
Executive Director

#### DECLARATION OF EMERGENCY

##### Board of Elementary and Secondary Education

##### Technical Institute Name Change

The State Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and changed the name of Southwest Louisiana Technical Institute, Crowley, to Acadian Technical Institute. This action, which is an amendment to the Louisiana Administrative Code, Title 28, was adopted as an emergency rule, effective July 1, 1992. This amendment to the code is being re-adopted as an emergency rule in order to continue the present emergency rule until it can become effective as a rule.

Effective date of this emergency rule is November 1, 1992.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Temporary Employment Permit

The State Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953B and re-adopted as an emergency rule, the Revised Temporary Employment Permit. This revised policy was adopted as an emergency rule, effective June 25, 1992 and printed in full in the July, 1992 issue of the *Louisiana Register*. Effective date of this emergency rule is October 26, 1992. Re-adoption is necessary in order to continue the present policy until it becomes finalized as a rule.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Waivers of Minimum Standards: Procedures

The State Board of Elementary and Secondary Education, at its meeting of September 24, 1992, exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953B and adopted an amendment to the Administrative Code, Title 28, Chapter 3, Section 313(E) and deleted the word "Pilot" as stated below.

Emergency adoption is required in order to conform to language in the newly enrolled Act 458 of the 1992 Legislature, and to expedite the approval process of requests from LEAs. Effective date of emergency rule is September 24, 1992.

### Title 28 EDUCATION

#### Part 1. Board of Elementary and Secondary Education CHAPTER 3. Rules of Procedure §313. Waivers of Minimum Standards: Procedures

\* \* \*

#### E. Programs in Special Education

\* \* \*

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Elections and Registration Commissioner of Elections

#### Procurement and Certification of Voting Equipment

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 18:1353(C), R.S. 18:1361, and R.S.

36:662, the commissioner of the Department of Elections and Registration, upon recommendation of the Attorney General's Office, hereby adopts an emergency rule governing the procurement and certification of voting equipment.

The effective date of this emergency rule is October 1, 1992 and shall remain in effect for 120 days.

### Title 31 ELECTIONS

#### Part III.

#### Chapter 11. Procurement and Certification of Voting Equipment

##### Subchapter A. Competitive Sealed Bidding

##### §1101. Invitation for Bids, Public Notice, and Bid Opening

A. All voting machines used in the state of Louisiana shall be purchased by the commissioner of elections on the basis of public bids and in accordance with the Louisiana Procurement Code contained in Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1959. All bids will be advertised in the official journal of the state of Louisiana in accordance with all applicable statutes and rules.

B. Machines bid in Louisiana must be certified in accordance with the provisions of R.S. 18:1361(A).

C. In accordance with R.S. 18:1361(B), bids on machines that have been certified for use in Louisiana will be considered for purchase and subsequent use.

D. The bids will be opened in public session on the date announced in the bid offering.

##### §1103. Certification of Voting Equipment

A. All mechanical voting machines currently in use in Louisiana and which were purchased prior to the adoption of these rules shall be considered certified.

B. Voting equipment offered for sale in Louisiana shall be certified according to procedures established in R.S. 18:1361.

C. The commissioner of the Department of Elections and Registration shall establish policies that shall set standards for all electronic voting equipment to be used in the state of Louisiana.

1. The standards shall conform to the requirements of R.S. 18:1355 and R.S. 18:1399 and the requirements and needs of the Louisiana voting public.

2. All certificates, together with any relevant reports, drawings, and photographs, for electronic equipment shall be public record.

\* \* \*

Jerry M. Fowler  
Commissioner

## DECLARATION OF EMERGENCY

### Department of Elections and Registration Commissioner of Elections

#### Voting Machine Storage and Drayage

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 18:21, R.S. 18:1371, and R.S. 36:662, the commissioner of the Department of Elections and Registration hereby adopts an emergency rule governing the procurement



of voting machines storage and drayage. This declaration amends the section of the existing rule which requires all drayage contracts for every parish in the state to be bid within a one week time frame. Due to the time constraints which occur during an election year, bids will be let by district and will be staggered for several weeks.

The effective date of this emergency rule is October 1, 1992 and shall remain in effect for 120 days.

**Title 31  
ELECTIONS**

**Part III. Procurement**

**Chapter 7. Procurement of Voting Machine Storage and Drayage Services**

**Subchapter B. Competitive Sealed Bidding**

**§711. Invitation for Bids, Public Notice, and Bid Opening**

A. All contracts for the storage or for the drayage of voting machines shall be awarded by competitive sealed bidding on a parish-by-parish basis.

\*\*\*

Jerry M. Fowler  
Commissioner

**DECLARATION OF EMERGENCY**

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

**Emission Standards Control (AQ-60) (LAC 33:III.919)**

In accordance with the emergency provisions of the Administrative Procedure Act LSA-R.S. 49:953(B), and under the authority of LSA-R.S. 30:2011 and 30:2074(B)(1), the secretary of the Department of Environmental Quality declares that an emergency action is necessary to add new language under LAC 33:III.919 Emission Inventory rules. This emergency action will prevent the EPA from placing sanctions against the state. The secretary therefore establishes the following new requirements which will be effective on November 15, 1992 and last for 120 days.

The Federal Clean Air Act Amendments of 1990 require the states with designated non-attainment areas to adopt regulations requiring emissions statements. An emission statement is a certification by a facility included in the

inventory that the emissions data reported for them is correct. The federal requirements are specific as to the information and data requirements which are to be included in the Emissions Statement. The requirement to have the emissions statement regulation in place by November 15, 1992 is one for which sanctions can be imposed on the state if the requirement is not met.

This emergency rule shall expire on March 15, 1993, but the secretary of the Department of Environmental Quality will initiate rulemaking procedures to finalize the requirements of this rule on November 20, 1992.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 9. General Regulations on Control of Emissions and Emission Standards**

\*\*\*

**§919. Emission Inventory**

Emission inventory data shall be submitted to the Louisiana Department of Environmental Quality (LDEQ) on magnetic media in the format specified by the Air Quality Division. Facilities with less than five point sources, may elect to submit Emission Inventory Coding (EIC) forms in lieu of the magnetic media.

A. Applicability. The owner or operator of the following facilities in the state of Louisiana shall submit emissions inventories to the Louisiana Department of Environmental Quality.

1. A major facility/stationary source is any facility in an attainment area or unclassified area that emits 100 tons per year (TPY) or more of any contaminant (including volatile organic compounds (VOC)) for which a National Ambient Air Quality Standard (NAAQS) has been issued or any facility in an ozone nonattainment area emitting a minimum of 10 tons per year (TPY) volatile organic compounds (VOC), 25 TPY nitrogen oxides (NO<sub>x</sub>), or 100 TPY carbon monoxide (CO), or any facility emitting 50 TPY or more of VOC in an area designated as an ozone adjoining area.

The designated ozone nonattainment and adjoining parishes are listed in Table 1. If either VOC or NO<sub>x</sub> is emitted at or above the minimum required reporting level, the other pollutant must be included even if it is emitted at levels below the specified cutoffs.

2. In Louisiana, the following facility classes or categories are exempted: None.

3. Any major source of hazardous air pollutants as defined in §112(a)(1) of the Federal Clean Air Act (FCAA).

TABLE 1	
OZONE NONATTAINMENT AND ADJOINING PARISHES	
NONATTAINMENT	ADJOINING PARISHES
Ascension	Acadia
Beauregard	Allen
Calcasieu	Assumption
East Baton Rouge	Cameron
Grant	East Feliciana
Iberville	Iberia

Jefferson	Jefferson Davis
Lafayette	St. Helena
Lafourche	St. John the Baptist
Livingston	St. Landry
Orleans	St. Martin
Pointe Coupee	Tangipahoa
St. Bernard	Vermillion
St. Charles	Vernon
St. James	West Feliciana
St. Mary	
West Baton Rouge	

## B. Types of Inventories

1. Initial Emissions Inventory (IEI). Stationary sources as identified in Subsection A of this Section, shall submit an Annual Emissions Statement (AES) for any criteria pollutant including VOC or hazardous air pollutant that has not been identified in a previous inventory. The AES shall consist of actual emissions of VOC, NO<sub>x</sub>, CO, sulfur dioxide (SO<sub>2</sub>), lead (Pb), and particulate matter of less than 10 microns in diameter (PM<sub>10</sub>) from stationary sources and emissions of all hazardous air pollutants identified in §112(b) of the FCAA. For purposes of this section, the term "actual emission" is the actual rate of emissions of a pollutant from an emissions unit for the calendar year or other period of time if requested by LDEQ. Actual emission estimates shall also include fugitive emissions (i.e. waste water treatment, treatment, storage and disposal facilities, etc.) excess emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime to parallel the documentation of these events in the emission inventory and must follow emission calculations as identified in Subsection C of this Section. Where there is an enforceable document, such as a permit, establishing allowable levels, the AES shall include the allowable emission level as identified in the permit Maximum Allowable Emission Rate Table.

2. Statewide Annual Emissions Inventory Update. Sources as identified in Subsection A of this Section shall submit an Annual Emissions Inventory Update (AEIU) which consists of actual and allowable emissions from the source identified in Subsection A.1 of this Section, if any of the following criteria are met:

a. Any source that is subject to any regulation of the State Implementation Plan at any time within the inventory reporting period.

b. Any change in operating conditions including start-ups, shutdowns, or process changes at the source that results in a 5.0 percent or greater increase or reduction in total annual emissions of VOC, NO<sub>x</sub>, CO, SO<sub>2</sub>, Pb, or PM<sub>10</sub>.

c. A cessation of all production processes and termination of operations at the source.

3. Ozone Nonattainment Area Statement. Stationary sources emitting a minimum of 10 TPY of VOC, 25 TPY of NO<sub>x</sub>, or 100 TPY of CO shall submit an annual statement. The statement shall consist of annual emissions and typical weekday emissions that occur during the ozone season.

4. Special Inventories. Upon request by the

administrative authority designated representative of the Louisiana Department of Environmental Quality (LDEQ), any person affected by any rule or regulation of the LDEQ shall file additional emissions data with the LDEQ.

5. Minimum Data Requirements. The minimum data requirements are listed below. Format and submittal requirements will be published annually by LDEQ. Any new or modified data requirements will be included in the annual requests for updates.

a. Certifying Statement. A certifying statement, required by §182(a)(3)(B) of the FCAA, is to be signed by the owner(s) or operator(s) and shall accompany each emissions inventory to attest that the information contained in the inventory is true and accurate to the best knowledge of the certifying official. The certification shall include the full name, title, signature, date of signature, and telephone number of the certifying official.

b. Source Identification Information

i. Full name, physical location, and mailing address of facility

ii. Latitude and longitude

iii. SIC code(s)

c. Operating Information

i. Percentage annual throughput by season. The first season (Dec-Feb) will actually encompass a two-year period. (eg., December 1991 through February 1992). The remaining seasons (March-May, June-August, September-November) represent one calendar year (e.g., 1992).

ii. Days per week on the normal operating schedule.

iii. Hours per day during the normal operating schedule.

iv. Hours per year during the normal operating schedule.

d. Process Rate Data

i. Annual process rate (annual throughput). The AIRS facility subsystem (AFS) source classification code table prescribes the units to be used with each source classification code for annual fuel/process rate reporting.

ii. Peak ozone season daily process rate. The AIRS facility subsystem source classification code table prescribes the units to be used with each source classification code for peak ozone season daily process rate reporting.

e. Control Equipment Information

i. Current primary and secondary AFS control equipment identification codes.

ii. Current control equipment efficiency (%). The

actual efficiency should reflect the total control efficiency from all control equipment and include downtime and maintenance degradation. If the actual control efficiency is unavailable, the design efficiency or the control efficiency limit imposed by a permit shall be used.

f. Emissions Information

i. Estimated actual VOC and/or NO<sub>x</sub> emissions at the segment level, in tons per year for an annual emission rate and pounds per day for a typical ozone season day. Actual emission estimates must include upsets, downtown and fugitive emissions, and must follow an "emission estimation method."

ii. AFS estimated emissions method code.

iii. Calendar year for the emissions.

iv. Emission factor (if emissions were calculated using an emission factor).

C. Calculations. Actual measurement with continuous emissions monitoring systems (CEMS) is the desired method of calculating emissions from a source. Other means for determining actual emissions may be utilized if CEMS data is not available in accordance with detailed instructions of the Emissions Inventory Section of the LDEQ, Air Quality Division (AQD).

D. After data processing and inventory update, LDEQ will submit the revised inventory to the facility for final verification and signature. The certified inventory shall then be submitted to LDEQ/AQD.

E. Reporting Requirements. The AES or initial AEIU for the 1992 Ozone Nonattainment Area Inventory shall be submitted to the LDEQ no later than March 31, 1993. Subsequent AEIUs and Ozone Nonattainment Area Inventories shall contain emissions data from the previous calendar year and shall be due on March 31 of each year.

F. Enforcement. Failure to submit emissions data inventories as required in this Section shall result in formal enforcement action under R.S. 30:2025.

James B. Thompson, III  
Assistant Secretary

## DECLARATION OF EMERGENCY

Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Office of the Secretary

### Permit Procedures

In accordance with the emergency provisions of the Administrative Procedure Act LSA R.S. 49:953(B), and under the authority of R.S. 30:2011 and 30:2074(B)(1), the secretary of the Department of Environmental Quality declares that an emergency action is necessary to add new language under LAC 33:III.504, for emissions from non-attainment areas. This emergency action will prevent the EPA from placing sanctions against the state. The secretary therefore establishes the following new requirements which will be effective on November 15, 1992 and last for 120 days.

The Clean Air Act amendments of 1990 mandate that specific changes to the permitting requirements for new stationary sources be promulgated by November 15, 1992.

Failure to promulgate the necessary regulations can result in sanctions being imposed upon the state.

This emergency rule shall expire on March 15, 1993, but the secretary of the Department of Environmental Quality will initiate rulemaking procedures to finalize the requirements of this rule on November 20, 1992.

### Title 33

## ENVIRONMENTAL QUALITY

### Part III. Air

#### Chapter 5. Permit Procedures

#### §504. For Emissions from Non-Attainment Areas

##### A. Applicability

1. Prior to constructing any new major stationary source or major modification a permit shall be obtained from the Louisiana Department of Environmental Quality (LDEQ) in accordance with the requirements of this regulation prior to the start of construction or modification if either of the following conditions apply:

a. the major stationary source or major modification will be located within a non-attainment area so designated pursuant to Section 107 of the Clean Air Act and will emit a regulated pollutant for which it is major and for which the area is designated non-attainment; or

b. the major stationary source or major modification will be located within an area designated attainment or unclassifiable pursuant to Section 107 of the Clean Air Act and will emit a regulated pollutant for which it is major and the ambient impact of such pollutant would exceed any of the significance levels in Table 1 at any location that does not meet any national ambient air quality standard for the same pollutant. (See Subsection A.4 of this Section)

2. The requirements of this regulation apply to each regulated pollutant meeting the criteria of either Subsection A.1.a or b of this Section.

3. For an area which is non-attainment for ozone, volatile organic compounds and nitrogen oxides are the regulated pollutant which may make this regulation applicable under the provisions of Subsection A.1.a of this Section.

4. a. A new major stationary source or major modification which meets the criteria of Subsection A.1.b of this Section shall demonstrate that the source or modification will not cause or contribute to a violation of any National Ambient Air Quality Standard (NAAQS) by meeting the following requirements and no others of LAC 33:III.504:

i. Subsection D.3.b of this Section regarding emission offsets;

ii. Subsection D.4 of this Section regarding a net air quality benefit;

iii. Subsection F - Emission Offset Baseline;

iv. Subsection G - Emission Offset; and

v. Subsection I - Air Quality Benefit.

b. In addition to the requirements of Subsection A.4.a of this Section, a new source or modification which meets the criteria of Subsection A.1.b of this Section and is also a major stationary source or major modification as defined in LAC 33:III.509, Prevention of Significant Deterioration (PSD), shall obtain a PSD permit under the provisions of LAC 33:III.509.

##### B. Source Obligation

1. The requirements of this Section shall apply as though construction had not yet commenced at the time that a source or modification becomes a major source or major modification solely due to a relaxation in any enforceable limitation established after August 7, 1980.

2. The issuance of a permit by the department shall not relieve any owner or operator of the responsibility to comply with the provisions of the Louisiana Air Control Law, any applicable regulations of the LDEQ, and any other requirements under local, state, or federal law.

3. Any owner or operator who commences construction or operates a major stationary source or major modification without, or not in accordance with, a permit issued under the requirements of this regulation shall be subject to enforcement action.

4. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. For a phased construction project, each phase must commence construction within 18 months of the projected and approved commencement date. The administrative authority may extend the 18-month period upon a satisfactory showing that an extension is justified.

5. For phased construction projects, the determination of the lowest achievable emission rate (LAER) shall be reviewed and modified as appropriate at the latest reasonable time but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of the LAER.

6. If the owner or operator, previously issued a permit under this regulation, applies for an extension as provided for under Subsection B.4 of this Section, and the new proposed date of construction is greater than 18 months from the date that the permit would become invalid, the determination of the LAER shall be reviewed and modified as appropriate before such an extension is granted. At such time, the owner or operator may be required to demonstrate the adequacy of any previous determination of the LAER.

#### C. Source Information

The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

1. a description of the nature, location, design capacity, and typical operating schedule of the major stationary source or major modification, including specifications and drawings showing the design and plant layout; and

2. a detailed schedule for construction of the major stationary source or major modification; and

3. a detailed description of the planned system of continuous emission reduction to be implemented, emission estimates, and other information necessary to demonstrate that the LAER or any other applicable limitation will be maintained.

#### D. Source Requirements

In order for a permit to be granted, all of the following conditions shall be met:

1. The major stationary source or major modification shall be designed such that the LAER will be met and maintained for each pollutant emitted which is subject to this regulation. The LAER must be applied to each new emissions unit and to each existing emissions unit at which a net

emissions increase will occur as the result of a physical change or change in the method of operation of the emissions unit;

2. All existing major stationary sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in this state shall be in compliance with all applicable emission limitations and standards or schedules for compliance, the Federal Clean Air Act, and all conditions in a federally enforceable permit;

3. a. Emission reductions (offsets) at existing sources shall be in effect and federally enforceable prior to or be concurrent with the start of operation of the proposed major stationary source or major modification for each pollutant emitted which is subject to this regulation. It shall be assured that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction as applicable, in the actual emissions of such pollutant from the same or other sources in the area. A higher level of offset reduction may be required in order to demonstrate that a net air quality benefit will occur; or

b. A new major source or major modification which is subject to the requirements of Subsection A.4 of this Section shall obtain sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the major stationary source or major modification would otherwise cause or contribute to a violation of any national ambient air quality standard.

4. Emission offsets shall provide net air quality benefit in the area where the national ambient air quality standard for that pollutant is violated; and

5. The proposed major stationary source or major modification will meet all applicable emission requirements in the Louisiana State Implementation Plan, any applicable new source performance standard in 40 CFR Part 60, and any national emission standard for hazardous air pollutants in 40 CFR Part 61.

6. As a condition for issuing a permit to construct a major stationary source or major modification in a nonattainment area, the public record must contain an analysis of alternate sites, sizes, production processes and environmental control techniques and demonstrate that the benefits of locating the source in a nonattainment area significantly outweigh the environmental and social costs imposed.

7. The administrative authority shall allow a source to offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions.

a. Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this Subsection.

b. The source demonstrates to the satisfaction of the administrative authority that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

c. The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other

appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

d. The source will comply with an alternative measure, imposed by the administrative authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the administrative authority may impose an emissions fee to be paid to such authority of a state which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous three years. The administrative authority shall utilize the fees in a manner that maximizes the emissions reductions in that area.

#### E. Additional Requirements for Sources Impacting Mandatory Federal Class I Areas

1. The requirements of this Section apply only to proposed major stationary sources or major modifications that meet the criteria of Subsection A.1.a of this Section.

2. The LDEQ shall transmit to the administrator and any affected federal land manager a copy of each permit application and any information relevant to any proposed major stationary source or major modification which may have an impact on visibility in any mandatory Federal Class I area. Relevant information will include an analysis of the proposed source's anticipated impacts on visibility in the Federal Class I area. The application shall be transmitted within 30 days of receipt by the LDEQ and at least 60 days prior to any public hearing on the application. Additionally, the LDEQ shall notify any affected federal land manager within 30 days from the date the LDEQ receives a request for a pre-application meeting from a proposed source subject to this regulation. The LDEQ shall consult with the affected federal land manager prior to making a determination of completeness for any such permit application. The LDEQ shall also provide the federal land manager and the administrator with a copy of the preliminary determination on the permit application and shall make available to them any materials used in making that determination.

3. The owner or operator of any proposed major stationary source or major modification which may have an impact on visibility in a mandatory Federal Class I area shall include in the permit application an analysis of the anticipated impacts on visibility in such areas.

4. The LDEQ may require monitoring of visibility in any mandatory Federal Class I area where the LDEQ determines an adverse impact on visibility may occur due to the operations of the proposed new source or modification. Such monitoring shall be conducted following procedures approved by the LDEQ and subject to the following conditions:

a. Visibility monitoring methods specified by the LDEQ shall be reasonably available and not require any research and development; and

b. Both preconstruction and post construction visibility monitoring may be required. In each case, the duration of such monitoring shall not exceed one year.

5. The LDEQ shall consider any analysis with respect to visibility impacts provided by the federal land manager if it is received within 30 days from the date a complete application is given to the federal land manager. In any case where the LDEQ disagrees with the federal land manager's analysis, the LDEQ shall either explain its decision to the federal land manager or give notice as to where the explanation can be obtained. In the case where the LDEQ

disagrees with the federal land manager's analysis, the LDEQ will also explain its decision or give notice to the public by means of an advertisement in a newspaper of general circulation in the area in which the proposed source would be constructed as to where the decision can be obtained.

6. In making its determination as to whether or not to issue a permit, the LDEQ shall ensure that the source's emissions will be consistent with making progress toward the national visibility goal of preventing any future impairment of visibility in mandatory Federal Class I areas. The LDEQ may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source.

#### F. Emission Offset Baseline

The baseline for determining credit for emission offsets shall be the most stringent emissions limitation pursuant to a Louisiana air quality control regulation or federally enforceable permit which is applicable and in effect at the time the application to construct is filed. If neither a state air quality control regulation nor a federally enforceable permit contains an emissions limitation for the source, the baseline shall be the actual emissions of the source from which offset credit is obtained. Where a source is subject to an emission standard established in a New Source Performance Standard (NSPS) or a National Emission Standard for Hazardous Air Pollutants (NESHAPS) and a different state implementation plan or permit limitation, including any emission limitation used in demonstrating reasonable further progress, the more stringent emission standard shall be used as the baseline for determining credit for emission offsets. By the time the proposed source or modification is to commence operation, sufficient offsetting emissions reductions shall be in effect such that the total emissions from existing sources in the area, from new or modified sources which are not major stationary sources, and from the proposed source will be sufficiently less than total emissions from existing sources prior to the application for such permit to construct or modify so as to represent (when considered together with the plan provisions required under Section 172 of the Federal Clean Air Act) reasonable further progress. The determination of total emissions shall be made by the reviewing authority in a manner consistent with the assumptions in the applicable implementation plan approved by the administrator concerning baseline emissions for the demonstration of reasonable further progress and attainment of the National Ambient Air Quality Standards for the particular pollutant subject to review.

#### G. Emission Offsets

All emission offsets approved by the LDEQ shall meet the following criteria:

1. All emission reductions claimed as offset credit shall be from decreases of the same pollutant for which the offset is required.

2. All emission reductions claimed as offset credit shall occur prior to or concurrent with the start of operation of the proposed source. In addition, past reductions must have occurred later than the date upon which the area became non-attainment in order to be creditable.

3. For the case where emission reductions claimed as offset credit occur at the source subject to this regulation, such reductions shall be a condition required by a federally enforceable permit. For the case where emission reductions claimed as offset credit occur at a neighboring source, such

reductions shall be incorporated as modifications to federal enforceable permits held by the neighboring source. If the neighboring source has no relevant permits, the reductions shall be approved as a revision to the State Implementation Plan by the LDEQ.

4. Offset credit for any emissions reduction can be claimed only to the extent that the LDEQ or the United States Environmental Protection Agency (USEPA) has not relied on it in previously issuing any permit or in demonstrating attainment or reasonable further progress.

5. No emissions reduction credit shall be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except as approved by the USEPA's reactivity guidance found in 42 Federal Register 35314.

6. Emission reduction credit may be allowed for a source permanently curtailing production or operating hours below baseline levels.

7. Where the most stringent emissions limit which is applicable allows greater emissions than the potential to emit of the offsetting source, emission offset credit will be allowed only for control below the potential to emit of the source.

8. The emission limit for determining emission offset credit involving an existing fuel combustion source shall be the most stringent emission standard which is allowable under the applicable regulation for this source for the type of fuel being burned at the time the permit application is filed. If the existing source commits to switch to a cleaner fuel, emission offset credit based on the difference between the allowable emissions of the fuels involved shall be acceptable only if an alternative control measure, which would achieve the same degree of emission reduction should the source switch back to a fuel which produces more pollution, is specified in a permit issued by the LDEQ.

9. The owner or operator desiring to utilize an emission reduction as an offset shall submit to the LDEQ the following information:

- a. a detailed description of the process to be controlled and the control technology to be used; and
- b. emission calculations showing the types and amounts of actual emissions to be reduced; and
- c. the effective date of the reduction.

10. Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are permanent, quantifiable, and federally enforceable, and if the area has an EPA-approved attainment plan. In addition, the shutdown or curtailment is creditable only if it occurred on or after the date specified for this purpose in the plan, and if such date is on or after the date of the most recent emissions inventory used in the plan's demonstration of attainment. Where the plan does not specify a cutoff date for shutdown credits, the date of the most recent emissions inventory or attainment demonstration, as the case may be, shall apply. For purposes of this Paragraph, the administrative authority may choose to consider a prior shutdown or curtailment to have occurred after the date of its most recent emissions inventory, if the inventory explicitly includes as current existing emissions the emissions from such previously shutdown or curtailed sources.

11. Emission offsets shall be obtained from the same source or other sources in the same non-attainment area, except that such emission reductions may be obtained from a source in another non-attainment area if:

- a. the other area has an equal or higher non-attainment classification that the area in which the source is located; and
- b. emissions from such other area contribute to a violation of the national ambient air quality standard in the non-attainment area in which the proposed new or modified source would construct.

12. All emission reductions claimed as offset credit shall be federally enforceable.

13. Emission reductions otherwise required by the Federal Clean Air Act shall not be credited for purposes of satisfying the offset requirement.

#### H. Banking of Emission Reduction

1. Any stationary source which meets the requirements of Subsection G of this Section and decreases actual emissions of a regulated pollutant in excess of the requirements of this regulation or any other applicable air quality control regulation or permit emission limitation, may preserve or bank such excess emission reductions for sale or future use.

2. The owner or operator desiring to preserve such reductions shall submit a written request, prior to the actual emission reduction to the LDEQ, containing the following information:

- a. a detailed description of the process(es) to be controlled and the control technology to be used; and
- b. emission calculations showing the types and amounts of actual emissions to be reduced; and
- c. the effective date(s) of such reductions.

3. The LDEQ shall:

- a. verify the amount of emission reduction claimed in the written request; and
- b. approve or deny the request for banking of the emission reduction and notify the applicant, in writing, of the decision; and

- c. keep appropriate records of any emission reduction accepted for banking; and

- d. for the case where emission reductions are approved in excess of those required for obtaining a permit under this regulation, the LDEQ shall make such reductions a condition of the permit; and

- e. for the case where emission reductions are approved not in conjunction with granting a permit, the LDEQ shall preserve such reductions as a State Implementation Plan revision.

#### 4. Use and Sale of Emission Reductions

a. The use of any preserved emission reduction is confined to meeting the emission offset requirements of this regulation. Preserved emissions reductions may not be used for purposes of an attainment demonstration or reasonable further progress.

b. The provisions of this regulation apply to the future use of any preserved emission reduction as if such reductions were obtained concurrently with the commencement of operations of the new or modified source.

c. Before the use or sale of any preserved emission reduction occurs, written notification must be given to the LDEQ. Such notice shall be in writing and shall identify the permit(s) and State Implementation Plan revision(s) in which such reductions are preserved. The LDEQ must verify the availability of the preserved reduction before any use or sale occurs.

d. The use of preserved emission reduction credits is subject to the criteria of Subsection G of this Section.

### I. Air Quality Benefit

All demonstrations of the occurrence of a net air quality benefit shall meet the following criteria:

1. Emission offsets for volatile organic compounds or nitrogen oxides emissions impacting an ozone non-attainment area may be obtained from sources located in the broad vicinity of the proposed new source or modification, subject to approval by the LDEQ. Atmospheric dispersion modeling will not be required to demonstrate the net air quality benefit that occurs due to reductions in volatile organic compound emissions.

2. An applicant which proposes emission offsets for sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, or any other pollutant may be required, by the LDEQ, to submit atmospheric dispersion modeling to demonstrate that a net air quality benefit will occur. For any case involving these pollutants where stack emissions and fugitive or ground level emissions are offsetting, atmospheric dispersion modeling shall be required to demonstrate that a net air quality benefit will occur.

### J. Public Participation and Notification

1. The LDEQ shall notify all applicants within 60 days as to the completeness of the application or of any deficiency in the application or information submitted. In the event of such a deficiency, the date that an application is ruled complete shall be the date on which the LDEQ received all required information.

2. Within 120 days, or within 180 days if a public hearing is held, after receipt of a complete application the reviewing authority shall:

a. make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;

b. make available at the LDEQ district and local office nearest to the proposed source, a copy of all materials that the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;

c. notify the public by advertisement in a newspaper of general circulation in the area in which the proposed major stationary source or major modification would be constructed, of the application, the preliminary determination, and of the opportunity for comment at a public hearing as well as written public comment. The public comment period shall be for 30 days from the date of such advertisement;

d. send a copy of the notice of public comment to the applicant, the administrator, and to officials and agencies having jurisdiction over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies, the chief executives of the city and parish where the source would be located, any regional comprehensive land use planning agency, and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification;

e. provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source and other appropriate considerations. Public hearings shall be held in the geographic area likely to be impacted by the source;

f. consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final

decision on the approvability of the application. The LDEQ shall make all comments available for public inspection in the same locations where the LDEQ made available preconstruction information relating to the source;

g. make a final determination whether construction should be approved, approved with conditions, or disapproved;

h. notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the LDEQ made available preconstruction information and public comments relating to the source.

### K. Definitions

As used in this regulation:

*Act*—the Federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q.

*Actual emissions*—the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following:

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. A different time period shall be allowed upon a determination by the LDEQ that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The LDEQ may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

c. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

*Administrator*—the administrator of the USEPA or an authorized representative.

*Adverse Impact on Visibility*—visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairments and how these factors correlate with:

a. times of visitor use of the mandatory Federal Class I area; and

b. the frequency and timing of natural conditions that reduce visibility.

This term does not include effects on integral vista as defined at 40 CFR 51.301 Definitions.

*Allowable Emissions*—the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

a. the applicable standard set forth in 40 CFR, Part 60 or 61;

b. any applicable state implementation plan emissions limitation including those with a future compliance date; or

c. the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

**Begin Actual Construction**—initiation of physical on-site construction activities on an emission unit which are of a permanent nature. Such activities include, but are not limited to, installation of building support and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

**Building, Structure, Facility, or Installation**—all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, or are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1987*.

**Commence**—as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

a. begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

b. entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

**Construction**—any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

**Emissions Unit**—any part of a stationary source which emits or would have the potential to emit any regulated pollutant.

**Federal Class I Area**—any federal land that is classified or reclassified "Class I."

**Federal Land Manager**—with respect to any lands in the United States, the secretary of the department with authority over such lands.

**Federally Enforceable**—all limitations and conditions which are federally enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I including 40 CFR 51.165 and 40 CFR 51.166.

**Fugitive emissions**—those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

**Lowest Achievable Emission Rate**—for any source, the more stringent rate of emissions based on the following:

a. The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

b. The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no

event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

**Major Modification**—

a. Any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any regulated pollutant for which the stationary source is already major.

b. Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

c. A physical change or change in the method of operation shall not include:

i. routine maintenance, repair and replacement;

ii. use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

iii. any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.

**Major Stationary Source**—

a. Any stationary source of air pollutants which emits, or has the potential to emit any regulated pollutant subject to the regulation under the Act, the threshold values of which are defined in Table 3; or

b. any physical change that would occur at a stationary source not qualifying under Subparagraph a of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

c. a major stationary source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone.

d. a stationary source shall not be a major stationary source due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

i. any category in Table 2: or

ii. any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.

e. a stationary source shall not be a major stationary source due to secondary emissions.

**Mandatory Federal Class I Area**—those federal lands that are International Parks, National Wilderness areas which exceed 5,000 acres in size, National Memorial Parks which exceed 5,000 acres in size, and National Parks which exceed 6,000 acres in size, and which were in existence on August 7, 1977. These areas may not be redesignated.

**Natural Conditions**—includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

**Necessary Preconstruction Approvals or Permits**—those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable state implementation plan.

**Net Emissions Increase**—the amount by which the sum of the following exceeds zero:

a. i. any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and



ii. any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

b. an increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

i. the date five years before construction on the particular change commences; and

ii. the date that the increase from the particular change occurs.

c. An increase or decrease in actual emissions is creditable only if neither the LDEQ nor the administrator has relied on it in issuing a permit for the source under this regulation and, for a decrease, the administrator has not relied on it in issuing a permit under 40 CFR 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs.

d. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

e. A decrease in actual emissions is creditable only to the extent that:

i. the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

ii. it is federally enforceable at and after the time that actual construction of the particular change begins;

iii. it has not been relied on in any Louisiana air quality permit and has not been relied on by the state in demonstrating attainment or reasonable further progress; and

iv. it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

f. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

**Non-attainment Area**—for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the administrator to be reliable) to exceed any national ambient air quality standard for such pollutant. Such term includes any area identified under sub-paragraphs (A) through (C) of section 107(d)(1) of the Federal Clean Air Act.

**Portable Stationary Source**—a source which can be relocated to another operating site with limited dismantling and reassembly.

**Potential to Emit**—the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable.

**Regulated Pollutant**—any air pollutant, the emission or ambient concentration of which is regulated pursuant to the Act.

**Secondary Emissions**—emissions which would occur as a result of the construction or operation of a major stationary

source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

**Significant**—in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emission Rate	
Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
PM <sub>10</sub> emissions:	15 tpy
Ozone:	40 tpy of volatile organic compounds
Lead:	0.6 tpy

**Stationary Source**—any building, structure, facility, or installation which emits or may emit any regulated pollutant.

**Temporary Source**—a stationary source which changes its location or ceases to exist within one year from the date of initial start of operations.

**Visibility Impairment**—any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

**Volatile Organic Compound (VOC)**—any organic compound which participates in atmospheric photochemical reactions, including any found in LAC 33:III.2145 Table 8 and LAC 33:III.5115 Tables 51.1 and 51.2. That is, any organic compound other than toxic air pollutants or those which the administrator designates as having negligible photochemical reactivity.

TABLE 1. SIGNIFICANT AMBIENT CONCENTRATIONS					
POLLUTANT	ANNUAL	AVERAGING TIME			
		24-HR	8-HR	3-HR	1-HR
Sulfur Dioxide	1.0	5	-	25	-
PM <sub>10</sub>	1.0	5	-	-	-
Nitrogen Dioxide	1.0	-	-	-	-
Carbon Monoxide	-	-	500	0	2000

All values are in micrograms per cubic meter.

Table 2. FUGITIVE EMISSIONS SOURCE CATEGORIES	
1.	Fossil fuel-fired steam electric plants of more than 250 million Btu/hr heat input
2.	Coal cleaning plants (with thermal dryers)
3.	Kraft pulp mills
4.	Portland cement plants
5.	Primary zinc smelters
6.	Iron and steel mills
7.	Primary aluminum ore reduction plants
8.	Primary copper smelters
9.	Municipal incinerators capable of charging more than 50 tons of refuse per day
10.	Hydrofluoric acid plants
11.	Sulfuric acid plants
12.	Nitric acid plants
13.	Petroleum refineries
14.	Lime plants
15.	Phosphate rock processing plants
16.	Coke oven batteries
17.	Sulfur recovery plants
18.	Carbon black plants (furnace process)
19.	Primary lead plants
20.	Fuel conversion plants
21.	Sintering plants
22.	Secondary metal production plants
23.	Chemical process plants
24.	Fossil fuel boiler (or combination thereof) totaling more than 250 million Btu/hr heat input
25.	Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
26.	Taconite ore processing plants
27.	Glass fiber processing plants
28.	Charcoal production plants

**Table 3**  
Major Stationary Source/Major Modification  
Emission Thresholds

POLLUTANT	MAJOR STATIONARY SOURCE tons/year	MAJOR MODIFICATION net increase in tons/year	OFFSET RATIO minimum
VOC/NO <sub>x</sub> <sup>1</sup>			
I marginal	100	40	1.10 to 1
II moderate	100	40	1.15 to 1
III serious	50	25 <sup>4</sup>	1.20 to 1 <sup>2</sup>
IV severe	25	25 <sup>4</sup>	1.30 to 1
CO			
I moderate	100	100	1.00 to 1 <sup>3</sup>
II serious	50	50	1.00 to 1 <sup>3</sup>
SO <sub>2</sub>	100	40	1.00 to 1 <sup>3</sup>
PM <sub>10</sub>			
I moderate	100	15	1.00 to 1 <sup>3</sup>
II serious	70	15	1.00 to 1 <sup>3</sup>
Lead	100	0.6	1.00 to 1 <sup>3</sup>

<sup>1</sup> VOC and NO<sub>x</sub> are considered separately for purposes of determining whether a source is subject to permit requirements. For those parishes which are designated non-attainment for ozone, but are not classified because of incomplete data, the new source review rules for a marginal classification apply to sources of VOC but not NO<sub>x</sub>.

<sup>2</sup> BACT may be used as an alternative to LAER if a 1.30 to 1 internal offset is met.

<sup>3</sup> The offset ratio is specified to be greater than 1.00 to 1.

<sup>4</sup> For serious and severe ozone non-attainment areas, the increase in emissions of volatile organic compounds or nitrogen oxides resulting from any physical change in or change in the method of operation of a stationary source shall not be considered de minimus for purposes of determining the applicability of permit requirements, unless the increase in net emissions of such air pollutant from the source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years, which includes the calendar year in which such increase occurred.

VOC = volatile organic compound

NO<sub>x</sub> = oxides of nitrogen

CO = carbon monoxide

SO<sub>2</sub> = sulfur dioxide

PM<sub>10</sub> = particulate matter of less than 10 microns in diameter

James B. Thompson, III  
Assistant Secretary

**DECLARATION OF EMERGENCY**

Governor's Office  
Division of Administration  
Facility Planning and Control

Historic Restoration Prequalification (LAC 34:III.151)

In accordance with R.S. 49:953(B) and R.S.

38:2212.4, the following emergency rule governing the prequalification of bidders for historic restoration projects is hereby adopted. This emergency rule is effective upon publication in the *Louisiana Register* and will remain in effect for 120 days or until a final rule takes effect through the normal rulemaking process.

Emergency rulemaking is necessary in order to proceed immediately with the restoration of any historic building that will benefit from the protection afforded by this rule and that is continuing to deteriorate at an accelerating pace. This deterioration will escalate the cost of repairs if it is allowed to continue and may present a hazard to the public.

**Title 34**

**GOVERNMENT CONTRACTS, PROCUREMENT AND  
PROPERTY CONTROL**

**Part III. Facility Planning and Control**

**Chapter 1. Capital Improvement Projects**

**Subchapter B. Historic Restoration**

**§151. Historic Restoration Projects**

A. This rule applies to the repair, renovation or reconstruction of any state-owned building that is listed on the National Register of Historic Places or any state-owned building which is eligible to be included on this Register. When required, eligibility shall be determined by the State Office of Historic Preservation. For these projects, Facility Planning and Control may require the designer of the project to assess the structure and proposed scope of work and recommend if it will be in the best interest of the state to prequalify the bidders for the project. The items for consideration in this determination shall include but not be limited to the following:

1. historic significance of the structure;
2. extent of the work to be performed;
3. condition of the structure before renovation;
4. previous renovations;
5. program objectives of the owner and user;
6. effect of law, codes, regulations and ordinances;
7. environmental impact;
8. long and short term economic impact.

B. Based on the results of this determination, the designer shall recommend to Facility Planning and Control whether or not the bidders for the specific project should be prequalified and justify his recommendation when required by Facility Planning and Control.

C. If Facility Planning and Control determines that it is in the best interests of the state to prequalify the bidders it shall instruct the designer of the project to prepare a contractor's qualification statement and make it available to prospective bidders. The designer shall also be instructed to administer the prequalification process including receipt and evaluation of completed qualification forms and recommendations to Facility Planning and Control regarding which contractors are qualified to submit bids for the work.

The contractor's qualification statement shall be prepared using AIA Document A305. The requirements of this document shall be supplemented by requirements that will require the bidders to demonstrate actual, verifiable experience with projects of similar type and scope and may require the demonstration of actual, verifiable experience in specific required trades.

D. The Advertisement for Bids for any project requiring prequalification shall state this requirement and the last date for the submittal of contractor's qualification statements. Any statements received after this date will not be considered.

E. With the approval of Facility Planning and Control the designer shall notify every applicant whether or not he or she has been determined to be qualified and allowed to bid. This notification shall be provided with a tie specified in the Advertisement for Bids.

F. The designer shall be responsible for answering reasonable request for justification of his or her determinations within a reasonable time and shall provide such a response at least five working days prior to the bid date provided the request for justification is received no later than three working days after the time the prospective bidder has been notified that he or she is not qualified. Unless these time requirements are met the designer shall not be responsible for providing justifications or changes of determination in time to allow prospective bidders to bid. The designer's decisions in these matters shall be final.

G. After the prequalification process is complete only prequalified bidders may submit bids on those designated projects and the contracts on those designated projects shall be awarded to the prequalified bidder submitting the lowest responsible bid.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:953(B) and R.S. 38:2212.4.4

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 19:

Roger Magendie  
Director

#### **DECLARATION OF EMERGENCY**

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

The Office of the Governor, Office of Elderly Affairs, has exercised the emergency provision of the Administrative

Procedure Act, R.S. 49:953 (B), to adopt the following rule. This emergency rule is necessary to continue to implement the State's Long-Term Care Assistance Program. The emergency rule to initially implement the program will expire October 28, 1992; the final rule will not become effective until November 20, 1992.

#### **EMERGENCY RULE**

The proposed rule to implement the Long Term Care Assistance Program, published (full text) in the August 20, 1992 edition of the Louisiana Register (Vol. 18, No. 8, page 885), is hereby adopted as an emergency rule, effective October 29, 1992. This rule shall remain in effect until a final rule to implement the program is adopted.

James R. Fontenot  
Director

#### **DECLARATION OF EMERGENCY**

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

**Community Care**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953B to adopt the following rule in the Medicaid Program.

Medicaid of Louisiana will implement a managed care program called Community Care in designated parishes of the state to provide improved access to health care for eligible Medicaid beneficiaries, particularly those who reside in rural communities. The Community Care Program has been authorized under a freedom of choice waiver approved by the U. S. Department of Health and Human Services under Section 1915(b)(1) of the Social Security Act. The approval is for two years, and the waiver must be renewed prior to expiration of the two-year period. The goal of the Community Care Program is to improve the accessibility and the continuity and quality of care provided to Medicaid recipients in rural areas.

The Community Care Program will provide Medicaid recipients in the designated parishes with a primary care physician (PCP), osteopath, or family doctor as the primary care provider for assigned beneficiaries. Beneficiaries will have the opportunity to select a participating doctor, federally qualified health center (FQHC), or rural health clinic to be their primary care provider in their parish of residence or in a contiguous parish. Beneficiaries are assigned a participating provider if they do not select one. The individual or family physician will provide basic primary care, referral and after-hours coverage services for each beneficiary. The fact that each beneficiary has a PCP allows continuity of care centered around a single physician (or organized group) as a care manager. Beneficiaries must remain with their selected or assigned PCP for at least six months before they may change to another PCP.

A full-time primary care physician or osteopath participating in the Community Care Program must be willing

to serve up to a maximum of 1200 beneficiaries. A full-time certified physician assistant or full-time certified nurse practitioner under the supervision of a primary care physician may serve additional beneficiaries up to a maximum of 300 beneficiaries. Maximum caseloads for organized groups, FQHCs or rural health clinics are 4800 beneficiaries. A participating PCP is paid \$5 per beneficiary for total care management services, which is in addition to normal fee-for-service reimbursements.

The PCP as the care manager bears responsibility for the beneficiary's total health care, which includes providing preventive, maintenance and acute care; referring to specialists, when appropriate, for medically necessary diagnosis and treatment not provided in his/her practice; exchanging medical information about the beneficiary with specialists; admitting the beneficiary to the nearest appropriate hospital when necessary; and coordinating inpatient care and maintaining an integrated medical record of the care the patient receives. Only the PCP may authorize services for his/her assigned beneficiaries in appropriate settings according to medical necessity.

Twenty-four hour, seven day a week availability by telephone of primary care must be assured. The PCP may authorize coverage in his/her absence or in emergencies in accordance with Community Care policy. The PCP must also enroll and participate as a KIDMED medical, vision, and hearing screening provider. Routine preventive health care and age-appropriate immunizations must be provided to children by the PCP.

The following Medicaid covered services do not require authorization and a written referral by the beneficiary's PCP: emergency services, dental, pharmacy, family planning, skilled nursing facility care, transportation, ICF/MR services, ophthalmology, targeted case management services, optometry and eyeglasses, EPSDT health services for disabled children, psychiatric hospital services, home and community-based waiver services, and mental health rehabilitation. All other Medicaid services, including obstetrical services, require prior authorization by the beneficiary's assigned PCP.

The following groups of Medicaid eligible recipients are required to enroll in the Community Care Program in the designated parishes: AFDC-related recipients and SSI-related, non-Medicare recipients. The following groups of eligibles are excluded from participation: residents of skilled nursing facilities, intermediate care facilities and mental hospitals, Medicare (Part A or B) recipients, medically needy, foster children or adoptive children, refugees, lock-in recipients, members of health management organizations (HMOs). Newborns or newly certified or Medicaid eligible recipients may not be enrolled for up to 30 days from the date of certification and any prior month of retroactive coverage (up to three months). Once enrolled in the Community Care Program, recipients are not re-enrolled at re-certification. All non-excluded recipients are required to have a Community Care provider.

All doctors of medicine or general osteopathy who are currently enrolled Medicaid providers in good standing, practice primary care and have offices in one of the designated or contiguous parishes, are eligible to participate in Community Care as primary care physicians (PCPs). However, they must meet all of the program requirements and agree to abide by the regulations. Primary care physicians enrolling in Community Care must meet all of the general

Medicaid enrollment conditions. The PCP must be enrolled in one of the following specialties: general practitioner, family practitioner, pediatrician, gynecologist, internist, or obstetrician. The PCP must be licensed to practice medicine in Louisiana and must hold admitting privileges at a Medicaid enrolled hospital in the designated parish or contiguous parish.

Quality assurance/utilization review are integral components of the care management concept. Community care physicians are monitored for over and under utilization and quality assurance to assure patient access to quality health care and cost-effectiveness of the program. Providers who are out of compliance receive provider education, but continued non-compliance may result in disenrollment from the program.

#### RULE

Medicaid of Louisiana will operate the Community Care Program under a waiver of freedom of choice under the authority of Section 1915(b)(1) of the Social Security Act. The Community Care Program will be administered in accordance with all regulations applicable to the program and the waiver request document approved by the U.S. Department of Health and Human Services.

J. Christopher Pilley  
Secretary

#### DECLARATION OF EMERGENCY

##### Department of Labor Office of Workers' Compensation Medical Reimbursement Schedules

In accordance with the emergency provision of R.S. 49:953(B) of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1034.2 of Act 938 of 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the director of the Office of Worker's Compensation has determined that because of the imminent peril to the public health, safety and welfare, it is necessary the Office of Workers' Compensation adopt immediate medical reimbursement schedules:

The purpose of the Medical Reimbursement Schedules is to coordinate an efficient program to administer medical services to injured workers. The medical reimbursement schedules will include fee schedules for drugs, supplies, hospital care and services, medical and surgical treatment and any non-medical treatment recognized by laws of this state as legal and due under the Workers' Compensation Act and is applicable to any person or corporation who renders such care, services or treatment or provides such drugs or supplies to all employees covered by Chapter 10 of Title 23 of the Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

The medical reimbursement schedules establish a basis for billing and payment of medical services provided to all injured employees.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration**

- Chapter 25. Hospital Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 29. Pharmacy Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 31. Vision Care Services, Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 33. Hearing Aid Equipment and Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 35. Nursing/Attendant Care and Home Health Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 37. Home and Vehicle Modification Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 39. Medical Transportation Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 41. Durable Medical Equipment and Supplies Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 43. Prosthetic and Orthopedic Equipment
- Chapter 45. Respiratory Services Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 47. Miscellaneous Claimant Expenses Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 49. Vocational Rehabilitation Consultant Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 51. Medical Reimbursement Schedule, and Billing Instructions

These rules are in effect with dates of service beginning November 1, 1992. A copy of the reimbursement schedules are available for purchase at \$.25 a page and can be obtained by contacting Judy Albarado at (504) 342-7559 or at the Office of Workers' Compensation Administration, Box 94040, Baton Rouge, LA 70804-9040 or 1001 North Twenty-third Street, Baton Rouge, LA 70804.

Alvin J. Walsh  
Director

**DECLARATION OF EMERGENCY**

**Department of Public Safety  
Public Safety Services  
Riverboat Gaming Commission**

**Riverboat Gaming**

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

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

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

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

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

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

As a result of the above findings, the Riverboat Gaming Commission determines that promulgation of initial rules constitutes circumstances affecting the safety, health and welfare of the citizens of the state of Louisiana and hereby promulgates emergency rules, effective September 25, 1992, pursuant to the provisions of R.S. 49:950 et seq. and in particular R.S. 49:954(B)(2) for a period of 120 days, said emergency rule to expire on January 22, 1993.

Title 55  
PUBLIC SAFETY  
Part I. State Police

Chapter 33. Louisiana Riverboat Gaming Commission  
Regulations

Subchapter A. Issuance and Construction of Regulations  
and Administrative Matters

§3301. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

*Commission*—the Louisiana Riverboat Gaming Commission.

*Compliance ruling*—a non-emergency ruling or opinion issued by the chairman determining whether a proposed action of a person subject to commission jurisdiction or a

holder of a certificate will comply or has complied with a commission order or regulation, or condition of a certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

*Inspection*—a surveillance or observation by the commission or its agents of operations conducted by a licensee or permittee, which surveillance and observation may or may not be made known to the licensee or permittee. *Inspection* also means a surveillance or examination of the activities of a holder of certificate including construction of a riverboat and any operation or activity conducted by a person holding a certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

### §3303. Commission Rules and Regulations; Promulgation

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

B. Any rule or regulation proposed by the division shall be submitted to the commission for approval. The

commission shall reject any rule or regulation which it finds unacceptable, or which does not comply with the act.

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety, Public Safety Services, Riverboat Gaming Commission, LR 19:

### §3305. Construction of Regulations; Severability

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

### §3307. Definitions, Captions, Pronouns, and Gender

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

### §3309. Delegation to Chairman

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

### §3311. Establishment of Advisory Panels



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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3313. Appeal of Commission Decision after Review of Administrative Decision**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3315. Annual Commission Report; Periodic Special Reports**

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**Subchapter B. Applications for Certificates, Permits, and Licenses**

**§3317. Applications in General**

A. Any certificate, license or permit issued by the commission is deemed to be a revocable privilege, and no person holding such a license or permit is deemed to have acquired any vested rights therein. An applicant for any certificate, license or for any permit issued or to be issued by the commission or the division is seeking the granting of an absolute privilege, and the burden of proving his qualification to receive the certificate, license or permit sought is at all times on the applicant. An applicant agrees to accept the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof. The filing of an application under the act and these rules specifically constitutes a request for a decision upon the applicant's general suitability, reputation, character, integrity, and ability to participate or engage in or be associated with the riverboat gaming industry, and by filing an application, the applicant specifically

consents to the making of such a decision by the division and commission.

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3319. Application for certificate of preliminary approval**

A. Except as provided in §3321 of this Chapter, before commencing construction of any vessel intended to be operated under the act, each person seeking approval of riverboat plans shall submit for advance approval by the commission an application for a certificate of preliminary approval which shall include the following information (parts) in the following order:

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

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

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

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

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

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

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

i. gaming activities. A description of all gaming activities including the approximate number and types of each

kind of games or devices to be offered, a reasonably specific layout of the gaming area, and a description of any proposed projected dockside gaming and the periods thereof.

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

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

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

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

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

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

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

d. the projected participation, by way of ownership interest or contracts for goods or services, of any minority owned or disadvantaged business enterprises.

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

6. An application and evaluation fee. The applicant shall remit to the commission an application fee and an evaluation fee which shall consist of \$25,000 for the application and \$5,000 to defray the expenses of the commission in analyzing and evaluating an application for certificate. In the event that the actual expenses of the

commission in evaluating an application for certificate exceed the evaluation deposit, the commission shall bill and the applicant shall remit the additional amount. An application fee shall not be refunded unless the application is denied or rejected in which case one half of the amount of the application fee will be refunded. Evaluation fees or deposits may not be returned or refunded. As part of an evaluation deposit an applicant shall provide the commission with the following:

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

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

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

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

#### **§3321. Certificate of Approval of Riverboat Design**

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

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

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

2. a schedule of the riverboat deck areas such that the commission can determine that not more than 60 percent of

the total passenger access area or 30,000 square feet is planned for gaming. Space planned for division offices and division surveillance areas and monitors must also be designated.

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

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

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

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

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

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

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

D. Upon receipt of a certificate of approval of riverboat design, the holder may commence construction of the riverboat as specified in the application and certificate. A completed riverboat which has been the subject of a certificate of approval of riverboat design shall qualify as a riverboat for purposes of a subsequent certificate of preliminary approval. An applicant for a certificate of preliminary approval which proposes to utilize a riverboat which is the subject of a certificate of approval of riverboat design shall not be required to resubmit diagrams and descriptions of the riverboat as otherwise required by §3319.B.1 and 2 of these rules in order to obtain a certificate of preliminary approval.

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3323. Time Periods for Application to Division and Commencement of Construction**

It shall be a requirement that, within 30 days of the granting of a certificate of preliminary approval or final promulgation of application rules by the division which ever is later, the applicant or the proposed gaming operator for the riverboat must apply to the division for a license to conduct gaming operations and further must actually commence construction of the riverboat as authorized by the preliminary certificate within 60 days of being granted a license by the division. Should the applicant fail to apply to the division or fail to commence construction within either period specified above, the certificate shall become null and void. A construction plan, condition, berth, route or excursion may,

upon approval of the commission, be changed at any time prior to or after the granting of a certificate by filing a petition for modification of certificate with the commission requesting the modification(s) described therein.

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3325. Mandatory Conditions of Certificates**

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

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

2. that the holder make application to the division for a gaming operator's license and commence construction of the riverboat within the time limits required by §3323 of this Chapter.

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

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

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

3. that the riverboat meet all coast guard requirements.

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3327. Berth - Not Required at Time of Application**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3329. Time of Filing**

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

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

additional information is grounds for denial of part or all of the application.

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3331. Criteria for Commission Action**

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

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

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

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

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

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3333. Awarding of Certificate - Subject to Conditions**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3335. Commission Objection to Advertising or Promotion**

A. The commission may require an applicant or holder of a certificate to discontinue use of a particular

advertisement or promotion of riverboat operations if the commission determines the advertisement or promotion is:

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

2. offensive, or

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3337. Information Constitutes Grounds for Delay or Denial of Application; Petitions for Modification**

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

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

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

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

C. An application or certificate may be modified by leave of the commission upon the filing of a petition for modification by the applicant. Any modification to an application may have the effect of establishing the date of such modification as the filing date of the application with respect to any time requirements for action on the application which have been set by the commission. Petitions for modification of an application must be in writing.

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3339. Continuing Representations and Quarterly Certifications**

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

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

which are then underway.

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3341. Commission Decision**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3343. Place of Construction; Contract**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3345. Confidentiality; Privileged Communications and Documents**

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

1. relate to the background of an applicant and were provided by a confidential source or informant.

2. consist of an applicant's detailed personal history questionnaires, disclosure forms, and financial statements which shall include financial projections and feasibility studies submitted as a part of an application for a certificate.

3. relate to the surveillance and security techniques, procedures, or practices of an applicant, licensee, or

permittee.

4. relate to trade secrets and design of experimental gaming devices and equipment.

5. consist of architectural plans, specifications and blueprints of a riverboat or support facilities, not including artists renderings, deck and vessel configuration and deck plans.

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3347. Waiver of Privilege**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**Subchapter C. Riverboat Design and Construction**

**§3349. Riverboats upon which Gaming May Be Conducted**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3351. Compliance with Requirements of the Act and Other Laws**

After receiving a certificate of preliminary approval, and before commencing construction, unless otherwise authorized pursuant to §3321 of these rules, an applicant must submit detailed architectural plans and specifications to the

commission, and must represent and warrant that:

1. the plans and specifications satisfy the minimum requirements of riverboat size provided in the act, and

2. the plans and specifications comply with all applicable Coast Guard Regulations including, but not limited to, fire and safety codes or such other applicable requirements as are imposed on vessels of similar design and size by federal, state, or local laws,

3. the riverboat is paddlewheel driven. For purposes of this Chapter, paddlewheel driven shall mean that the riverboat has one or more functional paddlewheels which in the opinion of commission substantially contributes to the overall propulsion of the riverboat.

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

#### **§3353. Commission Ruling**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

#### **§3355. Certificate of Final Approval**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

#### **§3357. Indemnification**

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

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

**AUTHORITY NOTE:** Promulgated in accordance with

R.S. 4:501 et seq.

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

#### **Subchapter D. Operating Standards**

##### **§3359. Methods of Operation Generally**

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

##### **§3361. Compliance with Laws**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

##### **§3363. Emergency and Compliance Orders**

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3365. Authorized Routes, Excursion Schedules, Berths**

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

1. is located upon a route authorized by the commission at such times as are authorized by the commission,

2. is at dockside and for periods authorized by law and rule of the commission,

3. docks at another berth due to weather conditions or other emergency for not more than 45 minutes, or

4. stops during an excursion due to engine malfunction or failure and repairs are underway.

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

C. For purposes of R.S. 4:525 (B) and these rules, a water level below 140 national geodetic vertical datum (feet) on the Red River flowing through or adjacent to a parish or municipality within the below described population limits shall constitute a water condition which is a present danger to the riverboat, its passengers and crew:

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

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

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3367. Passenger Boarding and Disboarding**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3369. Stops During Excursion; Gaming Prohibited**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3371. Access to Premises and Production of Records**

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

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

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

2. any gaming device or equipment, or

3. the conduct of any gaming activity.

C. Access to the areas and records that may be inspected or examined by division and commission members or their agents must be granted to any such individual who displays official identification issued by the division or commission.

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3373. Inspections During Construction**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3375. Emergency Orders by Commission**

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

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

2. The emergency order is effective immediately upon

issuance and service upon the applicant, holder or permittee.

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**Subchapter E. Appeal of Division Action, Order of Decision §3377. Appeals of Division Orders or to Commission**

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3379. Hearings and Appeals**

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

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

C. When the chairman has determined that the record of a hearing or an appeal is complete, he will provide advance written notice to the parties of the date, time and place where the matter will be heard by the commission. The chairman or a majority of the commission present may at any

time during a proceeding make a re-determination that the record is incomplete and re-open the record for the purpose of taking additional submissions or evidence.

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

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

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3381. Representation by Counsel**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3383. Default**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3385. Commission Decision**

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

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

**HISTORICAL NOTE:** Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

**§3387. Appeal of Commission Action**

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

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



HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Public Safety Services, Riverboat Gaming Commission, LR 19:

Kenneth E. Pickering  
Chairman

## DECLARATION OF EMERGENCY

Department of Social Services  
Office of Family Support

Food Stamp Program

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective October 16, 1992 in the Food Stamp Program.

Emergency rulemaking was necessary to comply with USDA Food and Nutrition Service directives to implement federal regulations at 7 CFR 271.2, 273.1, 278.1, 273.5, 273.8, 273.9 and pages 63592-63617 of FR 56, No. 233. It is necessary to extend emergency rulemaking since an emergency rule is effective for a maximum of 120 days. The rulemaking process requires a minimum of five months.

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

### Title 67

## DEPARTMENT OF SOCIAL SERVICES

### Part III. Office of Family Support

#### Subpart 3. Food Stamps

#### Chapter 17. Administration

#### Subchapter B. General Administrative Requirements

#### §1711. Disabled People in Group Living Arrangements

A. All individuals residing in group living arrangements who meet the Food Stamp Act's definition of "disabled" (as defined in Section 3(r) of the Food Stamp Act) are eligible to receive food stamps to purchase their prepared meals.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273.1(e)(1)(iii), 278.1(f).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992).

#### Chapter 19. Certification of Eligible Households

#### Subchapter E. Students

#### §1937. Student Related Provisions

\*\*\*

#### 4. Exclusions from Educational Assistance

\*\*\*

c. All educational assistance will be excluded in the same manner regardless of the source of the assistance, i.e., an exclusion from educational income shall be granted based on amounts earmarked by the institution, school program, or other grantor as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

d. The definition of mandatory fees includes the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved.

e. The maximum age level of students attending institutions of higher education who are prohibited from receiving food stamp assistance shall be lowered from 60 years to 50 years of age.

f. Eligible student status shall be granted to students participating in a state or federally financed work study program during the regular school year and the work incentive program under Title IV of the Social Security Act or its successor programs.

g. The funds from PASS (Plan for Achieving Self-Support) accounts will be excluded as income for the food stamp program.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273.1(e)(1)(iii), 278.1, 273.5, 273.9(c), 273.9C(v).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992).

#### §1949. Exclusions From Resources

\*\*\*

3. Inaccessible resource - one whose sale or other disposition is unlikely to produce any significant amount of funds for the support of the household.

4. State agencies shall not be required to require verification that a resource is inaccessible unless the information provided by the household is questionable.

B. All of the resources of recipients of AFDC; SSI; and aid to the aged, blind, or disabled under Titles I, II, X, XIV, or XVI of the Social Security Act are excluded.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8, 273.9C(v).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:656 (November 1987).

#### §1964. Standard Shelter Estimate

Effective June 16, 1992 homeless households which do not receive free shelter throughout the calendar month shall be entitled to a Standard Shelter Estimate (SSE) of \$128. The \$128 SSE is a USDA-FNS determined estimate of reasonable expenses related to shelter costs which a homeless household may be expected to incur. All homeless households which incur or reasonably expect to incur shelter costs during a month shall be eligible for the SSE unless higher shelter costs are verified. If shelter costs in excess of \$128 are verified, the household may use actual costs rather than the SSE.

AUTHORITY NOTE: Promulgated in accordance with FR 56:63614, 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992).

#### §1987. Categorical Eligibility for Certain Recipients

\*\*\*

5. Households in which all members receive assistance from a Local General Assistance Program shall be considered categorically eligible for food stamps provided the LGA program has income and resource standards which do not exceed the food stamp limits; the LGA benefits are provided to assist in meeting living expenses; and the LGA benefits are on-going (not limited to emergency assistance).

**AUTHORITY NOTE:** Promulgated in accordance with FR 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; FR 56:63612-63613.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:90 (February 1987).

Gloria Bryant-Banks  
Secretary

### **DECLARATION OF EMERGENCY**

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

**Food Stamp Program**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Food Stamp Program effective November 1, 1992.

Emergency rulemaking was necessary to comply with Federal Regulations at 7 CFR 273.7. It is necessary to extend emergency rulemaking since an emergency rule is effective for a maximum of 120 days. The rulemaking process requires a minimum of five months.

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamp Program.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 3. Food Stamps**

\*\*\*

#### **Chapter 19. Certification of Eligible Households**

\*\*\*

#### **Subchapter G. Work Requirements**

\*\*\*

#### **§1941. Household Concept**

\*\*\*

3. Ending or Avoiding Employment and Training (E&T) or Voluntary Quit Sanctions.

\*\*\*

iii. Conciliation is an attempt to reach a resolution of the participant's failure to comply with the employment and training requirement prior to initiation of a sanction (sending advance notice of adverse action.) The purpose of conciliation is to determine the reason the work registrant did not comply with the employment and training requirement and to provide the noncomplying individual with an opportunity to comply prior to the issuance of a notice of adverse action. The conciliation period shall begin the day following the date an individual fails to comply and shall continue for a period not to exceed 30 calendar days. A conciliation letter will be sent to the participant by the contractor/provider when conciliation begins.

iv. Conciliation must be initiated by the contractor/provider when there is knowledge of the participant's failure to comply; cannot exceed 30 days, and may end sooner if the participant refuses to cooperate in the process; and is considered successful when a verifiable act of compliance is performed by the participant or good cause is established. If the conciliation process is not successful, the process of sanctioning shall be initiated.

**AUTHORITY NOTE:** Promulgated in accordance with 7

CFR 273.7 (c)(2).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:394 (July 1987), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:96 (February 1989).

Gloria Bryant-Banks  
Secretary

### **DECLARATION OF EMERGENCY**

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

**JOBS-Project Independence/Aid to Families with Dependent Children (LAC 67:III.1181 and 2903)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective November 1, 1992 in the Job Opportunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's Program, and in the Aid to Families with Dependent Children (AFDC) Program.

Emergency rulemaking is necessary to comply with the new payment schedule approved for all child care programs in the Department of Social Services. It is necessary to extend the emergency rule for 120 days as the rule has not had sufficient time to become final.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 2. Aid to Families with Dependent Children (AFDC)**

#### **Chapter 11. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter E. Transitional Child Care Assistance**

#### **§1181. Eligibility Fees and Payments**

\*\*\*

#### **G. Child Care Payments**

\*\*\*

2. The statewide limit is established as the maximum monthly amount allowable based upon the provider type, age, and the type of care provided. For Class A child care centers, the maximum payment for children under age two will be \$238.30 for full-time care and \$119.15 for part-time care. For children age two or older in Class A centers, the maximum payment will be \$216.50 for full-time care and \$108.25 for part-time care. For all other care providers, the maximum child care payments will be \$216.50 for full-time care and \$108.25 for part-time care.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

#### **Subpart 5. Job Opportunities and Basic Skills Training Program**

#### **Chapter 29. Organization**

#### **§2903. Child Care Payment Rates for Project Independence**

A. The Office of Family Support will implement the following standard rate schedule for payment for child care services provided to the children of Project Independence

participants. The statewide limit is established as the maximum amount allowable based upon the provider type, age of child, and the type of care provided.

**STANDARD RATE SCHEDULE**  
Regular Care

CHILD UNDER AGE 2		CHILD AGE 2 AND OLDER						
<b>CLASS A CENTERS</b>	<b>Full Time</b>	<b>Part Time</b>		<b>Full Time</b>		<b>Part Time</b>		
	Monthly	\$238.30	Monthly	\$119.15	Monthly	\$216.50	Monthly	\$108.25
	Weekly	55.00	Weekly	27.50	Weekly	50.00	Weekly	25.00
	Daily	11.00	Daily	5.50	Daily	10.00	Daily	5.00
	Hourly	1.38	Hourly	1.38	Hourly	1.25	Hourly	1.25
<b>ALL OTHER PROVIDERS</b>	<b>Full Time</b>	<b>Part Time</b>		<b>Full Time</b>		<b>Part Time</b>		
	Monthly	\$216.50	Monthly	\$108.25	Monthly	\$216.50	Monthly	\$108.25
	Weekly	50.00	Weekly	25.00	Weekly	50.00	Weekly	25.00
	Daily	10.00	Daily	5.00	Daily	10.00	Daily	5.00
	Hourly	1.25	Hourly	1.25	Hourly	1.25	Hourly	1.25

B. All rates herein are established as maximum allowable amounts; payments will be the provider's actual charges or the maximum rate, whichever is less. Daily rates are based on eight hours per day; weekly rates are based on five days per week; monthly rates are based on 4.333 weeks per month. Part-time care is considered to be 20 hours per week or less. Part-week care is considered to be fewer than five days per week, paid at the daily rate. (Example: A Project Independence participant in a component that is scheduled for three days per week would be eligible for the days of participation only.)

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

Gloria Bryant-Banks  
Secretary

**DECLARATION OF EMERGENCY**

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

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953 (B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program adopted an amended fee schedule, effective October 8, 1992.

Adoption of the fee schedule is mandated by R.S. 42:851.5. This emergency adoption is necessary in order to adjust the amounts payable for those fee schedule codes that were identified as incorrect. Failure to adjust these codes to adequately reimburse medical providers could result in services being denied to members of the State Employees Group Benefits Program, resulting in imminent peril to the public health, safety, and welfare. The emergency rule is to remain in effect for 120 days.

A copy of the amended fee schedule can be viewed at the office of State Employees Group Benefits Program, 5825 Florida Blvd., Baton Rouge, Louisiana.

James R. Plaisance  
Executive Director

**DECLARATION OF EMERGENCY**

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

Plan Document

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program has adopted several changes to the Plan Document. These changes affect the eligibility and benefits sections of the plan document.

This emergency adoption is necessary to incorporate the changes imposed by the Board of Trustees and the changes mandated by the legislature in the current plan document of benefits. Failure to do so will affect payment of health care benefits for employees of state government and participating school boards and state political subdivisions, and the dependents of such employees, who are covered by the State Employees Group Benefits Program. This emergency rule will go into effect on October 20, 1992, and will remain in effect for 120 days.

The Board of Trustees State Employees Group Benefits Program Plan Document is as follows:

**SCHEDULE OF BENEFITS**

**COMPREHENSIVE MEDICAL BENEFITS**

Lifetime Maximum .....	\$750,000
Annual Automatic Restoration .....	\$ 4,000
<b>Deductibles:</b>	
Inpatient deductible per day, maximum of five days per admission (waived for accidental injury and for admissions at preferred provider hospitals) .....	\$ 25
Emergency room institutional charges for each visit unless the covered person is hospitalized immediately following emergency room treatment (Prior to and in addition to calendar year deductible) .....	\$ 50
Professional and other eligible expenses per person, per calendar year .....	\$ 300
Family Unit maximum (three individual deductibles) .....	\$ 900
Percentage Payable after Satisfaction of Applicable Deductibles:	

<b>Hospital Expenses:</b>		
	<u>Preferred Provider Hospitals</u>	<u>All Other Hospitals</u>
Hospital room and board, not to exceed the average semi-private room rate or the regional maximum whichever is less	90%	80%
Intensive Care Unit	90%	80% not to exceed 2½ times the hospital's average semi-private room rate or 2½ times the regional maximum, whichever is less
Hospital miscellaneous charges	90%	80%
Hospital charges for inpatient Surgery (Facility Charges Only)	90%	80%
<b>Other Expenses:</b>		
Eligible expenses up to \$5,000 per calendar year, per person .....		80%*
Eligible expenses in excess of \$5,000 per calendar year, per person .....		100%*
Professional medical services and outpatient hospital charges received through a preferred provider .....		90% of negotiated fee

\*The \$5,000 eligible expense maximum shall not include any expenses for which 100 percent benefits are available in accordance with Article 3, Section V, Supplemental Emergency Accident (SEA) and, Section VII, Catastrophic Illness Endorsement (CIE). Other expenses not included or applied towards \$5,000 eligible expense maximum: 1) utilization review penalty amounts, 2) expenses in excess of fee schedule, 3) 100 percent dental surgical benefits and well child care.

**Mental and Nervous/Substance Abuse:**

Lifetime Maximum .....	\$ 50,000
Annual Maximum .....	\$ 10,000
<b>Benefits Payable after Satisfaction of Applicable Deductibles:</b>	
Inpatient hospital charges authorized through utilization review:	
Room and board, not to exceed the Hospital's average semi-private rate or the regional maximum, whichever is less .....	80%*
Intensive care units, not to exceed 2½ times the Hospital's average semi-private rate or 2½ times the regional maximum, whichever is less .....	80%*
Miscellaneous charges .....	80%*
Professional medical services, not to exceed Fee Schedule Maximum:	
Surgery and anesthesia .....	80%
Other eligible expenses .....	80%

**OTHER MEDICAL BENEFITS**

The following medical benefits are not subject to the Comprehensive Medical Benefits deductibles:

Supplemental Emergency Accident .....	\$500 maximum
Dental Surgery .....	Per Fee Schedule

**CATASTROPHIC ILLNESS ENDORSEMENT (Optional)**

All eligible expenses are payable at 100 percent following diagnosis of any covered disease.

Maximums for any one disease or combination thereof per lifetime: \$10,000 Maximum

- a) Seventy percent, or \$7,000 for inpatient Hospital expenses
- b) Thirty percent, or \$3,000 for outpatient and professional expenses \$5,000 Maximum
- a) Seventy percent, or \$3,500 for inpatient Hospital expenses
- b) Thirty percent, or \$1,500 for outpatient and professional expenses

\* If the Utilization Review Procedures as delineated in Article 3, Section III are not followed or the hospital admission or outpatient surgical procedure is not certified to be medically necessary, benefits otherwise payable will be reduced to 50 percent to a maximum penalty of \$2,000 per occurrence.

**ARTICLE 1  
GENERAL PROVISIONS**

**I. DEFINITIONS**

The following definitions shall apply to both the health and accident and the life insurance portions of the State Employees Group Benefits program unless otherwise indicated.

A. *Program*—the State Employees Group Benefits Program as administered by the Board of Trustees for the benefit of active and retired employees and their eligible dependents.

B. *Plan*—employee and/or dependent coverage under Comprehensive Medical Benefits, Other Medical Benefits, and the Catastrophic Illness Endorsement (health and accident only).

C. *Participant employer*—the legislative and judicial branches of state government and the departments of the executive branch receiving operating funds pursuant to legislative appropriation.

*Participant employer* shall also mean a school board (R.S. 17:1223) or a state political subdivision (authorized by law to participate in the program) which has executed an adoption instrument.

D. *Adoption Instrument*—the agreement between a school board or a political subdivision and the Board of Trustees (R.S. 42:871 et seq) for participation in the program.

E. *Employee*—a full-time employee of a participant employer, who normally works 30 hours or more a week; provided, however, that an employee whose full-time occupation normally requires less than 30 hours per week shall also be considered a full-time employee. In no event shall any person appointed on a temporary basis, as defined by Article 1, Section I (F), be considered an employee.

The term *employee* shall also include:

1. medical residents, known as house officers employed by Louisiana-owned medical facilities. The enrollment and continued participation of these medical residents will be governed by an inter-agency agreement between the program and the appropriate state agency;
2. post doctoral fellows who normally work 30 hours or more per week by training beyond their doctorate degree with an accredited institution of higher education.

F. *Temporary Appointment*—an appointment to any position for a period of 120 consecutive calendar days or less.

G. *Retiree*—an employee who was a covered employee, as defined by the terms of this plan document

immediately prior to the date of retirement; and

1. upon retirement immediately received retirement benefits from an approved state or state governmental agency defined benefit plan; or, if not eligible for participation in such a plan, was employed prior to September 16, 1979, has 10 years of continuous service and has reached the age of 65, or if employed after September 16, 1979, has 10 years of state service and has reached the age of 70; or

2. upon retirement, immediately received retirement benefits from a state-approved or state governmental agency-approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system responsible for administration of the defined contribution plan shall be responsible for certification of eligibility hereunder to the State Employees Group Benefits Program.

H. *Covered Person*—an active or retired employee, or his eligible Dependent, or any other individual eligible for coverage under the provisions of Article 1, Section III, for whom the necessary application forms have been completed and for whom the required contribution is being made.

I. *Dependent*—any of the following persons who are enrolled for coverage as dependents, provided they are not also covered as an employee (health and accident only):

1. the covered employee's legal spouse;

2. any unmarried (never married) children from date of birth (must be added to coverage within 30 days from date acquired by completing appropriate enrollment documents in accordance with Article 1, Section IV, Adding or Deleting Dependents) to 19 years of age, dependent upon the employee for support;

3. any unmarried (never married) children 19 years of age, but under 24 years of age, who are enrolled and attending classes as full-time students and who depend upon the employee for support. The term *full-time student* shall mean students who are enrolled at an accredited college or university, or at a vocational, technical, or vocational-technical or trade school or institute, or secondary school, for the number of hours or courses which is considered to be full-time attendance by the institution the student is attending. (See Article 1, Section IV, Adding or Deleting Dependents and Article 1, Sections C through K.)

It shall be the responsibility of the plan member to furnish proof acceptable to the program documenting the full-time student status of a dependent child;

4. any dependent parent of an employee or of an employee's legal spouse, if living in the same household and if fully dependent upon the employee or upon the employee's legal spouse and who is, or will be, claimed as a dependent on the employee's federal income tax return in the current tax year, and who has resided with the covered employee for the period of 12 consecutive months immediately prior to date of such enrollment. The program will require an affidavit stating the covered employee intends to include the parent as a dependent on his federal income tax return for the current tax year. Only dependent parents enrolled prior to July 1, 1984 shall be eligible for coverage, and continuation of coverage shall be contingent upon the payment of a separate premium for this coverage.

J. *Children*—(health and accident only):

1. any natural or legally adopted children of the employee and/or the employee's legal spouse dependent upon the employee for support;

2. any children in the process of being adopted by the employee through an agency adoption who are living in the household of the employee and who are or will be included as a dependent on the employee's federal income tax return for the current or next tax year (if filing is required);

3. such other children for whom the employee has legal custody, who live in the household of the employee, and who are or will be included as a dependent on the employee's federal income tax return for the current or next tax year (if filing is required);

4. grandchildren for whom the employee does not have legal custody, who are dependent upon the employee for support, and one of whose parents is a covered dependent as defined in Article 1, Section I (1), (2) or (3). If the employee seeking to cover her grandchild is a paternal grandparent, the program shall require that the biological father, i.e., the covered son of the plan member, execute an acknowledgement of paternity in accordance with Louisiana law (effective July 1, 1991).

K. *Date Acquired*—the date a dependent of a covered employee is acquired in the following instances and on the following dates only:

1. legal spouse - date of marriage;

2. children

a. natural children - the date of birth;

b. children in the process of being adopted:

i. agency adoption - the date the adoption contract was executed by the employee and the adoption agency, as defined in R.S. 9:421;

ii. private adoption - the date of the execution of the Act of Voluntary Surrender in favor of the employee, provided that the program is furnished with certification by the appropriate clerk of court setting forth the date of execution of the Act and the date that said Act became irrevocable, or the date of the first court order granting legal custody, whichever occurs first;

c. other children living in the household of the covered employee who are, or will be included as a dependent on the employee's federal income tax return - the date of the court order granting legal custody;

d. grandchildren for whom the employee does not have legal custody, who are dependent upon the employee for support, and one of whose parents is a covered dependent as defined in Article 1, Section I (1), (2) or (3):

(1) the date of birth, provided all the requirements delineated in Article 1, Section I (J) (4) are met at the time of birth; or

(2) the date on which the coverage becomes effective for the covered dependent, if all the requirements delineated in Article 1, Section I (J) (4) are not met at the time of birth.

L. *Employee Coverage*—benefits provided hereunder with respect to the employee only.

M. *Dependent Coverage*—benefits provided hereunder with respect to the employee's dependents only.

N. *Occupational Disease*—a disease which arises from, is contributed to, caused by, or is a consequence of any disease which arises out of or in the course of any employment or occupation for compensation or profit.

However, if the program is presented with satisfactory evidence proving that the individual concerned is covered as an employee under any worker's compensation law, occupational disease law, or other legislation of similar purpose, but the disease involved is not covered under the applicable laws or doctrine, then such disease shall, for the purpose of this plan, be regarded as a non-occupational disease.

**O. Occupational Injury**—an accidental bodily injury which arises from, is contributed to, caused by, or is a consequence of any injury which arises out of or in the course of any employment or occupation for compensation or profit.

However, if the program is presented with satisfactory evidence proving that the individual concerned is covered as an employee under any worker's compensation law, occupational disease law, or other legislation of similar purpose, but the injury involved is not covered under the applicable laws or doctrine, then such injury shall, for the purpose of this plan, be regarded as a non-occupational injury.

**P. Accidental Bodily Injury**—a localized abnormal condition of the body, internal or external, which was induced by trauma and which occurred through an event that was unforeseen and unexpected. (health and accident only)

**Q. Disability**—the covered person, if an employee, is prevented, solely because of a non-occupational disease, illness, accident or injury from engaging in his regular or customary occupation and is performing no work of any kind for compensation or profit; or, if a dependent, is prevented solely because of a non-occupational disease, illness, accident or injury, from engaging in substantially all the normal activities of a person of like age in good health. (health and accident only)

**R. Hospital**—an institution which meets all the following requirements:

1. holds a license as a hospital (if licensing is required in the state). If located outside the territorial United States, the hospital must be licensed by the country in which it is located;
2. operates primarily for the reception, care, and treatment of sick, ailing, or injured persons as in-patients;
3. provides 24-hour nursing service by licensed nurses;
4. has a staff of one or more licensed medical doctors available at all times;
5. provides organized facilities for diagnosis;
6. requires compensation from its patients for the services rendered; and
7. is not primarily an institution for rest, the aged, the treatment of pulmonary tuberculosis, a nursing home, extended care facility or remedial training institution, or facilities primarily for the treatment of conduct and behavior disorders.

**S. Room and Board**—subject to the exclusionary provisions of this contract, a hospital's daily charges for room and board or the per-diem rate charged by a hospital owned and operated by one of the 50 states.

**T. Physician**—as used herein shall mean the following persons, licensed without limitation to practice medicine and perform surgery:

1. doctor of medicine (M.D.);
2. doctor of dental surgery (D.D.S.);
3. doctor of dental medicine (D.M.D.).

The term *physician* shall also mean the following

persons, licensed to practice their respective professional skills by reason of statutory authority:

4. doctor of osteopathy (D.O.) (R.S. 37:1261 et seq.);
5. doctor of podiatric medicine (D.P.M.) (R.S. 37:611 et seq.);
6. doctor of chiropractic (D.C.) (R.S. 37:2801 et seq.);
7. doctor of optometry (O.D.) (R.S. 37:1041 et seq.);
8. licensed psychologist meeting the requirements of the National Register of Health Service Providers in Psychology (R.S. 37:2351 et seq.);
9. licensed board certified social worker who is a member of an approved clinical social work registry or is employed by the United States, the state of Louisiana, or a Louisiana parish or municipality, provided such person is performing professional services as a part of the duties for which he is employed (R.S. 37:2701, et seq.);
10. licensed mental health counselors who are licensed by the state in which they practice;
11. licensed substance abuse counselors who are licensed by the state in which they practice.

Such physicians must engage in private practice and render a charge to the covered person for professional services.

The term physician does not include social workers who are not board certified; or any intern, resident, or fellow enrolled in a residency training program regardless of any other title by which he is designated or his position on the medical staff of a hospital. A senior resident, for example, who is referred to as an assistant attending surgeon or an associate physician, is considered a resident since the senior year of the residency is essential to completion of the training program. Provided, however, that effective October 1, 1977, charges made by a physician, as defined herein, who is on the faculty of a state medical school, or on the staff of a state hospital, will be considered a covered expense if such charges are made in connection with the treatment of a disease, illness, accident or injury covered under this plan and further provided that such physician would have charged a fee for such services in the absence of this provision.

It is the specific intent and purpose of the program to exclude reimbursement to the covered person for services rendered by social workers who are not board certified; or an intern, resident, or fellow enrolled in a residency training program regardless of whether the intern, resident, or fellow was under supervision of a physician or regardless of the circumstances under which services were rendered.

The term physician shall not include a practicing medical doctor in the capacity of supervising social workers who are not board certified; licensed counselors; or interns, residents, senior residents, or fellows enrolled in a training program, who does not personally perform a surgical procedure or provide medical treatment to the covered person.

**U. Diagnostic X-ray and Laboratory** — procedure requiring a specimen or a procedure that produces a finished photoplate, tape or graph.

**V. Incurred Date**—the date upon which a particular service or supply is rendered or obtained. In the absence of due proof to the contrary, when a single charge is made for a series of services, each service shall be deemed to bear a pro rated share of the charge.

**W. Custodial Care**—care designed essentially to assist an individual to meet his activities of daily living (i.e., services which constitute personal care such as help in walking, getting in and out of bed, assisting in bathing,

dressing, feeding, using the toilet) and care which does not require admission to a hospital or other institution for the treatment of a disease, illness, accident or injury, or for the performance of surgery; or, care primarily to provide room and board (with or without routine nursing care, training in personal hygiene and other forms of self-care) and supervisory care by a doctor for a person who is mentally or physically incapacitated and who is not under specific medical, surgical or psychiatric treatment to reduce the incapacity to the extent necessary to enable the patient to live outside an institution providing medical care, or when, despite such treatment, there is no reasonable likelihood that the incapacity will be so reduced.

X. *Durable Medical Equipment*—medical equipment designed for repeated use and which is shown by the plan member to the satisfaction of the program to be medically necessary for the treatment of a disease, illness, accident or injury, to improve the functioning of a malformed body member, or to prevent further deterioration of the patient's medical condition. Durable medical equipment shall include, but not be limited to, such items as standard models of wheelchairs (manual), hospital beds, respirators, braces, and other items that the program may determine to be durable medical equipment, excluding any type of motorized transportation device.

In the event a plan member incurs expenses for an item such as a motorized wheelchair or similar transportation device and it is shown to the satisfaction of the program that such item is medically necessary, the program will consider as an eligible expense the pro rated cost of one standard model (manual) wheelchair.

Y. *Medically Necessary*—a service or treatment which, in the judgment of the program:

1. is appropriate and consistent with the diagnosis and which in accordance with accepted medical standards could not have been omitted without adversely affecting the patient's condition or the quality of medical care rendered; and

2. is not primarily custodial care.

Z. *Physical Therapy*—the evaluation of physical status as related to functional abilities and treatment procedures as indicated by that evaluation. Such therapy is provided by a registered physical therapist who is licensed to practice in the state where the service is rendered. Services provided must meet the following criteria: prescribed by a licensed medical doctor, require the skills of and performed by a registered physical therapist, restorative potential exists, meets the standards for medical practice, reasonable and necessary for treatment of the disease, illness, accident, injury or post-operative condition.

AA. *Rehabilitation and Rehabilitation Therapy*—care concerned with the management of patients with impairments of function due to disease, illness, accident or injury. Impairments are the physical losses themselves; disabilities are the effects of impairments on overall function of the individual.

BB. *Pain Rehabilitation Control and Pain Rehabilitation Therapy*—any program designed to develop the individual's ability to control or tolerate chronic pain.

CC. *Rest Cure*—care provided in a sanitarium, nursing home or other facility and designed to provide Custodial Care and provide for the mental and physical well being of an individual.

DD. *Treatment*—all steps taken to effect the cure of a disease, illness, accident or injury and shall include, but not be limited to consultations, examinations, diagnoses, and any application of remedies.

EE. *Calendar Year*—that period commencing at 12:01 a.m., January 1, standard time, at the address of the employee, or the date the covered person first becomes covered under the plan and continuing until 12:01 a.m., standard time, at the address of the employee on the next following January 1. Each successive calendar year shall be the period from 12:01 a.m., January 1, standard time, at the address of the employee to 12:01 a.m., the next following January 1.

FF. *Medicare*—the health insurance available through any present or future laws enacted by the Congress of the United States, including but not limited to Public Law 89-97, known and described as Medicare, and including any amendments to such law.

GG. *Fee Schedule*—the schedule of maximum allowable charges for professional services as adopted and promulgated by the Board of Trustees in accordance with the provisions of R.S. 42:851.5 et seq.

HH. *Board of Trustees*—the entity created and empowered to administer the State Employees Group Benefits Program in accordance with the provision of R.S. 42:871 et seq.

II. *Health Maintenance Organization (HMO)*—any legal entity which has received a certificate of authority from the Louisiana commissioner of insurance to operate as a health maintenance organization in Louisiana.

JJ. *Well-Baby Care*—that routine care given in a hospital to a well newborn infant from the date of birth until discharge from the hospital.

KK. *Well-Child Care*—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 seven.

LL. *Regional Maximum*—the maximum rate of reimbursement for hospital room and board charges as set by the Board of Trustees. These rates may be adapted annually for a July effective date.

## II. PERSONS TO BE COVERED

### A. Employee Coverage

1. Employee. A person as defined in Article 1, Section I (E);

2. IN NO EVENT MAY A PERSON BE ENROLLED SIMULTANEOUSLY AS AN EMPLOYEE AND AS A DEPENDENT UNDER THE PLAN, NOR MAY A DEPENDENT BE COVERED BY MORE THAN ONE EMPLOYEE. If a covered spouse chooses at a later date to be covered separately, and is eligible for coverage as an employee, that person will be a covered employee effective the first day of the month after such election. In no event shall this change in coverage increase the benefits to the employee or dependent.

3. Effective Dates of Coverage. Each employee who makes a written request to his participant employer for employee coverage by completing the applicable enrollment forms, and agrees to make the required payroll contributions to his participant employer is subject to the terms of Article 1, Section II, (A) (4), and is to be effective for employee coverage on the first day of the month coinciding with, or next following the completion of one calendar month's

service, provided, however, that no employee coverage shall in any event become effective unless the employee makes such request within 30 days after the date of employment. Any such request for coverage after 30 days of employment will be subject to the terms of Article 1, Section II, (F) (1).

4. Employee Deferral Rule. In any instance in which an employee is confined at home, in a hospital, nursing home, or elsewhere, by reason of disease, illness, accident, or injury on the date the employee would otherwise become covered under this plan, the effective date of the employee's coverage under this plan shall be deferred until the date such employee returns to active work for one full day at his customary duties and place of employment.

Notwithstanding any provisions of the preceding paragraph to the contrary, the return to active work requirement shall not serve to defer an employee's effective date of coverage in the event that the individual's normal place of employment is not open on the day he would otherwise have returned to work. If an employee is on an approved leave of absence on the day he would normally have returned to work, coverage will become effective on the day he would normally have returned to active work.

5. Re-enrollment, Previous Employment. An application for coverage by an employee of a participating employer whose employment is terminated while covered or eligible for coverage under the program and who is reemployed by the same or another participating employer within 12 months of the effective date of termination shall be considered a re-enrollment, previous employment application. A re-enrollment, previous employment applicant will be eligible for only that classification of coverage (employee only, employee and one dependent, family) in force on the effective date of termination, subject to all modifications of eligible expenses, benefits, and/or premiums which became effective in the interim.

#### B. Retiree Coverage

1. Eligibility. Each retiree, as defined in Article 1, Section I (G), of a participant employer shall be eligible for retiree coverage under this plan.

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the employee and employer have agreed to make and are making the required contributions.  
**RETIRES SHALL NOT BE ELIGIBLE FOR COVERAGE AS OVERDUE APPLICANTS.**

3. Active Employment by a Participant Employer Following Retirement from a Participant Employer. An employee retired from one participant employer may be covered as an active employee of another participant employer or as a retiree of the agency from which he retired, but not both. In order to retain eligibility, upon termination of employment from the later participant employer, such employee shall return to the retirement group of his original participant employer within 30 days. Life insurance benefits for the employee shall be at a level no higher than that carried at the time of retirement from the original participant employer. In no event shall any person at any time be covered by more than one participant employer.

#### C. Dependent Coverage

1. Eligibility. A dependent of an eligible employee or retiree shall be eligible for dependent coverage on the later of the following dates:

a. the date the employee becomes eligible as defined in Article 1, Section II (A) (3);

b. the date the retiree becomes eligible as defined in Article 1, Section II (B) (2);

c. the date the covered employee or covered retiree acquires, as defined in Article 1, Section I (K), a dependent.

#### 2. Effective Dates of Coverage

a. Dependents of Employees. Dependents of an employee who makes written application for dependent coverage and agrees to make the required contributions to this participant employer are to be covered for dependent benefits on the date the employee becomes eligible to carry dependent coverage or, if an overdue application, as provided for in Article 1, Section II (F).

b. Dependents of Retirees. Coverage for dependents of retirees shall be effective on the first of the month following date of retirement if the employee and his dependents were covered immediately prior to retirement. Coverage for dependents of retirees first becoming eligible for dependent coverage following the date of retirement shall be effective on the date of marriage (for new spouses of retirees), the date of birth (for newborn children of retirees), or the date acquired (for other classifications of dependents), if application is made within 30 days of the date of eligibility or, if an overdue application, as provided for in Article 1, Section II (F).

c. Dependent Deferral Rule. If a dependent, other than a newborn child of the plan member or plan member's legal spouse, is confined at home, in a nursing home, hospital, or elsewhere, by reason of disease, illness, accident, or injury on the date he would otherwise become covered under this plan, the effective date of that dependent's coverage shall be deferred until the date confinement terminates or disability ends, whichever is later.

#### D. Pre-Existing Condition

##### 1. New Employees Hired on or after April 1, 1991

a. The program will require all new employees who apply for coverage within 30 days from the date the employee became eligible for coverage to complete a Statement of Physical Condition form and sign an Acknowledgement of Pre-existing Condition form.

b. Benefits will be limited to a maximum of \$1,000 during the first 12 months of coverage for each disease, illness, accident or injury for which the covered person received treatment or services, or was prescribed drugs, during the six-month period immediately prior to the effective date of coverage.

2. Overdue Application. The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired. The provisions of this Section shall not apply to military reservists or national guardsmen ordered to active duty who return to state service and reapply for coverage with the State Employees Group Benefits Program within 30 days of the date of reemployment. Their coverage will be reinstated effective on the date of return to state service.

a. The effective date of coverage shall be:

(1) the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms, if such forms are received by the State Employees Group Benefits Program prior to the fifteenth of the month.



(2) the first of the second month following the date of the receipt by the State Employees Group Benefits Program of all required forms, if such forms are received by the State Employees Group Benefits Program on or after the fifteenth of the month.

b. The program will require that all overdue applicants complete a Statement of Physical Condition form and sign an Acknowledgement of Pre-existing Condition form.

c. Medical expenses incurred during the first 24 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which the covered person received treatment or services, or was prescribed drugs, during the 12-month period immediately prior to the effective date of such coverage.

### 3. Transfer of coverage from a Health Maintenance Organization (HMO)

Effective July 1, 1990, if a covered person enrolled in an HMO voluntarily transfers coverage back to the state plan, a pre-existing condition limitation shall be imposed for a one-year period for any accident, illness or injury for which the covered person received treatment or services or was prescribed drugs during the six-month period immediately prior to the effective date of the change subject to a \$1,000 limitation; provided, however, that there shall be no pre-existing condition limitation imposed when 1) the covered person transfers coverage as a result of moving from the HMO service area or 2) when the HMO discontinues services for all state employees, unless the covered person had a pre-existing condition limitation with the State Employees Group Benefits Program at the time of the original transfer to the HMO.

#### E. Members of Boards and Commissions

Except as otherwise provided by law, members of any boards or commissions are not eligible for participation in the program. This Section shall not apply to members of school boards (R.S. 17:1223) or members of state boards or commissions who normally work 30 hours or more per week in that position, at their usual place of employment. The program shall require documentation satisfactory to the program that a board or commission member works 30 hours per week or more in that position.

#### F. Legislative Assistants

In accordance with the provisions of R.S. 24:31.5(D), legislative assistants shall be eligible to participate in the program, provided (a) they are employed on a full-time basis as defined by Article 1, Section I(E) and (b) have at least one year experience or receive at least 80 percent of the total compensation as such assistants. Except as otherwise provided herein, all other eligibility provisions of Article 1, Section II shall apply.

#### G. Health Maintenance Organization (HMO) Option

In lieu of participating in the Comprehensive Medical Plan employees and retirees may elect coverage under an approved health maintenance organization (HMO) operating within the zip code area of such persons' home residence.

New employees may elect to participate in an HMO during their initial period of eligibility in accordance with the effective date and eligibility provisions of Article 1, Section II. Additionally, each HMO shall hold an annual open enrollment period in April for coverage effective date of July 1 for employee and retirees electing to enter or leave the HMO.

Transfer of coverage from the State Employees Group Benefits Program to the HMO or vice-versa shall only be allowed during this annual open enrollment period, for an effective date of July 1. Transfer of coverage shall also be allowed as a consequence of the employee's being transferred into or out of the HMO geographic service area, with an effective date of the first of the month following transfer. Furthermore, a plan member will not have a pre-existing condition limitation on any condition diagnosed, any accident or any injury occurring between May 1 and July 1 of the open enrollment period.

### III. CONTINUED COVERAGE

A. Leave of Absence. If an employee is allowed an approved leave of absence (full or part-time) by his employer, he may retain his coverage for a period up to but not to exceed one year, provided the full premium is paid. Failure to do so shall result in cancellation of coverage.

B. Disability. Employees who have applied for and have been granted a waiver of premium for basic or supplemental life insurance prior to July 1, 1984, may continue health coverage for the duration of such waiver, provided, however, the employee shall pay the total contribution to the employer unless he is receiving a disability retirement income from a state or political subdivision retirement plan. On or after July 1, 1984, initial applications for disability waiver of premium for basic or supplemental life insurance shall not entitle any person to continue health coverage under the program.

In the event that a state agency or political subdivision withdraws from the program, health and life coverage for all employees, including but not limited to those persons then insured by virtue of being disabled, shall terminate as of the effective date of withdrawal by the state agency or political subdivision.

C. Surviving Dependents. Benefits under this contract for the covered dependents of a deceased covered employee shall terminate at the end of the calendar month in which the employee's death occurred unless the surviving covered dependents elect to continue coverage **AT THEIR OWN EXPENSE**. Application for such continued coverage must be made within 60 days following the covered employee's death.

1. The surviving legal spouse of an active or retired employee may continue coverage until the spouse is eligible for health insurance coverage through an employer-sponsored medical plan, or until remarriage, whichever occurs first; provided, however, a surviving legal spouse who was effective as a surviving spouse prior to July 1, 1977, and had other group coverage at that time, will be allowed to remain as a covered person.

2. The surviving children of an active or retired employee may continue coverage until they are eligible for coverage by an employer-sponsored medical plan, or until attainment of the termination date for children, whichever occurs first.

3. Any coverage provided by CHAMPUS (Civilian Health and Medical Program of the Uniform Services) shall not be sufficient to terminate the coverage of an otherwise eligible surviving legal spouse or dependent children.

4. The provisions of this Section III(C) are applicable to surviving dependents who elect to continue coverage following the death of an employee occurring on or before June 30, 1986. The provisions of Section III(F) are applicable

to surviving dependents who elect to continue coverage following the death of an employee occurring on and after July 1, 1986.

#### D. Overage Dependents

If an unmarried dependent child is incapable of self-sustaining employment by reason of mental retardation or physical incapacity, became incapable prior to the termination age for children as defined in Article 1, Section I (I) (2) and (3), and is dependent upon the covered employee for support, the coverage for such dependent child may be continued under the plan, provided, however, the program received satisfactory proof of mental retardation or physical incapacity, and only for so long as such incapacity continues.

For purposes of this Section III, D, mental illness shall not constitute mental retardation.

The program shall require that the plan member submit current proof from a licensed medical doctor of such continued mental retardation or physical incapacity as often as it may deem necessary.

E. Active Employees (Effective July 1, 1986). On and after July 1, 1986, benefits under this contract for a covered active employee shall terminate at the end of the calendar month during which employment is terminated voluntarily or involuntarily (except for gross misconduct), the employee no longer meets the definition of an employee as defined in Article 1, Section 1(E), or coverage pursuant to the provisions of Article 1, Section III(A) expires unless the covered employee elects to continue coverage AT HIS OR HER OWN EXPENSE. It shall be the responsibility of the participant employer to notify the program within 30 days of the date coverage would have terminated due to any of the foregoing events and the program shall notify the employee within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continuation option is exercised for coverage retroactive to the date coverage would have otherwise terminated. Coverage under this Section III(E) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under another group health plan, except as provided under Article 1, Section III (K) (4);
3. eligibility for Medicare; or
4. eighteen months from the date coverage would have terminated in the absence of this Section III(E), except as provided under Article 1, Section III (K) (6).

#### F. Surviving Dependents (Effective July 1, 1986)

On and after July 1, 1986, benefits under this contract for covered surviving dependents of a deceased covered employee or retiree shall terminate at the end of the calendar month during which the employee's or retiree's death occurs, unless the surviving covered dependents elect to continue coverage AT THEIR OWN EXPENSE. It shall be the responsibility of the participant employer or surviving dependent to notify the program within 60 days of the death of the employee or retiree and the program shall notify the surviving dependents of their right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continuation option is exercised for coverage retroactive to the date coverage would have otherwise terminated.

Coverage for the surviving spouse under this Section III(F) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under any group health plan, except as provided under Article 1, Section III (K) (5); or
3. death of the surviving spouse.

Coverage for a surviving dependent child under this Section III (F) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under any group health plan, except as provided under Article 1, Section III (K) (4);
3. thirty-six months beyond the date coverage would otherwise have terminated under the provisions of Article 1, Section I (I) (2) and (3), or Article I, Section I (J) and Article 2, Section II.

G. Divorced Spouse (effective July 1, 1986). Coverage under this contract with respect to the covered spouse of a covered employee or retiree shall terminate at the end of the calendar month during which dissolution of the marriage occurs by virtue of the granting of a legal decree of divorce from the employee or retiree, unless the covered divorced spouse elects to continue coverage AT HIS OR HER OWN EXPENSE. It shall be the responsibility of the divorced spouse to notify the program within 60 days from the date of divorce and the program shall notify the divorced spouse within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continuation option is exercised for coverage retroactive to the date coverage would have otherwise terminated due to the divorce. Coverage for the divorced spouse under this Section III (G) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under any group health plan, except as provided under Article 1, Section III (K) (4);
3. eligibility for Medicare; or
4. thirty-six months beyond the date coverage would otherwise have terminated under the provisions of Article 2, Section II (C).

#### H. Dependent Children (Effective July 1, 1986)

Benefits under this contract for a covered dependent child of a covered active employee or retiree shall terminate at the end of the calendar month during which the child no longer meets the definition of an eligible covered dependent as defined in Article 1, Section I (1)(2) and (3) or Article 1, Section J unless the employee or retiree elects to continue coverage AT HIS OR HER OWN EXPENSE. It shall be the responsibility of the employee or retiree to notify the program within 60 days of the date coverage would have terminated due to the dependent child's loss of eligibility and the program shall notify the employee or retiree within 14 days of his or her right to continue coverage with respect to that child. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continuation option is exercised for coverage retroactive to the date coverage would have otherwise terminated due to loss of eligibility.

Coverage for a child under this Section III (H) will

continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under any group health plan, except as provided under Article 1, Section III (K) (4);
3. eligibility for Medicare; or
4. thirty-six months beyond the date coverage would otherwise have terminated under the provisions of Article 2, Section II (C).

I. Surviving Dependents of Continuing Employees (Effective July 1, 1986). In the event a covered active employee has elected to continue coverage pursuant to the provisions of Section III (E) and if, during the period of such continuation the covered spouse or a covered dependent child becomes ineligible for coverage due to:

1. death of the employee;
2. divorce from the employee; or
3. for a dependent child, no longer meeting the definition of an eligible covered dependent as defined in Article 1, Section I (I) (1) (2) and (3) or Article 1, Section I (J), the spouse and/or dependent child may then elect to continue coverage AT THEIR OWN EXPENSE pursuant to the provisions, as applicable, of Section III (F), (G) or (H). In no event, however, may coverage be continued beyond 36 months from the date coverage would have terminated for the employee in the absence of Section III (E).

J. Dependents of Non-Continuing Employees (Effective July 1, 1986)

In the event a covered active employee no longer meets the definition of an employee as defined in Article 1, Section I (E) or coverage pursuant to the provisions of Article 1, Section III (A) has expired and the employee has not elected to continue coverage under the provisions of Section III (E), the covered spouse and/or covered dependent children may elect to continue coverage AT THEIR OWN EXPENSE. Such coverage shall be subject to the notification and termination provisions of Section III (E).

In the event a dependent child, covered under the provisions of the preceding paragraph no longer meets the definition of an eligible covered dependent as defined in Article 1, Section I (I) (2) and (3) or Article 1, Section I (J), such child may elect to continue coverage AT HIS OR HER OWN EXPENSE. Such coverage will be subject to the notification and termination provisions of Section III (H), but in no event, however, may coverage be extended beyond 36 months from the date coverage would have terminated for the employee in the absence of Section III (E).

K. Miscellaneous Provisions

1. The continuation provisions set forth in Section III, C through J are applicable only to health and accident coverage as defined in Article 3.

2. The continuation provisions set forth in Section III, E through J are effective for loss of eligibility occurring on and after July 1, 1986.

3. During the period of continuation, benefits shall be identical to those provided to plan members enrolled in the Group Benefits Program under the program's standard eligibility provisions for active and retired employees and their dependents.

4. Effective January 1, 1990, if a covered person under this plan becomes covered under another group health plan and the latter plan contains a pre-existing condition limitation or exclusion with respect to a medical condition such covered person had prior to the effective date of the

latter coverage, then such covered person may continue coverage under this plan AT HIS OR HER OWN EXPENSE, until such time as he or she would no longer qualify for benefits under the applicable provisions of Section III (E) (F) (G) or (H) or, if earlier, until such time as the pre-existing condition limitation or exclusion under the latter health plan no longer applies. The covered person shall furnish to the program any information that may be required to document the provisions of any pre-existing condition limitation.

5. Effective January 1, 1990, if a surviving spouse under this plan becomes covered under another group health plan and the latter plan contains a pre-existing condition limitation or exclusion with respect to a medical condition such surviving spouse had prior to the effective date of the latter coverage, then such surviving spouse may continue coverage under this plan AT HIS OR HER OWN EXPENSE, until the earlier of the following events:

a. the date the pre-existing condition limitation or exclusion of the latter group health plan no longer applies;

b. thirty-six months from the date coverage would have otherwise terminated under the provisions of Article 2, Section II; or

c. pursuant to the other termination provisions of Article 1, Section III (F).

The surviving spouse shall furnish to the program any information that may be required to document the provisions of any pre-existing condition limitation.

6. Effective July 1, 1990, if a covered employee or covered dependent is determined by Social Security to have been totally disabled on the date the employee no longer meets the definition of employee as defined in Article 1, Section I (E) and such person elects to continue coverage pursuant to the provisions of Article 2, Section III (E) or (J), coverage under this plan for the covered person who is totally disabled may be extended AT HIS OR HER OWN EXPENSE up to a maximum of 29 months from the date coverage would have otherwise terminated in the absence of Article 1, Section III (E). To qualify under this Section III (K) (6) the covered person must submit a copy of his or her Social Security disability determination to the program before the initial 18-month continued coverage period as described in Article 1, Section III (E) or (J) expires and within 60 days after the date of issuance of the Social Security determination. Coverage under this Section III (K) (6) will continue until the earliest of the following events:

a. thirty days after the month in which Social Security determines that the covered person is no longer disabled; covered persons must report any such determination to the program within 30 days after the date of issuance by Social Security.

b. twenty-nine months from the date coverage would have terminated in the absence of Article 1, Section III (E) or (J); or

c. pursuant to the other termination provisions of Article 1, Section III (E).

7. Effective July 1, 1990, if an employee becomes entitled to Medicare, on or before the date such employee's eligibility for benefits under this contract terminates, the period of continued coverage available for the employee's covered dependents shall be until the earliest of the following events:

a. thirty-six months from the date the employee becomes entitled to Medicare or, if greater, 18 months from

the date coverage would have otherwise terminated in the absence of Article 1, Section III(E); or

b. pursuant to the other termination provisions of Article 1, Section III(E).

#### IV. ADDING OR DELETING DEPENDENTS

Notice must be furnished to the program by the plan member whenever a dependent, as defined in Article 1, Section I (I) is added to or deleted from the plan member's coverage, regardless of whether or not such addition or deletion would result in a change in the class of coverage. Such notice must be provided within 30 days of the addition or deletion of the dependent.

In the event that the addition or deletion of a dependent results in a change in the class of coverage, the provisions of Article I, Section IV (B) will apply.

#### V. CHANGE OF CLASSIFICATION

##### A. Change in Coverage

When, by reason of a change in family status (i.e., marriage, birth of child), the class of coverage is subject to change, such change shall take effect on the date of the change (i.e., marriage date or birth date), provided application from this change is made within 30 days of the date of the change.

In all cases, when a plan member acquires a new legal spouse, even when a change of classification will not result, application for coverage for this spouse must be made within 30 days of the date of marriage.

In the event a covered active employee or covered retiree does not make application within 30 days of the date he becomes eligible for a changed class of coverage, such change in coverage will be subject to the terms of Article 1, Section II (D).

B. Notification of Change or Error. It is the responsibility of the employee to notify the program of any change or error in classification of coverage or any other error affecting his contribution amount. Any such failure later determined shall be corrected on the first of the following month. All refunds of contributions shall be limited to six months from the date notice is received by the program.

#### VI. CONTRIBUTIONS

Pursuant to the provisions of R.S. 42:851, the state of Louisiana may make a contribution toward the cost of accident and health coverage, as determined on an annual basis by the Legislature.

### ARTICLE 2

#### TERMINATION OF BENEFITS

##### I. ACTIVE EMPLOYEE AND RETIRED EMPLOYEE COVERAGE

Subject to the provisions of Article 1, Section III, all benefits of a covered person shall terminate under this contract on the earliest of the following dates:

- A. on the date the program terminates;
- B. on the date the group or agency employing the covered employee terminates or withdraws from the program;
- C. on the contribution due date if the group or agency fails to pay the required contribution for the covered employee, except when resulting from clerical or other inadvertent error on the part of the group or agency;
- D. on the contribution due date if the covered person fails to make any contribution which is required for the continuation of his coverage;
- E. on the last day of the month of the covered employee's death; or
- F. on the last day of the month in which the covered

employee ceases to be eligible within the classes eligible for coverage under this contract.

#### II. DEPENDENT COVERAGE ONLY

Subject to the provisions of Article 1, Section III, dependent coverage shall terminate under this contract on the earliest of the following dates:

- A. on the date the covered employee ceases to be covered with respect to himself under this contract;
- B. when the covered employee's dependent, other than a legal spouse, becomes eligible for coverage as an employee under this contract;
- C. on the last day of the month in which the dependent, as defined in this contract, ceases to be an eligible dependent of the covered employee;
- D. for grandchildren for whom the employee does not have legal custody or has not adopted, on the date the child's parent ceases to be a covered dependent under this contract or the grandchild no longer meets the definition of children as defined in Article 1, Section I (J) (4);
- E. upon discontinuance of all dependent coverage under this contract;
- F. pre-existing condition - new employees hired on or after April 1, 1991, except those presently covered as a dependent by the State Employees Group Benefits Program.

### ARTICLE 3

#### MEDICAL BENEFITS

##### I. COMPREHENSIVE MEDICAL BENEFITS

###### A. Definitions

The general definitions previously indicated in Article 1, Section I, of this document entitled "Definitions" are also applicable to this Article 3, Comprehensive Medical Benefits. In addition, the following definitions shall apply only to this Article 3, Section I, Comprehensive Medical Benefits.

1. *Deductible Amount* - those amounts indicated in the Schedule of Benefits.
2. *Out-of-Pocket Expenses* - the sum of (a) any eligible medical expenses used toward the satisfaction of any deductibles for that year, not including expenses incurred for non-confined alcoholism, that satisfied all or part of the deductibles; (b) 20 percent of all such eligible medical expenses which exceed the deductibles for that calendar year and for which benefits were paid at 80 percent; and (c) 10 percent of such eligible medical expenses for which benefits were paid at 90 percent in accordance with Article 3, Section XI.

3. *Family Unit* - a covered employee or retiree or other covered individual eligible for coverage under the provisions of Article 1, Section III and all of his covered dependents.

B. The comprehensive deductible amount shall apply with respect to each covered person, each calendar year, provided, however:

1. in no event shall any family unit be required to satisfy more than three individual comprehensive deductible amounts during any one calendar year regardless of the number of individuals in the family unit.
2. in the event more than one covered person in a family unit is injured in a common accident, only one individual comprehensive deductible amount will be required to be satisfied during the calendar year in which the accident occurs with respect to the total eligible expenses incurred as a result of the same accident by all such covered persons involved.

Any eligible medical expenses which are not related to

injuries sustained in the accident will not be included with the combined eligible expenses resulting from the accident for the purpose of satisfying any deductible amount.

#### C. Benefits for Eligible Medical Expenses

When disease, illness, accident or injury requires the covered person to incur any of the eligible expenses defined herein, and such service or treatment is performed or prescribed by a physician while this coverage is in force with respect to such covered person, and after the deductible amounts as defined herein have been satisfied, the program will pay, subject to applicable limitations of the fee schedule:

1. eighty percent of the first \$5,000 of eligible expenses;

2. ninety percent of the first \$5,000 of eligible expenses in the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such services at a mutually agreed upon discount from the maximum medical fee schedule adopted by the board; and

3. one hundred percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits.

#### D. Maximum Benefit

Benefits under this Article 3, Section I, Comprehensive Medical Benefits, for covered medical expenses incurred by any one covered person during any calendar year or during such person's lifetime shall not exceed the maximum amount as specified in the schedule of benefits. The maximum amount payable for treatment of other than mental and nervous conditions and alcoholism and/or substance abuse is subject to restoration as indicated in Article 3, Section I (F).

#### E. Restoration of Comprehensive Medical Benefits

If a covered person receives Comprehensive Medical Benefits under this Article 3, Section I during a calendar year, the amount of such benefits received or the maximum amount as stated in the schedule of benefits, whichever is less, shall be restored by the plan on each January 1.

#### F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the fee schedule, under Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person:

1. the hospital's daily charge for room and board, not in excess of the maximum as specified in the schedule of benefits;

2. the hospital's daily charge for intensive care units, not in excess of the maximum as specified in the schedule of benefits;

3. anesthesia and the administration thereof;

4. surgical dressings, plaster casts, and splints;

5. x-ray examinations and therapy, laboratory examinations, basal metabolism tests, electrocardiograms and electroencephalograms, and other diagnostic procedures;

6. nuclear medicine and electroshock therapy;

7. blood and blood plasma, blood derivatives and blood processing;

8. subject to the filing requirements of Article 4, Section IV, drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist, except for birth control medication for whatever reason used or prescribed, and dietary supplements, provided, however, that Vitamin B<sub>12</sub>

injections for the treatment of Addisonian Type-A Pernicious Anemia shall not be considered a dietary supplement;

9. oxygen and equipment necessary for its administration;

10. surgical supplies and medical supplies as listed below:

Catheters - external and internal

Cervical collar

IV connectors

IV tubing

Leg bags for urinal drainage

Prosthetic socks

Prosthetic sheath

Sling (arm or wrist)

Stomachesive paste

Suction catheter for oral evacuation

Surgical support hose (initial two payable, thereafter one pair every six months)

Traction units

Medical supply items payable for condition listed only:

Autoject lancets (diabetes mellitus patients only)

Bath thermometer (kidney dialysis patients only)

Chemicals (kidney dialysis patients only)

Chemical testing kits (Glucose and Ketone, not pregnancy, diabetes mellitus and other metabolic diseases only)

Clamps (kidney dialysis patients only)

Colostomy bags (ostomy patients only)

Colostomy belts (ostomy patients only)

Flanges (ostomy patients only)

Forceps (kidney dialysis patients only)

Hemostats (kidney dialysis patients only)

Hypodermic needles (diabetes mellitus and allergy patients only)

Lubricant (ostomy patients only)

Medijectors (diabetes mellitus patients only)

Pouches (closed and drainage - ostomy patients only)

Refractometer (kidney dialysis patients only)

Skin barriers (ostomy patients only)

Stoma caps (ostomy patients only)

Surgical shoe (following foot surgery only)

Syringes (diabetes mellitus and allergy patients only)

Wafers (ostomy patients only)

**MEDICAL SUPPLY ITEMS PAYABLE FOR CONDITION LISTED MUST SUBMIT PRESCRIPTION FROM ATTENDING PHYSICIAN. THE PRESCRIPTION MUST BE DATED PRIOR TO PURCHASE.**

11. intravenous injections and solutions;

12. services of a physician, except for other services as are excluded herein;

13. services of a physiotherapist duly licensed under the laws of the state where the services were rendered, and who is not related to the covered person by blood, marriage, or adoption;

14. services of a registered nurse (R.N.) and of a licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when medically necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the covered person by blood, marriage, or adoption, and provided the services are rendered in a hospital, as defined in Article 1, Section I (R). Services of an R.N. or L.P.N. which are 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 medical doctor;

15. services rendered by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) duly licensed under the laws of the state where the service is rendered for the treatment of accidental injuries to a covered person's sound natural teeth, provided that:

a. coverage was in effect with respect to the individual at the time of the accident;

b. treatment commences within 90 days from the date of the accident and is completed within two years from the date of the accident;

c. coverage remains continuously in effect with respect to the covered person during the course of the treatment.

Eligible expenses shall be limited to the original estimated total cost of treatment as estimated at the time of initial treatment;

16. durable medical equipment required for treatment of a non-occupational disease, illness, accident or injury when certification is submitted in writing to the program by a licensed medical doctor as to the medical necessity for the equipment and the anticipated length of time the equipment will be required for therapeutic use. The program will pay for either the rental or the purchase of one standard model of the equipment not to exceed the cost of the equipment. The program will not replace or repair equipment that has been lost, stolen, damaged, worn out or outgrown, and certification may be required at least annually by the program to determine the continued medical necessity of such equipment;

17. initial prosthetic appliances (except penile implants) required as a result of conditions caused only by a non-occupational disease, illness, accident or injury. Subsequent prosthetic appliances (except penile implants) shall be eligible only when deemed medically necessary and when certification is furnished, acceptable to the program, by the attending medical doctor;

18. professional ambulance services, subject to the following provisions:

a. ground transportation - medically necessary licensed professional ambulance service in a vehicle licensed for highway use to or from the nearest hospital with facilities to treat an illness or injury. The program will pay 80 percent of transportation charges incurred, said charges not to exceed \$200 per trip, plus 80 percent of charges for eligible medical expenses.

b. air ambulance - charges for medically necessary professional medical services and eligible medical supplies rendered in connection with licensed air ambulance transportation. Payment for actual air transportation charges shall be limited to that provided for surface ambulance services.

c. prepaid ambulance service/membership - charges for services rendered to members of any prepaid ambulance service/membership will not be considered eligible expenses.

19. the first pair of eyeglasses or contact lenses required as a result of cataract surgery performed while coverage was in force with respect to a covered person. The program will pay in addition 80 percent of charges for eyeglass frames, as a result of cataract surgery, said charges not to exceed \$50;

20. the first two pairs of surgical support hose if deemed by a physician and the program to be medically

necessary for the treatment of a physical condition, i.e., phlebitis or varicose veins. Additional surgical support hose may be considered an eligible expense at the rate of one pair per six-month period, provided the attending physician considers the continued use of such hose medically necessary for the treatment of the covered person;

21. the first two, ortho-mammary support brassieres if medically necessary and prescribed by a physician for the treatment of a physical condition, i.e., mastosis, simple or radical mastectomy. Additional ortho-mammary support brassieres may be considered an eligible expense at the rate of one per six-month period, provided the attending physician considers the continued use of such brassieres medically necessary for the treatment of the covered person;

22. orthopedic shoes prescribed by a physician and custom built for a covered person;

23. acupuncture when rendered by a medical doctor duly licensed under the laws of the state where the service is rendered;

24. outpatient treatment in connection with the detection or correction by manual or mechanical means of structural imbalance, distortion or subluxation in the human body for purposes of removing nerve interference when such interference is a result of or related to distortion, misalignment, or subluxation of or in the vertebral column.

25. The program will cover eligible expenses related to the transplantation of an organ, 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.

a. The transplantation must not be considered experimental or investigational by the American Medical Association.

b. The recipient must receive two opinions relative to the need for organ transplant surgery from two specialists board certified in the involved field of surgery, which specialists must certify in writing that alternative procedures, services or courses of treatment would not be effective in the treatment of the patient's condition.

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. Coverage for organ transplantation expenses will be subject to the same deductible, co-insurance, exclusions and other provisions which apply to other expenses that the program covers. In no case will the plan cover expenses for the transportation of surgeons or family members of either the patient or donor;

26. cardiac rehabilitation therapy, subject to the following conditions:

a. the covered person must be recovering from a myocardial infarction (heart attack), or cardiovascular surgery (cardiac bypass);

b. the cardiac rehabilitation therapy must be prescribed by a licensed medical doctor who is receiving regular progress reports concerning the covered person's progress;

c. cardiac rehabilitation therapy must be conducted at a medical facility under the direct supervision of a licensed medical doctor and proper monitoring equipment and qualified medical personnel must be present during the therapy in order to effectively respond to any emergency situation which may arise;

d. all cardiac rehabilitation therapy (both inpatient and outpatient) must be completed within six months following the date of the infarction or cardiac surgery;

e. in connection with cardiac rehabilitation therapy, the program will specifically exclude dietary instruction, educational services, behavior modification literature, memberships in health clubs, exercise equipment, preventive programs and any other items or services specifically excluded from benefits pursuant to the provisions of Article 3, Section IX;

27. well-baby care expenses, including facility and professional charges, shall be considered for payment as charges incurred by the plan member or plan member's covered spouse;

28. well-child care charges shall not be subject to the annual deductible or co-payments but are limited to one office visit per year subject to a maximum payment of \$35;

29. mammographic examinations performed according to the following schedule (effective July 1, 1992);

a. one baseline mammogram during the five-year period a person is 35-39 years of age;

b. one mammogram every 24 months for any person who is 40 through 49 years of age, or more frequently if recommended by her physician.

c. one mammogram every 12 months for any person who is 50 years of age or older.

H. Continuation of Benefits for Certain Illnesses. Pursuant to the provisions of R.S. 42:851.6, effective June 26, 1989, any covered person who was receiving benefits for an illness which: (a) did not arise from alcohol or substance abuse; (b) commenced prior to and has continued without interruption since January 1, 1987; (c) requires either inpatient confinement or supervised residential confinement; (d) is certified by a physician to be permanent and irreversible; and (e) is further certified by a physician to necessitate a lifetime of inpatient care or supervised residential care in a licensed facility shall be reimbursed for eligible medical expenses incurred on or after June 26, 1989, in accordance with the plan of benefits as set forth in the plan document in effect as of January 1, 1987.

## II. FEE SCHEDULE

A. This Section, Article 3, Section II, Fee Schedule, is effective January 1, 1990.

B. Act 1009 of the 1988 Regular Legislative Session mandated the Board of Trustees for the State Employees Group Benefits Program (SEGBP) to adopt and promulgate a schedule of maximum fees (fee schedule) for medical services, surgical services, and professional services provided in hospitals.

C. The fee schedule sets the maximum fee that the State Employees Group Benefits Program (SEGBP) will pay, notwithstanding deductibles and co-payments, for an eligible medical expense.

D. The fee schedule is geographically divided into Zip Code areas for the state of Louisiana. The maximum reimbursable fee is limited to the usual and customary charges for medical services in the corresponding Zip Code area.

E. Act 1009 provides that if the medical provider accepts an assignment of benefits, the plan member cannot be billed for any amount of the charge that may exceed the fee schedule.

F. If an assignment of benefits is not accepted, the

plan member can be charged for the amount in excess of the fee schedule.

G. Plan members can find out the maximum allowable charge under the fee schedule for a particular service, provided the plan member knows the Current Procedural Terminology (CPT) code for the service and the Zip Code area where the service will be performed, by calling the Claims Service Department of the State Employees Group Benefits Program (SEGBP).

H. If additional information is needed, please contact our Claim Service Department at (504) 925-6625 or Toll-Free 1 (800) 272-8451 (Louisiana Only).

## III. UTILIZATION REVIEW

Pre-Admission Certification, Continued Stay Review, and Second Surgical Opinion.

A. This Section, Article 3, Section III, Utilization Review, is effective April 1, 1988. The provisions of Subsection E hereof are effective July 1, 1988.

B. Pre-Admission Certification (PAC) and Continued Stay Review (CSR) refer to the process used to certify the medical necessity and length of hospital confinement as a registered bed patient. PAC should be requested by plan members or plan member's dependents through the treating physician for each inpatient hospital admission.

C. PAC shall include a second surgical opinion when required by the PAC contractor. Such second surgical opinion shall be rendered by a physician approved by the contractor and the cost for the second opinion will be covered at 100 percent. The contractor may, at its option, require a third opinion which will be covered at 100 percent. Benefits provided for a second or third surgical opinion shall be subject to applicable limitations of the fee schedule.

D. In case of routine vaginal delivery precertification is not required if the length of the hospital admission is two days or less. If the hospital admissions of the mother exceeds or is expected to exceed two days, the utilization review firm must be contacted within 24 hours after the delivery of the date on which any complications arose, whichever is applicable. If the confinement of the newborn exceeds that of the mother, the utilization review firm must be notified within 72 hours of the mother's discharge. A separate precertification number must be obtained. In the case of a scheduled Caesarean Section it is required that precertification be obtained at least 14 days prior to the scheduled hospital admission.

E. Expenses incurred on or after July 1, 1988, for which benefits would otherwise be paid under this plan will be reduced as set forth in Subsection E hereof unless PAC is requested.

1. at least 14 days prior to the planned date of admission; or

2. in the case of an emergency admission, within 72 hours after the date of admission.

F. Benefits otherwise payable under this plan will be reduced to 50 percent, subject to a maximum penalty of \$2,000 per occurrence, for:

1. hospital charges incurred during any confinement for which PAC is not performed;

2. hospital charges incurred during any confinement for which PAC is performed, which are made for any day in excess of the number of days certified through PAC or CSR;

3. hospital charges incurred during any confinement for which PAC was performed, but which was not certified as

medically necessary.

4. hospital charges incurred during any confinement for which a second or third surgical opinion was required but not obtained.

G. In any case, those expenses incurred for which payment is excluded by the terms set forth in Subsection E will not be considered as eligible expenses incurred for the purpose of any other part of this plan.

#### IV. CASE MANAGEMENT

A. This Section, Article 3, Section IV, Case Management, is effective October 1, 1989.

B. As used herein, case management (CM) refers to the managed care program available to covered persons in cases of serious illness or injury where critical care is required and/or treatment of extended duration is anticipated. Case management may provide, but shall not be limited to, any of the following options:

1. alternative care in special rehabilitation facilities;
2. alternative care in an extended care facility, skilled nursing facility, or the covered person's home;
3. avoidance of complications by earlier hospital discharge, alternative care and training of the patient and/or family;
4. alternative care in residential treatment centers and/or day care centers.

C. Only cases identified by the contractor on or after the effective date of this Section shall be eligible for CM.

D. All treatment, supplies or services deemed payable by virtue of this Section shall be subject to the limitations of the fee schedule as defined in Article 3, Section II of this document.

E. Any benefits which would not be payable but for the provisions of this Section shall be considered payable only upon the recommendation of the contractor, in consultation with and with the approval of the attending physician, covered person or his representative and the program. The approval of such contractual benefits by the program shall be conditioned upon the professional opinion of the program's medical director or his designee as to the appropriateness of the recommended alternative care.

F. The provisions of this Article 3, Section IV shall apply only in cases where the program is primary according to the provisions of the National Association of Insurance Commissioners (NAIC) guidelines as set forth in Article 3, Section X.

G. If a covered person has a condition which, in the opinion of the contractor is likely to be of substantial duration and/or is susceptible to care in a less expensive setting, the contractor will make available to the attending physician and the covered person an alternative plan of care for the condition, if alternative appropriate care is a medically acceptable option. The alternative plan will be developed by health care professionals and be consistent with generally accepted medical practice. The attending physician and the covered person will review the suggested alternative care plan and adopt those portions which are mutually agreeable to the program, the attending physician and the covered person or his representative.

H. The alternative care plan may detail specific treatments, different sites of care or different levels of care to the extent that the suggested services under the alternate care plan are not normally covered by the terms and

conditions of the plan document, they may be reimbursed under the terms of this Section, provided, however, that the covered illness, accident or injury would have been eligible for payment, absent the provisions of this Section.

I. Payments made subject to the provisions of this Section shall be subject to the deductible, coinsurance and maximum benefit provisions as set forth elsewhere in this document.

J. Potential CM diagnoses, as identified by the contractor pursuant to the PAC and/or CSR provisions of Article 3, Section III may include, but shall not be limited to the following:

1. traumatic and nontraumatic brain injury;
2. spinal cord injury;
3. cerebral vascular accident;
4. severe burns;
5. high risk infants;
6. viral diseases of the central nervous system;
7. high risk pregnancies;
8. pancreatic cancer, leukemia, other cancer requiring maintenance/adjunctive chemotherapy;
9. chronic renal failure;
10. hepatitis (complicated);
11. acquired immune deficiency syndrome (AIDS), and/or suggestive conditions;
12. multiple sclerosis, amyotrophic lateral sclerosis;
13. amputations;
14. multiple fractures.

K. 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:

1. home health care services including, but not limited to total parenteral nutrition, antibiotic administration, drugs and durable medical equipment not set forth in Article 3, Section I(G)(16);
2. skilled nursing or extended care facilities;
3. rehabilitation services;
4. home nursing care;
5. hospice care;
6. non-medical services and supplies used to improve the covered person's medical condition or aid in the covered person's rehabilitation.

L. Notwithstanding anything in this Article 3, Section IV to the contrary, the limitations set forth elsewhere in this document relative to eligible expenses for mental and nervous conditions and alcohol and substance abuse shall apply to case management.

#### V. SUPPLEMENTAL EMERGENCY ACCIDENT BENEFITS

A. When accidental bodily injury requires the covered person to receive treatment and incur an eligible expense within 72 hours of an accident, and services or treatment as result of such accidental bodily injury are furnished by or at the direction of a physician while this coverage is in force as to such person, the program will pay the eligible expense actually incurred, except as set forth below, and not to exceed the maximum amount payable as specified in the schedule of benefits for any one accidental bodily injury. The supplemental emergency accident benefits will be payable



prior to benefits available under all other provisions of this contract, and no deductible amount shall apply to benefits payable under this Section except for the emergency room deductible as specified in the schedule of benefits. Benefits provided under this Section shall be subject to the limitations of the fee schedule.

**B. Covered expenses shall include:**

1. room and board charges, not to exceed the hospital's average semi-private rate;
2. intensive care unit charges, not to exceed twice the hospital's semi-private rate;
3. physician's charges for medical and surgical care;
4. care by a registered nurse or licensed practical nurse, but only during confinement;
5. anesthesia and the administration thereof;
6. charges for diagnostic x-ray and laboratory tests, either as an inpatient or outpatient;
7. treatment by a physiotherapist;
8. subject to the filing requirements of Article 4, Section IV, drugs and medicines, approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist;
9. initial artificial limb(s) or eye(s);
10. casts, splints, trusses, crutches, and braces (dental braces are not eligible);
11. oxygen and rental of oxygen equipment;
12. rental of standard model wheelchair or hospital type bed;
13. local surface ambulance to the nearest hospital, except for charges for ambulance service for members of a pre-paid ambulance service.

**C. Exclusions.** No payment shall be made under supplemental emergency accident benefits with respect to:

1. any loss resulting from the contraction of a disease or illness;
2. any loss caused by or contributed to by war or any act of war, whether declared or not, or by any act of international armed conflict, or conflict involving the armed forces of any inter-national authority; or
3. expenses incurred for treatment rendered or examination made after 90 days from the date of the accident. The date of the accident shall be considered day one;
4. expenses in excess of the maximum allowable under the fee schedule;
5. other exclusions and limitations applicable to these benefits are stated in Article 3, Section IX, captioned "Exceptions and Exclusions for all Medical Benefits" hereinafter set forth.

**VI. DENTAL SURGICAL BENEFITS**

**A.** When disease, illness, accident or injury requires the covered person to undergo any oral surgical procedure listed in the Schedule of Dental Surgical Procedures as herein contained, and the procedure is performed by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for professional charges for such surgical procedure, including the usual pre-operative and post-operative care, not to exceed the maximum amount payable for the procedure as allowed by the fee schedule. No dental surgical benefits, except those procedures listed in the Schedule of Dental Surgical Procedures, will be considered eligible under this provision.

**B. Schedule of Dental Surgical Procedures**

1. incision and drainage of intraoral or extraoral abscess;
2. alveolectomy/alveoloplasty;
3. removal of ankylosed tooth;
4. apicoectomy;
5. excision of cysts of the jaw (mandible or maxilla);
6. excision of epulis fibroma;
7. excisional or incisional biopsy;
8. excision of one or more impacted teeth;
9. mandibular tori;
10. excision of torus palatinus;
11. tuberosity reduction (soft or bony tissue).

**VII. CATASTROPHIC ILLNESS ENDORSEMENT**

**A. Optional at the Election of the Employee**

The definitions as set forth in Article 1, Section I, are also applicable to the catastrophic illness endorsement. These catastrophic illness endorsement benefits are paid prior to benefits available under all other provisions of this contract and shall be subject to the limitations of the fee schedule.

These benefits will be provided only to those persons who elect this coverage and agree to pay the additional premium therefor. Only those employees and dependents who are covered for Comprehensive Medical Benefits under Article 3 {except dependent parents as defined in Article 1, Section (I)(4)}, are eligible for enrollment. An employee or dependent may select coverage under this benefit within 30 days of the date of employment without evidence of good health. If this endorsement is not elected within this 30-day period, the employee or dependent must furnish, without expense to the program, satisfactory evidence of good health before the coverage will become effective. The effective date of such optional benefits will be determined by the program following the receipt, by the program, of a fully completed Statement of Health and any other medical records or statements deemed necessary by the program.

Only dependents of covered employees who elect to participate in the catastrophic illness endorsement shall be considered eligible dependents for purposes of this Article 3, Section VII.

**B. Diseases Included**

Benefits will be payable under this provision if, on or after the effective date of the covered person's coverage under the policy, such person contracts one of the following diseases:

1. Cancer
2. Poliomyelitis (polio)
3. Leukemia
4. Diphtheria
5. Smallpox
6. Scarlet fever
7. Tetanus (lockjaw)
8. Spinal meningitis
9. Encephalitis (sleeping sickness)
10. Tularemia
11. Hydrophobia (rabies)
12. Sickle cell anemia

**C. Cancer Limitation**

No benefits will be provided hereunder due to, or as a result of cancer:

1. if the covered person has ever had cancer before the effective date of his coverage under this provision; or
2. until after initial pathological diagnosis thereof as cancer.

#### D. Maximum Amounts Payable and Benefit Periods

1. With respect to all diseases listed above, except cancer: the maximum liability of the program under Section VII, (E)(1), below will be 70 percent of the applicable maximum amount payable as stated in the schedule of benefits for any one disease, and the maximum liability of the program under Section VII, (E)(2), below will be 30 percent of the applicable maximum amount payable as stated in the schedule of benefits for any one disease. Benefits shall be available for expenses incurred during the three-year period immediately following the diagnosis of any of the named diseases, and not thereafter. In the event a covered person has received the maximum amount payable described herein for any one disease, such person shall become eligible for benefits under the Comprehensive Medical Benefits section of the plan, to the extent that such benefits remain unpaid.

2. With respect only to cancer: The maximum liability of the program under Section VII, (E)(1), below will be 70 percent of the applicable maximum amount payable stated in the schedule of benefits during the LIFETIME of the covered person, and the maximum liability of the program under Section VII, (E)(2), below will be 30 percent of the applicable maximum amount payable stated in the schedule of benefits during the LIFETIME of the covered person. In the event a covered person has received the maximum amount payable described herein for cancer, such person shall become eligible for benefits under the Comprehensive Medical Benefits section of the plan.

#### E. Benefits (Subject to Utilization Review)

1. Inpatient Benefits. When a covered person receives care and treatment in a hospital for any of the diseases indicated above, and such care and treatment are rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for any of the following listed services, but not to exceed the maximum amount payable per benefit period specified in the schedule of benefits:

a. hospital services, including room and board, care by regular hospital attendants, and any hospital apparatus used in the treatment of such disease;

b. services of a registered nurse (R.N.) and of a licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when medically necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the covered person by blood, marriage, or adoption. Such services shall be payable only when rendered in a hospital, as defined in Article 1, Section I (R).

c. use of support and mechanical apparatus used in treatment;

d. blood transfusions — all charges for blood or plasma and transfusion services;

e. drugs and medicines — all expenses incurred for medicines used in the treatment of the disease, provided such drugs and medicines are approved by the Food and Drug Administration or its successor; and

f. X-ray and physiotherapy — all such services required for diagnosis and treatment

1) services of a physiotherapist duly licensed under the laws of the state where the services were rendered, and who is not related to the covered person by blood, marriage, or adoption;

2) x-ray — all charges for such services prescribed by

a licensed medical doctor and required for diagnosis and treatment.

#### 2. Outpatient Benefits and Professional Services

When a covered person receives care and treatment for any of the diseases indicated above, and such care and treatment is rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for any of the following listed expenses, but not to exceed the maximum amount payable per benefit period specified in the schedule of benefits:

a. professional fees of the attending physician, consulting physicians, and medical specialists;

b. professional fees of anesthesiologists not employed by a hospital;

c. drugs and medicines — all expenses incurred for medicines requiring a prescription, approved by the Food and Drug Administration or its successor, used on an outpatient basis for the treatment of the disease;

d. transportation — the fare for conveyance of the covered person and one medical attendant by ambulance, rail, air, or other public carrier directly to any hospital, when the attending physician considers such trip and mode of travel necessary to the proper treatment of the covered person; and

e. durable medical equipment, as defined in Article 1, Section I (X).

#### VIII. MEDICARE REDUCTION

Except as may otherwise be provided for by law, all benefits for services and supplies payable under all sections of this policy will be reduced when benefits are paid or payable through any present or future laws enacted by Congress of the United States including but not limited to Public Law 89-97, known and described as Medicare.

The charge for a service or supply will be reduced by whatever amounts are paid or payable by Medicare. The program shall require written confirmation from the Social Security Administration or its successor that a plan member or his dependent is not eligible for Medicare coverage. All provisions of this contract, including all limitations and exceptions, will be applied to the balance, and benefits will be paid accordingly.

#### IX. EXCEPTIONS AND EXCLUSIONS FOR ALL MEDICAL BENEFITS

No benefits are provided under this contract for:

A. cases covered, in whole or in part, by a worker's compensation program, whether insured or self-funded, regardless of whether the covered person has filed a claim for benefits. This applies to compensation provided on an expense incurred basis or blanket settlements for past and for future loss;

B. unless otherwise provided for by law, services or supplies furnished by the Veterans Administration;

C. services or supplies furnished under the laws of the United States or any state or political subdivision; provided, however, that benefits otherwise payable under the plan will be payable if the covered person is rendered services, for which he is charged, in a publicly owned charity hospital;

D. convalescent, sanitarium, or custodial care or rest cures;

E. expenses for elective, nontherapeutic voluntary abortion, provided, however, that expenses for complications arising therefrom shall be considered as eligible.

F. intentionally self-inflicted injuries, injuries sustained while in an aggressor role, or any attempt at suicide;

G. any medical expense incident with or caused by any covered person's attempt at a felony or misdemeanor;

H. expenses incurred while a covered person in connection with cosmetic surgery, unless necessary for the immediate repair of a deformity caused by a non-occupational disease, illness, accident or injury which occurs while coverage is in force; provided, however, no payment shall be made for expenses incurred in connection with the treatment of any body part not affected by the non-occupational disease, illness, accident or injury;

I. expenses incurred for shoes and related items such as wedges, cookies, arch supports, except as indicated in Article 3, Section I, (G) (22);

J. any expense except for actual out-of-pocket expenses incurred by a member of a health maintenance organization (HMO), health maintenance plan (HMP), or other prepaid medical plan or medical services plan enrolled in such plan on a group (employer-sponsored) basis;

K. dental braces and orthodontic appliances for whatever reason prescribed or utilized; treatment of periodontal disease; dentures, dental implants and any surgery for the use thereof; except as indicated in Article 3, Section G (15);

L. any medical services, treatment or prescription drugs provided without charge to the insured or for which the covered person is not legally obligated to pay;

M. maternity expenses incurred by, or on behalf of, any person other than the covered employee or the covered employee's legal spouse;

N. personal convenience items including, but not limited to, admit kits, bedside kits, telephone and television, guest meals and beds and similar items;

O. charges for services, supplies, or treatment which are in excess of the maximum allowable under the fee schedule or any other limitations set forth in the plan;

P. services and supplies which are not medically necessary, as defined in Article 1, Section I (Y);

Q. services rendered for remedial reading and recreational, visual and behavioral modification therapy, pain rehabilitation control and dietary or educational instruction for any disease, illness, or condition;

R. services, supplies, or treatment in connection with or related to: gender dysphoria or reverse sterilization, or any attempts of these procedures; any diagnostic or treatment measures which are not recognized as generally accepted medical practice; surgery for excess fat in any area of the body; resection of excess skin or fat following weight loss or pregnancy;

S. artificial organ implants, penile implants, transplantation of other than Homo sapiens (human) organs, in vitro fertilization, and artificial insemination;

T. air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, and any other items not normally considered medical supplies;

U. administrative fees, interest, or penalties;

V. marriage counseling and/or family relations counseling;

W. birth control medication or devices, for whatever reason used or prescribed, appetite suppressant drugs, dietary supplements, vitamins; except Vitamin B12 injections

for the treatment of Addisonian Type-A Pernicious Anemia.

X. charges for services rendered over the telephone from a physician to a covered person;

Y. radial keratotomy or any procedures for the correction of refractive errors;

Z. speech therapy, except when ordered by a physician for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurologic disease;

AA. services, supplies, or treatment in connection with or related to obesity;

BB. expenses for the transportation of surgeons or family members of either the patient or the donor in connection with organ transplants;

CC. charges for cardiac rehabilitation therapy conducted more than six months following the date of a myocardial infarction or cardiovascular surgery;

DD. hearing aids, or any examination to determine the fitting or necessity thereof;

EE. hair transplants;

FF. eyeglasses or contact lenses or any examination for the prescription or fitting thereof, except as provided in Article 3, Section (G) (19);

GG. routine physical examinations or active immunizations, except as provided in Article 3, Section (G) (28);

HH. charges for ambulance service for members of a pre-paid ambulance service.

#### X. COORDINATION OF BENEFITS

A. Definitions as Applied to this Provision

1. *Plan*—by reasons of medical, dental, or vision care or treatment under:

a. group insurance;

b. group practice, group Blue Cross, group Blue Shield, individual practice offered on a group basis, or other group prepayment coverage;

c. labor management trustee plan, union welfare plans;

d. health maintenance organization (HMO) or other pre-paid medical plan in which the covered person is enrolled on a group (employer-sponsored) basis.

2. *Allowable Expense*—any medically necessary, eligible item of expense, at least a part of which is covered under one of the plans covering the person for whom claim is made.

3. *Claim Determination Period*—a calendar year. However, if a person is not eligible for benefits under this plan during all of the calendar year, then the claim determination period for such person, as to that year, shall be the total period during which he was eligible for benefits.

4. *Program*—the State Employees Group Benefits Program.

B. Primary Plan and Secondary Plan

All benefits provided under this Article 3, Comprehensive Medical Benefits, are subject to coordination of benefits.

This provision is applicable when the total benefits that would be payable by this plan in the absence of any coordination of benefits provision and the total benefits payable under all other group plans insuring a covered person, exceed expenses incurred during a claim determination period.

One of the two or more plans involved is the primary plan and the other plan(s) are secondary plan(s). The primary plan pays benefits first and without consideration of the other plan(s). The secondary plan(s) then provide the difference up to, but not in excess of, the total allowable expenses. No plan will pay benefits greater than it would have paid in the absence of coordination of benefits.

#### Order of Benefit Determination

If an individual is covered by more than one group plan, the order of benefit determination shall be in accordance with the coordination of benefit guidelines, as amended, established by the National Association of Insurance Commissioners, except for health maintenance organizations or other types of employer-sponsored prepaid medical plans.

C. Effect on Benefits. Benefits paid by the secondary carrier shall be reduced to the extent necessary to assure the payment of up to but not in excess of 100 percent of all allowable expenses. Each benefit of the contract will be reduced by the amount that would have been payable in the absence of this provision.

D. Health Maintenance Organizations (HMOs). In the event that a covered person who is enrolled in the indemnity plan is also covered as a dependent under a health maintenance organization contract, the program will consider the HMO as primary carrier in all cases. The plan will consider as eligible only those actual out-of-pocket expenses incurred by the covered person and for which the covered person is legally obligated to pay.

E. Preferred Provider Organizations (PPO). In the event that a covered person who is enrolled in the indemnity plan is also covered as a dependent under a PPO contract, the plan will consider as eligible only those expenses actually incurred by the covered person under the terms of the PPO contract, and for which the covered person is legally obligated to pay.

### XI. PREFERRED PROVIDER PROGRAMS

The Board of Trustees may implement from time to time, at its sole discretion, Preferred Provider Organization arrangements or other agreements to discount payable fees. The board reserves to itself the right to negotiate the amount of the discount, the incentives to be offered to plan members and all other provisions which shall be a part of any discount fee arrangement.

In the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such services at a mutually agreed upon discount from the maximum medical fee schedule adopted by the board, the program will pay, following satisfaction of all applicable deductibles, 90 percent of the first \$5,000 of eligible expenses and 100 percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits effective July 1, 1990.

## ARTICLE 4

### UNIFORM PROVISIONS

#### I. STATEMENT OF CONTRACTUAL AGREEMENT

This written contract as amended and any documents executed by or on behalf of the covered employee constitute the entire contract between the parties.

#### II. DEADLINE FOR FILING CLAIMS

A properly submitted claim form for benefits as a result of any disease, illness, accident or injury must be received by the State Employees Group Benefits Program by 4:30 p.m., close of business, on June 30 next following the end of the

calendar year in which the medical expenses were incurred. When June 30 is a non-work day, the deadline is automatically extended to 4:30 p.m. of the next regular workday. Each expense shall constitute a separate claim.

### III. CLAIM FORMS

The program shall furnish all participant employers with claim forms. A PROPERLY COMPLETED CLAIM FORM, SIGNED BY THE PLAN MEMBER, IS REQUIRED TO BE SUBMITTED WITH EVERY CLAIM. If the program receives a bill without a completed claim form, the program has the right to require additional documentation in order to determine the extent of coverage, if any, under this plan.

The program, through its physician, shall have the right and opportunity to examine the covered person, whose disease, illness, accident or injury is the basis of claim, when and as often as it may reasonably require during pendency of the claim under this contract.

### IV. FILING CLAIMS FOR PRESCRIPTION DRUGS

The program shall require a medical statement signed by a licensed physician, at least once a year, for expenses incurred on a continuing basis for prescription drugs and/or medical supplies.

### V. RIGHT TO SELECT PHYSICIAN OF CHOICE

Subject to any agreements for participation in a health maintenance organization (HMO), health maintenance plan (HMP), or other prepaid medical plan, the covered person shall have the sole right to select his own physician, surgeon, and hospital; and the physician-patient relationship shall be maintained.

### VI. RIGHT TO RECEIVE AND RELEASE INFORMATION

The program may release to, or obtain from any company, organization, or person, without consent of or notice to any person, any information regarding any person which the program deems necessary to carry out this provision, or like terms of any plan, or to determine how, or if, they apply. Any claimant under this plan shall furnish to the program such information as may be necessary to implement this provision.

### VII. FACILITY OF BENEFIT PAYMENT

Whenever payments, which should have been made under this plan in accordance with this provision, have been made under any other plan, the program shall have the right, exercisable alone and in its sole discretion to pay over to any organization making such other payment any amounts it shall determine to be warranted in order to satisfy the intent of this provision and amounts so paid shall be deemed to be benefits paid under this plan. To the extent of such payments, the program shall be fully discharged from liability under this plan.

### VIII. COOPERATION OF EMPLOYEE

The employee shall be required to furnish the program, upon request, any information which the program may require to implement the provisions of the contract. Such requests for information shall include, but not be limited to, a verification of the student status of dependent children between the ages of 19 and 24 and the dependency status of covered dependents. Failure to furnish the requested information shall constitute reason for denial of benefits.

### IX. INTERIM PAYMENT

The program may, at its option, make interim payment for losses incurred on a continuing basis.

### X. PAYMENTS TO BENEFICIARY OR ESTATE

Any benefits payable for expenses incurred prior to the death of a covered person shall require one of the following

documents in order to pay benefits to the beneficiary or the estate:

A. a notarized copy of the will;

B. in the absence of a will, a certified copy of the court order appointing an administrator or executor of the estate; or

C. in the absence of a will or an order appointing an executor or administrator, the program may pay benefits up to \$1,000 to any relative by blood or connection by marriage to the covered person who has been deemed by the program to be equitably entitled thereto and who has completed a "Request to Pay Proceeds Form" completed in triplicate and notarized. This form can be obtained from the Group Benefits Program's office and any such payment made in good faith under the terms of this provision shall fully discharge the program from liability to the extent of such payment.

#### **XI. LEGAL LIMITATIONS**

No legal action shall be brought against the program to attempt to recover benefits allegedly due pursuant to this contract until the plan member has exhausted all administrative remedies through the appeal of the claim to the Claims Review Committee as provided in Article 5. Legal actions may be brought against the program in accordance with and subject to the time limitations delineated in Article 5.

#### **XII. RIGHT TO AND MEANS OF RECOVERY**

A. The program may recover overpayments from the covered person, provider of medical services, any insurance company or other organization, and from future claims of the covered employee, covered dependents, or any combination thereof.

B. Should legal action be required to recover overpayments made as a result of fraudulent statements or deliberate omissions on the application or claim form or any part thereof, the defendant will be responsible for attorney's fees of 25 percent of the overpayment or \$500 whichever is greater. The defendant will also be responsible for court costs and legal interest from date of judicial demand until paid.

#### **XIII. SUBROGATION AND REIMBURSEMENT**

A. Upon payment of any eligible benefits covered under this plan, the program shall succeed and be subrogated to all rights of recovery of the covered employee, his dependents or other covered persons, or their heirs or assigns, for whose benefit payment is made, and they shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights, and shall do nothing after loss to prejudice such rights.

B. The program shall be entitled, to the extent of any payment made to a covered employee, his dependents or other covered persons, to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of a covered employee, his dependents or other covered persons, against any person or entity legally responsible for the disease, illness, accident or injury for which said payment was made. To this end, covered employees, their dependents, or other covered persons agree to immediately notify the program of any action taken to attempt to collect any sums against any person or entity responsible for the disease, illness, accident or injury.

#### **XIV. EMPLOYER RESPONSIBILITY**

It shall be the responsibility of the entity responsible for the reconciliation of the monthly invoices for an employee or retiree to submit enrollment and change forms and all other

such necessary documentation to the program in a professional and timely manner. Employees of said entity shall not, by virtue of furnishing any documentation to the program on behalf of a plan member, be considered agents of the program, and no representation made by any such person at any time shall change the provisions of this contract. It shall be the responsibility of said entity to remit the entire monthly premium, consisting of the employee and the participant employer portions (if applicable), and a properly reconciled monthly invoice within 30 days after the date the payment and reconciled invoice are due. In the event complete payment and a properly reconciled invoice are not received within this 30-day period, in addition to other actions available to the program through operation of law, the payment of claims on behalf of the employees of the delinquent participant employer may, at the option of the program, be suspended until such time as complete payment and a properly reconciled invoice are received by the program.

#### **XV. GROUP BENEFITS PROGRAM RESPONSIBILITY**

It shall be the responsibility of the program to adjudicate claims on behalf of plan members at all times using accepted industry standards, profiles, and techniques. The program reserves the right to adopt any administrative policies and procedures as may be necessary to interpret the intent and provisions of this plan, provided; however that no policy or procedure shall be adopted which is in direct conflict with any provision specifically stated herein.

#### **XVI. REINSTATEMENT TO POSITION FOLLOWING CIVIL SERVICE APPEAL**

A. Indemnity Plan Participants. When coverage of a terminated employee who was a participant in the health indemnity plan is reinstated by reason of a civil service appeal, coverage shall be reinstated to the same level in the health indemnity plan retroactive to the date coverage terminated. The employee and participant employer shall be responsible for the payment of all premiums for the period of time from the date of termination to the date of the final order reinstating the employee to his position. The program shall be responsible for the payment of all eligible benefits for charges incurred during this period. All claims for expenses incurred during this period must be filed with the program within 60 days following the date of the final order of reinstatement.

B. Health Maintenance Organization (HMO) Participants. When coverage of a terminated employee who was a participant in an HMO is reinstated by reason of Civil Service appeal, coverage shall be reinstated in the HMO in which the employee was participating effective on the date of the final order of reinstatement. There shall be no retroactive reinstatement of coverage and no premiums will be owed for the period during which coverage with the HMO was not effective.

#### **XVII. CONTRACT AMENDMENTS OR TERMINATION**

The state of Louisiana, Board of Trustees of the State Employees Group Benefits Program has the statutory responsibility of providing health and accident and death benefits for covered persons to the extent that funds are available for such benefits. The board specifically reserves to itself the unilateral right to terminate or amend the eligibility and benefit provisions of its contracts from time to time as it may deem necessary to prudently discharge its duties. Any such termination or modifications shall be promulgated subject to the applicable provisions of law, and nothing contained herein shall be construed to guarantee or vest

benefits for any participant, whether active or retired.

### **XVIII. PLAN INFORMATION**

All documents and other contracts referenced herein are available for inspection upon request at the offices of the State Employees Group Benefits Program, located at 5825 Florida Boulevard, Baton Rouge, Louisiana 70806. Additional information about the plan may be obtained by writing to: executive director for the State Employees Group Benefits Program at P.O. Box 44036, Capitol Station, Baton Rouge, Louisiana 70804.

## **ARTICLE 5**

### **CLAIMS REVIEW AND APPEAL**

This section establishes and explains the procedures for review of benefit and eligibility decisions by the program.

#### **I. DEFINITIONS**

As used in this Section, the following definitions apply:

- A. *Plan member*—a covered person other than a dependent.
- B. *Covered person*—defined in Article 1, Section I (H).
- C. *Appealing party*—a plan member affected by an initial determination.
- D. *Initial Determination*—a formal written decision by an employee of the board who has reviewed a claim for benefits under a provision of the program.
- E. *Appeal*—a request for and a formal review of an initial determination, in accordance with the procedures established and explained in this Section.
- F. *Representative*—
  1. the authorized parent or tutor of an unemancipated minor; or
  2. the curator of an interdict; or
  3. an attorney who is a member in good standing of the Bar of the state of Louisiana.
- G. *Director*—the executive director of the program.
- H. *Committee*—the Claims Review committee of the board.
- I. *Referee*—a hearing officer employed by the board, to whom an appeal may be referred for hearing.
- J. *Party to a Hearing*—the appealing party and the program.

#### **II. NOTICE OF INITIAL DETERMINATION**

Notice of an initial determination shall be mailed to the plan member at the last known address. Payment of a claim, along with an Explanation of Benefits (EOB) constitutes notification. In each instance when a claim is decided, an EOB is sent to the plan member. When an initial determination results in the disallowance of a claim, in whole or in part, the notice of determination shall inform the plan member of the right to review and appeal in accordance with this Section, and that a request for review must be received by the director of the program within 90 days of the date of the notice.

#### **III. CLAIMS REVIEW AND APPEAL PREREQUISITE TO LEGAL ACTION**

The initial determination becomes final, and no legal action shall be brought against the program to attempt to establish eligibility or to recover benefits allegedly payable under the program, unless a request for review is made in accordance with the provisions of Subsection IV of this Section.

#### **IV. REQUEST FOR REVIEW**

A plan member, affected by an initial determination, may appeal the determination in the following manner:

- A. The appeal must (a) be in writing; (b) be signed by the appealing party or representative; (c) give the name and

address of the appealing party or representative, if any; (d) contain a clear and concise statement of the matter in dispute and the basis of the appeal; and (e) include a copy of the applicable determination.

B. The appeal must be filed with the director, within 90 days of the date of the notice of initial determination. An appeal shall be deemed filed on the date it is received in the office of the director. The director shall cause the date of filing to be noted on each appeal.

#### **V. CLAIMS REVIEW COMMITTEE**

The chairman of the board shall appoint a Claims Review committee to sit in panels of not less than three members.

A. The committee shall have the authority to hear and decide all appeals.

B. The committee may appoint a referee to take testimony in and to hear all appeals.

#### **VI. ASSIGNMENT OF APPEALS FOR HEARING**

The director shall fix the time and the place for the hearing of appeals by the committee. If a referee has been appointed to hear an appeal, the referee shall fix the time and place for hearing the appeal, with the director's approval.

A. All appeals before the committee shall be heard in a convenient place in the City of Baton Rouge, selected by the director. All appeals before a referee shall be heard in a convenient place, selected by the referee, with the director's approval.

B. Notice of the time and place fixed for the hearing shall be mailed to the appealing party at least 20 calendar days prior to the date of the hearing.

C. Appeals shall be heard as soon as reasonably possible. No continuance shall be granted except for compelling cause. An appeal fixed for hearing may be continued, without prejudice to the appealing party, (a) by the director, the committee, or the referee in a referred case, upon a showing of compelling cause, at the request of any party; or (b) if it is not reached for hearing. An appeal fixed for hearing and not reached shall be reassigned by preference over any appeal continued for any other reason and any appeal subsequently filed. Written notice of the time and place of the continued hearing shall be mailed to the appealing party; except when a continuance is ordered during a hearing, oral notice of the time and place of the continued hearing may be given to the appealing party present at the hearing.

#### **VII. PROCEDURE FOR HEARING APPEALS**

A. Because of the personal and confidential nature of the matters to be considered, hearings shall be closed to the public. However, the appealing party or representative may request an open hearing. In that event, the hearing will be open except to the extent that other legitimate purposes can only be protected by closing portions of the hearing.

B. The appealing party shall have the right, but shall not be required, to be represented at the hearing by legal counsel who is a member in good standing of the Bar of the state of Louisiana.

C. The committee or referee shall control the hearing in a manner best suited to ascertain the facts and safeguard the rights of the parties to the hearing.

D. The basis of the initial determination which is the subject of review shall be presented to the committee or referee first. The appealing party, or representative, will then be given the opportunity to demonstrate why this determination should be held in error. The program will then be given the opportunity to present the case in support of the

initial determination.

E. Testimony shall be taken only on oath, affirmation, or penalty of perjury. The committee, the director, and referee shall have the power to administer oaths and affirmations as well as other powers granted in this Section and by law.

F. Each party to the hearing shall have the right to call and examine all other parties to the hearing and their witnesses; to introduce exhibits; to question opposing witnesses and Parties to the hearing on any matter relevant to the issue, even though the matter was not covered in the direct examinations; to impeach any witness regardless of which party to the hearing first called the witness to testify; and to rebut any evidence presented.

G. Any relevant evidence shall be admitted if it is the support of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any statutory or other rule of law which might make improper the admission of such evidence over objection in a civil or criminal proceeding.

H. The committee or referee may question any party to the hearing or witness and may admit any relevant and material evidence.

I. The appealing party has the burden of proving whatever facts are necessary to support the opposition to the initial determination.

J. If, after the hearing has begun, the committee or referee determines that additional evidence is necessary for the proper determination of the case, (a) the hearing may be continued to a later date and any party to the hearing ordered to produce additional evidence; or (b) the hearing may be closed, and the record held open in order to permit the introduction of additional documentary evidence. The committee or referee may order a further hearing if the nature of the additional evidence or the refutation thereof makes further hearing desirable.

K. At the request of any party to the hearing made prior to the close of the hearing, the committee or referee shall grant oral argument. If written argument is requested, it may be granted and, if granted, the parties to the hearing shall be advised as to the time and manner within which such argument is to be filed. The committee or referee may require any party to the hearing to submit written memorandum pertaining to any or all issues raised in the hearing.

L. A verbatim taped record will be made of the hearing and made a permanent part of the committee's records. An actual typed transcript of the hearing will be made only when determined to be necessary at the hearing, or subsequently, if legal action results, at the cost of the party requesting the transcript.

#### **VIII. SUBPOENA OF WITNESS; PRODUCTION OF DOCUMENTS**

A. The committee, each member thereof, the director, and referee to whom an appeal has been referred shall have the power to order the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

B. The committee or referee may order the production or inspection of any records or relevant portions of records in the possession of the program when necessary to decide the issues in any appeal or to assist an appealing party in preparing for the proceeding. A request by an appealing party, or representative for an order to produce or inspect

records of the program shall be in writing and shall state clearly the information desired, the records desired to be produced or inspected, and the reason therefor.

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the director no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas shall contain the names of the witnesses, the street addresses at which the witnesses can be served, and a brief statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoenas deposits with the director a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and 3671.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the director no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence shall contain a description of the items to be produced in sufficient detail for identification and shall contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

#### **IX. APPEAL DECISION**

A. Appeals Heard by the Committee. At the conclusion of the hearing, the committee shall take the matter under submission and, as soon as is reasonably possible thereafter, render its decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain a statement of reasons for the decision and will be submitted to the director. The director shall send a copy of the decision by certified mail to the appealing party and any representative thereof.

B. Appeals Heard by Referee. At the conclusion of the hearing, the referee shall take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the director for review.

The recommended decision will be reviewed by the director, who may concur without comment or whom may prepare a written opinion of the recommendation.

1. If the referee finds for the appealing party and the director concurs, no further review is required and the appealing party, and any representative will be so notified by the director through certified mail.

2. If the referee finds against the appealing party, or the director disagrees with the recommended decision, the director shall submit the referee's decision, along with concurrence or a statement of reasons for disagreement to the committee.

3. The committee may adopt or reject the recommended decision. In the case of adoption, the referee's decision becomes the decision of the committee. In the case of rejection, the committee shall render its decision which will include a statement of reasons for disagreement with the referee's decision. The decision of the committee will be submitted to the director, who shall send a copy by certified mail to the appealing party and any representative thereof.

## X. REHEARING

A. An appealing party aggrieved by an appeal decision of the committee may request a rehearing only on the grounds that:

1. the decision is clearly contrary to the law and the evidence;
2. the appealing party has discovered, since the hearing, evidence important to the issues which could not have, with due diligence, been obtained before or during the hearing;
3. there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or
4. there is other good ground for further consideration of the issues and the evidence.

B. The request for rehearing must (a) be in writing; (b) be signed by the appealing party or representative; (c) set forth the grounds which justify rehearing; and (d) contains a clear and concise statement of the reasons in support thereof.

C. The request for rehearing must be filed with the director on or before 30 calendar days after the mailing of the appeal decision of the committee. The request shall be deemed filed on the date it is received in the office of the director. The director shall cause the date of filing to be noted on each request for rehearing.

D. When a rehearing is denied by the committee, the director shall so notify the appealing party and any representative thereof by certified mail.

E. When a rehearing is granted by the committee, an order shall be issued setting forth the grounds therefor. The director shall send a copy of the order, along with notice of the time and place fixed for the rehearing, to the appealing party and any representative by certified mail.

F. On rehearing, the matter shall be heard by the committee and shall be confined to those grounds upon which the rehearing was granted.

G. When an appeal has been decided on rehearing, another request for rehearing will not be considered.

## XI. JUDICIAL REVIEW

An appealing party aggrieved by a final decision of the committee is entitled to judicial review in accordance with R.S. 49:964.

James R. Plaisance  
Executive Director

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Black Bass

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and under the authority of R.S. 56:326.3, the Wildlife and Fisheries Commission in order to ensure and accelerate the recovery of black bass (*Micropterus spp.*) in certain waters whose black bass populations were devastated as a result of Hurricane Andrew, do hereby enact the following emergency rule.

## EMERGENCY RULE

Effective October 1, 1992, it shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 14 inches in total length in the area south of U.S. 190 from the West Atchafalaya Basin Protection Levee to the intersection of LA 1 and U.S. 190 due north of Port Allen, east of the West Atchafalaya Basin Protection Levee from U.S. 190 to U.S. 90, north of U.S. 90 from the West Atchafalaya Basin Protection Levee to LA 20, north and west of LA 20 from U.S. 90 to LA 1 in Thibodaux, south and west of LA 1 from LA 20 to U.S. 190.

James H. Jenkins, Jr.  
Chairman

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Mullet Harvest

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 56:6(25)(a) which delegates the authority to the commission to set seasons, daily take and possession limits, based upon biological and technical data, and R.S. 56:333 which authorizes the Wildlife and Fisheries Commission to establish rules for the harvest of mullet; the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

## HARVEST OF MULLET

A. Seasons. A framework of seasons is hereby set for the harvest of mullet. A "pre-roe" season is set to run from 12:01 a.m. September 15 until midnight October 14. A "roe" season is set to run from 12:01 a.m. October 15 until midnight January 14 of the following year. A "non-roe" season is set to run from 12:01 a.m. January 15 until midnight September 14.

B. Commercial Limits. During the "pre-roe" season, there shall be a commercial daily take and possession limit of 200 pounds of mullet per permit holder or per vessel, whichever is less. During the "roe" season, there shall be no daily take or possession limit for the commercial harvest of mullet by properly licensed and permitted fishermen. During the "non-roe" season, there shall be a commercial daily take and possession limit of 1,500 pounds of mullet per permit holder or per vessel, whichever is less.

C. Recreational Limits. The daily take and possession limit for recreational harvest of mullet shall be 100 pounds per person, year round.

D. In addition, all provisions of R.S. 56:333(B)(3) and (4), and 56:333(C) are hereby adopted and incorporated into this rule.

The commission finds that the prior limits established for the harvest of mullet constitutes an immediate threat to markets established for mullet. The loss of the ability to harvest in these quantities constitutes an imminent peril to the public welfare because of the irrevocable loss of income and commerce to the state. Placement of a recreational take and possession limit allows expedient enforcement of the



commercial provisions of this rule. Existing provisions of R.S. 56:333(B)(3) and (4) and 56:333(C) are included in this rule to maintain continuity in the rules governing the fishery through this time period.

James H. Jenkins, Jr.  
Chairman

## Rules

### RULE

**Department of Agriculture and Forestry  
Office of Animal Health Service  
Livestock Sanitary Board**

**(Editor's Note:** The following rule is being reprinted to correct an error published in the August 1992 issue of the *Louisiana Register*)

Under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Livestock Sanitary Board, in accordance with the authority granted under R.S. 3:2095 has amended the following rule governing the diseases of animals.

#### Title 7

**AGRICULTURE AND ANIMALS  
Part XXI. Diseases of Animals**

**Chapter 117. Livestock Sanitary Board**

**Subchapter B. Cattle**

**§11740. Governing the Testing of Cattle for Brucellosis**

A. The testing of any cattle for brucellosis shall be done by:

1. a USDA accredited veterinarian; or
2. an employee of the Louisiana Department of Agriculture and Forestry, Louisiana Livestock Sanitary Board; or
3. an employee of the USDA, Animal and Plant Health Inspection Service, Veterinary Services.

B. All cattle tested for brucellosis shall be individually identified by an official USDA eartag, individual brand, or individual tattoo. The identification shall be recorded on the official brucellosis test chart (Form VS 4-33).

C. All blood samples drawn for brucellosis testing shall be submitted to the state/federal laboratory. Each sample shall be identified and the identity recorded on the official brucellosis test chart. The test chart shall accompany the blood sample(s) to the state/federal laboratory.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:2221 and R.S. 3:2093.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 18: (August 1992), repromulgated LR 18: (October 1992).

Maxwell Lea, Jr., D.V.M.  
State Veterinarian

### RULE

**Department of Culture, Recreation and Tourism  
Office of Cultural Development  
Division of the Arts**

The Louisiana Division of the Arts, Office of Cultural Development, Department of Culture, Recreation and Tourism advertises its amendment to adopt the "Guide to Arts Programs" (Louisiana Administrative Code, Title 25, Chapter 3.), the division rule governing administration of arts grants.

A glossary is to be adopted. Amendments involve name changes for some programs, an expanded explanation of the Louisiana Crafts Program, and clarification of the requirement of a letter of intent to apply for first-time applicants and some applicants for Arts in Education residency grants. Local arts agency applicants must now submit a copy of the current Community Cultural Plan and address demographic information from the 1990 Census. Major arts institutions must provide a copy of their long-range plan as well as census data.

Copies of this final rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804.

Emma Burnett  
Director

### RULE

**Department of Economic Development  
Office of Financial Institutions  
Commissioner of Securities**

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and pursuant to the authority granted to the Commissioner of Financial Institutions in his capacity as Commissioner of Securities by R.S. 51:709(15) and 710(D), notice is hereby given that the commissioner adopted a rule under Chapter 9 defining oil and gas auction exemptions from the registration requirements of the Louisiana Securities Law.

The rule creates a safe-harbor exemption for oil and gas auctions operated by properly registered dealers.

**Title 64  
SECURITIES**

**Chapter 9. Oil and Gas Auction  
§901. Oil and Gas Auction Exemption**

A. Mineral Interest Definition for purposes of this rule only, "mineral interest" an interest in or under an oil, gas, or mining lease, fee, or title, including real property from which the minerals have not been coveted, or contracts relating thereto. The offer and sale of a mineral interest, at an auction, by the seller itself, or a registered dealer or agent acting on behalf of the seller, is exempt from the securities registration requirements of R.S. 51:705, if all of the following conditions are met:

B. Auctioneer. The auctioneer or auction company through which the mineral interest is offered or sold must be licensed as a Dealer by the Louisiana Commissioner of Securities in accordance with R.S. 51:703.

C. Seller

1. Intent. The seller did not acquire the mineral inter-

est with a view to resale, unless the seller was forced to acquire the mineral interest in a package in order to obtain other properties in the package.

2. No Fractionalization of Mineral Interest

a. The seller has the full right and authority to sell the mineral interest and is selling 100 percent of its mineral interest, except that retention by the seller of a royalty or overriding royalty or the horizontal severance of the property is permissible as indicated in (b) below.

b. The seller must not be creating undivided interests out of its mineral interest for the purpose of resale. Where all the seller owns is a partial interest (such as a royalty, overriding royalty, or undivided fractional working interest), this requirement is met if the seller sells all of that interest. However, the seller shall not be considered to be fractionalizing its interest in sales where the seller retains only a royalty or overriding royalty, or where the seller horizontally servers the property by retaining all of its existing rights in certain formations or depths under the whole property.

D. The mineral interest offered or sold pursuant to this rule does not constitute an investment contract.

E. Purchaser

1. Knowledge and Experience. The purchaser or its representative is engaged in the business of exploring for or producing oil or gas or other minerals as an ongoing business. By reason of this knowledge and experience, the purchaser or its representative has evaluated the merits and risks of the mineral interest to be purchased at auction and has formed an opinion based solely upon his knowledge and experience and not upon any statement, representation or printed material provided or made by auctioneer or seller. If a purchaser representative is used, such purchaser representative:

- a. has no business relationship with the seller;
- b. represents only the purchaser and not the seller;

and

- c. is compensated only by the purchaser.

2. Financial Ability. The purchaser has sufficient financial resources in order to bear the risk of loss attendant to the purchase of the property.

3. In all sales to purchasers in this state, the seller or any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that the purchaser satisfies the requirements set forth in (A) and (B) of this paragraph. This requirement could be met by obtaining a document signed by the purchaser to the effect that the purchaser meets these conditions.

F. Auction. For purposes of this rule only, "auction" shall mean the sale of the seller's mineral interest by public outcry.

G. The use of statistical information in trade journals and data bases as well as auction pamphlets concerning the mineral interests to be offered pursuant to this rule is not prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:710(D) and 709(15).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, Commissioner of Securities, LR 18: (October 1992).

Harry C. Stansbury  
Deputy Commissioner of Securities

**RULE**

**Department of Economic Development  
Office of Financial Institutions  
Commissioner of Securities**

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and pursuant to the authority granted to the Commissioner of Financial Institutions in his capacity as Commissioner of Securities by R.S. 51:708(b) and 710(D), notice is hereby given that the commissioner has adopted a rule under Chapter 11 defining stock exchange exemptions from the registration requirements of the Louisiana Securities Law.

The rule creates an exemption from the registration requirements under the Louisiana Securities Law for securities listed on the Chicago Board Options Exchange, Inc.

**Title 64  
SECURITIES**

**Chapter 11. Stock Exchanges**

**§1101. Stock Exchange Exemption**

Securities listed on the Chicago Board Options Exchange, Inc., shall be exempt from the securities registration requirements of R.S. 51:705.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:710(D) and 708(b).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, Commissioner of Securities, LR 18: (October 1992).

Harry C. Stansbury  
Deputy Commissioner of Securities

**RULE**

**Department of Economic Development  
Used Motor Vehicle and Parts Commission**

**Commission Meeting Schedule and Location Fee**

The Used Motor Vehicle and Parts Commission, in accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, is amending LAC 46:V.2701 and 3701. The amended rule changes the day and time of the commission meeting and adds a fee for change of location.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part V. Automotive Industry**

**Subpart 2. Used Motor Vehicle and Parts Commission  
Chapter 27. The Used Motor Vehicle and Parts Commission**

**§2701. Meetings of the Commission**

A. The commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 1 p.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18: (October 1992).

**Chapter 37. Changes to be Reported to Commission §3701. Changes to be Reported to Commission and Fee Assessment**

A. Any changes of address, ownership or employment by a dealer shall be reported to the commission within 10 days of the change. A picture of the new location must be sent with notification. A fee of \$100 will be charged each time a dealer changes his business location.

B.-E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:774 B(4)(g).

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985) amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 18: (October 1992).

Eugene Smith  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 741 - Deletion of Computer Literacy Standard**

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted an amendment to page 68 of Bulletin 741, to delete Standard 2.090.07 relative to Computer Literacy. Computer Literacy remains an option of the local education agency.

For clarification, Standard 2.090.07 of Bulletin 741 which has been deleted, read: "By completion of the eighth grade, students shall have received the equivalent of one semester of instruction in Computer Literacy."

This policy change was adopted as an emergency rule, effective May 28, 1992.

Carole Wallin  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

**Revised Tuition Exemption Guidelines**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published July 20, 1992 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the revised Tuition

Exemption Guidelines for the Fall Semester of 1992. These Guidelines, which are referenced in Bulletin 921, 8(g) Policy and Procedure Manual, were also adopted as an Emergency Rule and printed in full in the July, 1992 issue of the *Louisiana Register*.

**Bulletin 921: 8(g) Policy and Procedure Manual**

\* \* \*

B. Tuition Exemption: Teachers  
Revised Tuition Exemption Guidelines for FY 92-93 are adopted.

**AUTHORITY NOTE:** R.S. 17:7.3

**HISTORICAL NOTE:** LR 18: (October, 1992).

Carole Wallin  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

**Revocation of Teaching Certificate  
for Felony Offenses**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board amended its policy on the revocation of teaching certificates to clarify that notices of Due Process hearings are to be mailed by the board office rather than by the Department of Education. Complete amended policy is stated below.

**Policy on Revocation of a Teaching Certificate  
for a Felony Offense**

I. A Louisiana teaching certificate may be denied or revoked if a certified court record indicates that the individual has received a final conviction by any state or federal court of a felony offense.

II. Upon receiving notice that a teacher has been convicted of a felony offense, defined by R.S. 14:2(4), as being any crime for which an offender may be sentenced to death or imprisonment at hard labor, the State Department of Education shall immediately suspend the teacher's certificate. The Department of Education shall promptly notify the Board in writing and notify the person whose certificate is so suspended by registered mail to his last known address or by any other means reasonably designed to inform the affected teacher of the suspension and his right to a hearing. Upon the order of the board, the board staff shall notify the teacher of the date, time, and place of the hearing, which shall be not less than 20 days nor more than 30 days from the date of the board's order for a hearing. The notice shall be sent by registered mail, return receipt requested, to the last known address of the teacher or by any other means reasonably designed to inform the affected teacher of the hearing. The notice shall include the specific charge, the witnesses to be called by the department, the right of the teacher to present witnesses and documents in his defense, the right of the teacher to cross-examine any witnesses against him, and the right of the teacher to be represented by counsel of the teacher's choosing. The hearing shall be private unless the teacher elects to make it public. The purpose of the hearing shall be to determine if sufficient grounds exist to warrant the suspension or revocation of the certificate.

III. The Due Process or Appeals Committee shall make a recommendation to the full board regarding whether the teacher's certificate shall be revoked. The decision of the board shall be promptly transmitted to the teacher affected.

IV. The provisions of this Section shall apply only to teachers who are not under contract with a city or parish school board at the time of revocation.

V. A teacher whose certificate has been revoked under the provisions of this Part may apply for reinstatement only after three years, or later, from the effective date of the revocation of is or her certificate. The Due Process Committee of the board may conduct a hearing to determine if the former teacher has rehabilitated himself or herself sufficiently to warrant reinstatement of the teaching certificate.

Carole Wallin  
Executive Director

## RULE

### Board of Elementary and Secondary Education

#### Technical Institute Name Change

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to the notice of intent published in the July 1992 issue of the *Louisiana Register* and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, changed the name of the Lake Providence Branch of the Tallulah Technical Institute to the Margaret Surles Branch of the Tallulah Technical Institute.

#### Title 28 EDUCATION

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

#### Chapter 1. Organization

#### §111. Vocational Technical Schools

\* \* \*

39. Tallulah Technical Institute, Tallulah  
Margaret Surles Technical Institute, Lake Providence  
Branch of Tallulah Technical Institute

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with Louisiana Constitution, Article VIII, Section 3(A); R.S. 17:1991-2009.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 18: (October 1992).

Carole Wallin  
Executive Director

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Guarantee and Duration of Guarantee Commitment

The Louisiana Student Financial Assistance Commission has amended its rules regarding the guarantee of stu-

dent loans and the duration of the guarantee commitment. The Loan Program Policy and Procedure Manual Section 6.1.8 B, C and D will be revised to read as follows:

B. LASFAC's guarantee commitment becomes effective on the date of the Letter of Guarantee created by LASFAC. A disbursement prior to the Letter of Guarantee date results in the lender's assumption of all risk for the disbursed proceeds.

\* \* \*

C.7. The lender submitted a properly completed loan application to LASFAC or updated the computer loan record via IDEAL to show that both borrower and lender have signed and dated the application.

D. The guarantee commitment ceases if:

1. the lender disbursed the loan proceeds improperly;
- or
2. the lender failed to submit the guarantee fee within 60 days of the date of billing for each disbursement; or
3. the loan is canceled by completion of a cancellation request, unless it is reinstated in accordance with 6.2.14 B;
- or
4. the loan is reported paid out on the lender manifest or status change report; or
5. the lender cannot produce the original notes or a true certified copy of the original; or
6. alteration of applications/promissory notes due to change of lender name are not done in accordance with procedure 6.2.3 A and the collectability of the note is damaged; or
7. the school period for which the loan was approved has ended and the completed application form has not been submitted to LASFAC prior to that date, or the confirmation of loan approval has not been transmitted via IDEAL.

\* \* \*

Jack L. Guinn  
Executive Director

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Louisiana Opportunity Loan Program Clarification of Full-Time Requirement

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, has amended the Louisiana Opportunity Loan Program Lender Policy and Procedure Manual to clarify the requirement for full-time enrollment. LA-OP Program Procedure B 3 will be amended to read as follows:

\* \* \*

3. Maintain full-time enrollment at any state public two or four-year college or university or any institution that is a member of the Louisiana Association of Independent Colleges and Universities. If the student drops to less than full-time enrollment after the school has certified the student's eligibility but before disbursement of LA-OP loan proceeds, eligibility would be maintained if the student is still enrolled at least half time. After disbursement of funds, students dropping to not less than half-time enrollment do not lose eligibility for the funds previously awarded; however, to receive

additional disbursements, the student must be re-enrolled full time.

Jack L. Guinn  
Executive Director

#### RULE

##### Student Financial Assistance Commission Office of Student Financial Assistance

###### Tuition Assistance Plan Entitlement Reinstatement

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, has amended the Scholarship/Grant Policy and Procedure Manual by deleting the last sentence of VI A and adding subparagraph VI C 3 h to read as follows:

Failure to maintain academic eligibility will result in permanent cancellation of the recipient's entitlement. A recipient denied continuation because of failure to show financial need may be reinstated, upon written request, if the individual has maintained the academic requirements for continuation and has re-established financial need.

Jack L. Guinn  
Executive Director

#### RULE

##### Student Financial Assistance Commission Office of Student Financial Assistance

###### Tuition Assistance Plan Recipients Restricted to - One Tuition Waiver

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, has amended the Scholarship/Grant Policy and Procedure Manual by adding Subparagraph C 1 1 to Chapter VI, to read as follows:

\* \* \*

A student may not receive TAP in conjunction with any other type of tuition waiver. OSFA should not be billed by and will not reimburse an institution for a TAP tuition waiver if the recipient has already been awarded a tuition waiver from another source such as vocational rehabilitation, LSU Board of Supervisors Scholarship, etc., unless the TAP recipient declines the original tuition waiver offer and accepts the TAP waiver.

Jack L. Guinn  
Executive Director

#### RULE

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

###### Standards for Performance for Biomedical Waste Incinerators

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054,

and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Regulations, LAC 33:III.5191, (AQ64).

This rule sets the standards for operation of biomedical waste incinerators. The standards include operating parameters and the recording of operational data to verify compliance with the standards.

#### Title 33

#### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

#### Subchapter W. Incinerators

#### §5191. Standards of Performance for Biomedical Waste Incinerators

##### A. Applicability

This Subchapter applies to all incinerators installed and operated in Louisiana for the purpose of reducing potentially infectious medical waste generated in all health and medical care facilities as defined herein.

##### B. Definitions

The words and terms used in this Subchapter are defined in LAC 33:III.Chapter 51, LAC 33:III.111 and 3103 unless otherwise specifically defined as follows:

*Antineoplastic Agents*—that portion of potentially infectious medical waste containing chemicals that are administered to deter the growth of abnormal cells and/or tumors.

*Chemotherapeutic Waste*—that portion of potentially infectious medical waste containing chemical substances administered in the treatment of diseases, especially cancer and diseases caused by parasites.

*Health and Medical Care Facilities*—shall include, but not be limited to, hospitals, clinics, dialysis facilities, birthing centers, emergency medical services, physicians' offices, outpatient clinics, nursing homes, extended care facilities, podiatry offices, dental offices and clinics, medical research and diagnostic laboratories, home health care services, mortuaries, blood and plasma centers, blood collection mobile units and veterinary medical centers.

*Infectious Waste*—that portion of potentially infectious waste which contains pathogens with sufficient virulence and quantity so that exposure to a susceptible host could result in contracting a disease.

*Medical Waste*—that portion of potentially infectious waste generated by operation of programs and offices in health and medical care facilities.

*Potentially Infectious Medical Waste*—a mixture of infectious waste, medical waste and other waste which may potentially be infectious due to its physical characteristics or by how it was generated in the health care facilities. This includes, but is not limited to, the following types of waste:

- a. cultures and stocks of infectious agents from laboratories;
- b. pathological waste, including human tissue, organs, body parts, and fluids removed during surgery or autopsy;
- c. blood, serum, blood collection bags, tubes and vials;
- d. needles, scalpels, syringes, pipettes, and other sharp objects used in health care or laboratory settings;
- e. bandages, diapers and other disposable materials that have been in contact with infected wounds or contaminated by patients isolated to prevent the spread of infectious diseases; and

f. any other refuse that has been in contact with any potentially infectious medical waste.

*Total Suspended Particulates (TSP)*—particles of 30 microns or less mean diameter.

#### C. Registration

1. Within 90 days after adoption of these regulations, all facilities operating incinerators designed or operated for the purpose of burning potentially infectious medical waste, shall submit a supplemental incinerator data form (SID-1) to: Program Manager - Biomedical Waste Incinerators, Air Quality Division, Permit Section, Box 82135, Baton Rouge, LA 70884-21356.

2. All facilities operating unpermitted incinerators designed or operated for the purpose of burning potentially infectious medical wastes, shall submit an application for approval of emissions and an emissions inventory questionnaire with appropriate permitting within one year of adoption of regulations.

#### D. Incinerator Design Requirements

1. All biomedical waste incinerators (BWI) shall be multi-chambered units with burners capable of maintaining minimum temperatures of 1500°F in the primary chamber and 1800°F in the secondary chamber. Design capacity shall be based on 8,500 Btu per pound of waste incinerated. Units burning chemotherapeutic waste, antineoplastic agents and/or potentially infectious medical waste that are generated offsite, shall require burners capable of maintaining minimum temperatures of 1500°F in the primary chamber and 2000°F in the secondary chamber. A temperature indicator and/or recorder shall be installed to monitor gas temperatures at the exit of the primary chamber. Internal temperature of the secondary chamber shall be monitored and continuously recorded.

2. All BWIs shall have a minimum retention time of 1.5 seconds for gases in the secondary chamber. Incinerators burning antineoplastic agents, chemotherapeutic waste and/or potentially infectious medical waste generated offsite shall require a minimum of 2.0 seconds retention time.

3. All BWIs shall be equipped with an interlock that prevents the charge door from opening for 10 minutes after the secondary burner is ignited, or until the secondary chamber exit gases reach 1800°F, whichever occurs first. A visual warning system shall alert the operator when the interlock is by-passed for service or clean out.

#### E. Restrictions on Emissions

1. All BWIs designed for less than 500 pounds per hour charging rate shall not emit particulate matter (TSP) in excess of 0.08 grains per dry standard cubic foot of flue gas corrected to seven percent oxygen. Incinerators designed for 500 pounds per hour or greater charging rate shall not emit in excess of 0.04 grains of particulate matter (TSP) per dry standard cubic foot of flue gas corrected to seven percent oxygen.

2. Hydrogen Chloride (HCl) - all BWIs shall not emit hydrogen chloride in excess of four pounds per hour or shall achieve a 98 percent reduction of HCl through an acid gas scrubber or other control devices, whichever is greater.

a. Incinerators designed for 500 pounds per hour or greater charging rate shall be equipped with an acid gas control device, or shall continuously monitor flue gas to show compliance with HCl emission limits.

b. All BWIs designed for 500 pounds per hour or greater charging rate and/or burns waste generated offsite

shall be equipped with an acid gas control device of 98 percent efficiency.

3. Other emission limits for all BWIs shall include:

a. sulfur dioxide - 100 ppmv at seven percent oxygen or 70 percent reduction through an acid gas control device;

b. carbon monoxide - 100 ppmv at seven percent oxygen;

c. nitrogen oxide - 250 ppmv at seven percent oxygen;

d. speciated hydrocarbons and heavy metals emissions must meet the requirements of LAC 33:III.Chapter 51;

e. opacity of stack gases shall not exceed 10 percent; and

f. excess oxygen in flue gas - two percent minimum by volume.

4. All BWIs designed for 500 pounds per hour or greater charging rate shall have continuous monitors installed for oxygen and carbon monoxide.

5. A BWI designed for one ton per hour or greater charging capacity shall be subject to Best Available Control Technology (BACT).

6. All BWIs shall be designed with a stack emission point which does not adversely impact the local area. All incinerator stack heights must be approved by the administrative authority.

7. All BWIs with a design charging rate in excess of 250 pounds per hour shall conduct emissions testing to verify compliance with this Subsection for particulate and HCl. BWIs with a design charging rate of 500 pounds per hour shall conduct emission tests to verify compliance with the standards for all criteria pollutants using the following test methods from 40 CFR 60, Appendix A:

a. Method 5 - Determination of Particulate Emissions from Stationary Sources;

b. Method 6 - Determination of Sulfur Dioxide Emissions from Stationary Sources;

c. Method 7 - Determination of Nitrogen Oxide Emissions from Stationary Sources;

d. Method 26 - Determination of Hydrogen Chloride Emissions for Stationary Sources;

e. other tests may be added at pretest meetings.

8. A copy of all monitoring and tests results shall be submitted to the Louisiana Department of Environmental Quality, Air Quality Division, for review and approval within 45 days of completion of testing.

#### F. Radioactive Materials

Incineration of radioactive materials shall comply with the requirements of LAC 33:XV.436.

#### G. Ash Removal and Disposal

The removal, handling, storage, and transportation of ashes from the BWIs shall comply with the requirements of LAC 33:VII.1305.

#### H. Maintenance of Equipment

The BWI, auxiliary equipment, accessories, pollution control devices and monitoring instruments shall be maintained in proper working order and operated according to manufacturer's instructions at all times that the incinerator is in operation.

#### I. Restrictions

All instrument and household batteries and chemotherapeutic waste listed under the Resource Conservation and Recovery Act Title 40 CFR, Section 261.33(f) shall be removed from the waste feed stream prior to incineration.

**J. Circumvention**

No owner or operator subject to the provisions of this Chapter shall build, install, erect, or use any machine, equipment, process, or method, the use of which conceals an emission that would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an emissions standard, and the installation of more than one incinerator to avoid coverage by a standard that applies only to incinerators with greater design charging capacities.

**K. Prohibited Activities**

Two years after the effective date of these standards, no owner or operator shall operate any existing source subject to this standard in violation of the standards.

**L. Recordkeeping/Reporting**

The owner or operator of any BWI shall keep a daily record of the hours the unit was in operation and the amount of waste incinerated. A separate record shall be kept of all chemotherapy materials incinerated that are not listed under the Resource Conservation and Recovery Act, Title 40 CFR, Section 261.33(f). This record shall show the name of the material, date and time incinerated and amount burned. Records shall be submitted to the Air Quality Compliance Division by March 31 for the previous calendar year.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18: (October 1992).

James B. Thompson, III  
Assistant Secretary

**RULE**

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

**Emission Standards for Asbestos (AQ58)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Regulations, LAC 33:III.5151, (Log AQ58).

This rule repeals LAC 33:III.Chapter 51.Subchapter M, and repromulgates it to be consistent with the U.S. EPA standard, 40 CFR Part 61 Subpart M, The National Emission Standards for Hazardous Air Pollutants (NESHAPS); final rule of November 20, 1990. These standards control fugitive asbestos fibers during renovation and/or demolition activities. In addition, these standards include removal, tracking, reporting and recordkeeping, and disposal standards for asbestos containing material.

These regulations become effective on October 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A copy of this proposed regulation may be obtained

from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

James B. Thompson, III  
Assistant Secretary

**RULE**

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

**Storage of Volatile Organic Compounds (AQ65)  
(LAC 33:III.2103 et. seq)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended Air Quality Regulations, LAC 33:III.2103, 2109, 2115, 2123, 2125, 2131, 2135 and 2143, (AQ65).

This rule adds Livingston Parish to LAC 33:III.Chapter 21 so that it is incorporated into the Baton Rouge Ozone Non-Attainment Area.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 21. Control of Emission of Organic Compounds  
Subchapter A. General  
§2103. Storage of Volatile Organic Compounds**

\* \* \*

G. Exemptions. The provisions of this Section (i.e., LAC 33:III.2103) do not apply to existing and new storage tanks located in any parish other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge used for crude or condensate and having a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards. In addition, in these attainment parishes, tanks 420,000 gallons (1,589,900 liters) or greater used to store produced crude oil or condensate prior to lease custody transfer are exempt from the provisions of LAC 33:III.2103 unless such tanks are subject to New Source Performance Standards. For the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge the provisions of LAC 33:III.2103 do not apply to existing and new storage tanks that are used for crude or condensate prior to lease custody transfer and that have a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards. In addition, the provisions of LAC 33:III.2103 do not apply to JP-4 fuels stored in horizontal underground tanks.

\* \* \*

I. Recordkeeping. The owner/operator of any storage facility shall maintain records to verify compliance with or exemption from LAC 33:III.2103. The records shall be maintained for at least two years and will include, but not be limited to, the following:

\* \* \*

4. The results of any testing conducted in accordance with the provisions specified in LAC 33:III.2103.H.

\* \* \*

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 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18: (October 1992).

\* \* \*

**§2109. Oil/Water—Separation**

\* \* \*

B. Exemptions from LAC 33:III.2109.A.

\* \* \*

4. Except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, any single- or multiple-compartment volatile organic compound water separator emitting 100 tons per year or less of regulated hydrocarbons (uncontrolled) is exempt from the provisions of LAC 33:III.2109.A.

\* \* \*

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 16:117 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:360 (April 1991), LR 18: (October 1992).

**§2115. Waste Gas Disposal**

Any waste gas disposal stream containing organic compounds from any emission source including those emissions from process unit upsets, start-ups and shutdowns shall be controlled by one of the following methods:

\* \* \*

H. Except for waste gas disposal streams subject to LAC 33:III.2115.C, D and E, the administrative authority\* may waive the requirements of LAC 33:III.2115 where it can be demonstrated that the waste gas stream is not a part of a facility with total emissions greater than or equal to 100 TPY, or either:

\* \* \*

5. it is a vent gas stream with a concentration of volatile organic compounds less than 0.44 psia true partial pressure (30,000 ppm) except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, St. James and West Baton Rouge in which the concentration of volatile organic compounds in the vent gas stream must be less than 0.044 psia true partial pressure (3,000 ppm).

\* \* \*

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), LR 17:654 (July 1991), LR 18: (October 1992).

**Subchapter B. Organic Solvents**

**§2123. Organic Solvents**

\* \* \*

D. Control Techniques

\* \* \*

6. Surface coating facilities on any property in Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes which when controlled have a potential to emit at maximum production a combined weight (total from the property) of volatile organic compounds less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of LAC 33:III.2123.C.1 through 10. Surface coating facilities on any property in parishes other than Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge which when uncontrolled have a potential to emit a combined weight of volatile organic compounds less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of LAC 33:III.2123.C.1 through 10.

\* \* \*

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 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18: (October 1992).

**Subchapter C. Vapor Degreasers**

**§2125. Vapor Degreasers**

\* \* \*

D. Exemptions. Except as required in this Subsection, a vapor degreaser emitting 100 pounds (45 kilograms) or less of VOC in any consecutive 24-hour period (uncontrolled) is exempt from the provisions of this Section provided the total emissions from all the vapor degreasers at the facility combined are less than 100 tons/year of VOC, uncontrolled. If these two conditions are not met, the provisions of LAC 33:III.2125 must apply. For Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, the requirements of this Section apply to all solvent metal cleaners, except as follows:

\* \* \*

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), LR 18: (October 1992).

**Subchapter F. Gasoline Handling**

**§2131. Filling of Gasoline Storage Vessels**

\* \* \*

D. Exemptions. The following are exempt from the requirements of LAC 33:III.2131.A.

1. Affected facilities in attainment or unclassified areas (all parishes except Bossier, Caddo, Beauregard, Calcasieu, Livingston, Pointe Coupee, East Baton Rouge, West Baton Rouge, Iberville, Lafayette, St. Mary, Ascension, St. James, St. John the Baptist, St. Charles, Lafourche, Jefferson, Orleans, St. Bernard and Grant).



\* \* \*

3. Any gasoline outlet in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge whose throughput is less than 120,000 gallons (454,200 liters) per year or any gasoline outlet in the parishes of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James and St. John the Baptist whose throughput is less than 500,000 gallons (1,892,700 liters) per year. Once the rolling 30-day average throughput exceeds 10,000 gallons for a facility in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge or 42,000 gallons for a facility in the parishes of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James and St. John the Baptist that facility becomes an affected facility and does not revert to an exempted facility when the throughput drops back below the throughput exemption level.

\* \* \*

G. Implementation Schedule. Facilities must be in compliance with this Section within six months after becoming an affected facility.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:609 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18: (October 1992).

**§2135. Bulk Gasoline Terminals**

A. Areas Affected. All affected facilities in the areas which have been specified by the U. S. Environmental Protection Agency as non-attainment areas (Ascension, Beauregard, Bossier, Caddo, Calcasieu, East Baton Rouge, Grant, Iberville, Livingston, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary and West Baton Rouge parishes) for the oxidant standard shall be in compliance.

\* \* \*

**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 16:609 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18: (October 1992).

**Subchapter H. Graphic Arts**

**§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes**

\* \* \*

B. Exemptions. This Section applies to Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge parishes. A rotogravure or flexographic printing facility which has a potential to emit on an uncontrolled basis at full production (8760 hours per year basis) a combined weight of volatile organic compounds less than 50 TPY calculated from historical records of actual consumption of ink is exempt from the provisions of LAC 33:III.2143.A. All other parishes shall maintain the limitation of 100 TPY or less, for exemption purposes. Once a facility exceeds this

exemption threshold it is subject to the provisions of LAC 33:III.2143.A and remains so regardless of future variations in production.

\* \* \*

**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), LR 18: (October 1992).

James B. Thompson, III  
Assistant Secretary

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

The Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the board by R.S. 37:1746-1747 and R.S. 37:1270(B)(6), and in accordance with applicable provisions of the Administrative Procedure Act, has adopted rules prescribing practice and reporting requirements for physicians, podiatrists, physician's assistants, respiratory therapists and other board-licensed or certified practitioners to protect the public from the risk of the transmission of hepatitis B virus (HBV) and human immunodeficiency virus (HIV). LAC 46:XLV, Subpart 3, Chapter 67, §§ 6701-6713. The rules were proposed for adoption by Notice of Intent published in the Louisiana Register 207-210 (Feb. 1992). In consideration of comments received by the board during the announced comment period and during public hearing on the proposed rules, the final rules amend the proposed rules in several respects. The final rules, as adopted by the board, are set forth in full below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLV. Medical Professions**

**Subpart 3. Practice**

**Chapter 67. Preventing Transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV) During Exposure-Prone Invasive Procedures**

**§6701. Scope of Chapter**

As authorized and mandated by R.S. 37:1747, the rules of this Chapter prescribe practice and reporting requirements for physicians, podiatrists, physician's assistants, respiratory therapists and other board-licensed or certified practitioners to protect the public from the risk of the transmission of hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (October 1992).

**§6703. Definitions**

As used in this chapter, the term:

*Board*— Louisiana State Board of Medical Examiners.

*Body fluids*— amniotic, pericardial, peritoneal, pleural, synovial and cerebrospinal fluids, semen, vaginal secretions and other body fluids, secretions and excretions containing visible blood.

*Exposure-prone procedure*— an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient. All invasive procedures are not considered exposure-prone; an invasive procedure (defined below) is considered an exposure-prone procedure only when it is a type of invasive procedure described by this definition.

*Function ancillary to an invasive procedure*— the preparation, processing or handling of blood, fluids, tissues, or instruments which may be introduced into or come into contact with any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane or percutaneous wound of the human body in connection with the performance of an invasive procedure.

*HBV*— the hepatitis B virus.

*HBsAg seropositive*— with respect to a practitioner, that a test of the practitioner's blood under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B surface antigens and that no subsequent test has confirmed that hepatitis B surface antigens are no longer present.

*HIV*— the human immunodeficiency virus, whether HIV-1 or HIV-2.

*HIV seropositive*— with respect to a practitioner, that a test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of HIV antibodies.

*Invasive procedure*— any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane or percutaneous wound of the human body.

*Practitioner*— a physician, podiatrist, physician's assistant, respiratory therapist or other health care provider licensed or certified by the board and authorized by applicable laws and regulations to perform or participate in invasive procedures or functions ancillary to invasive procedures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (October 1992).

#### **§6705. Use of Infection Control Precautions**

A. General Requirements. A practitioner who performs or participates in an invasive procedure or performs a function ancillary to an invasive procedure shall, in performance of or participation in any such procedure or function, be familiar with, observe and rigorously adhere to both general infection control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers

for Disease Control to minimize the risk of the transmission of HBV or HIV from a practitioner to a patient, from a patient to a practitioner, or from a patient to a patient.

B. Universal Blood and Body-Fluid Precautions. For purposes of this Section, adherence to universal blood and body-fluid precautions requires observance of the following minimum standards:

1. Protective Barriers. A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous-membrane contact with blood and other body fluids of all patients. Gloves and surgical masks shall be worn and shall be changed after contact with each patient. Protective eyewear or face shields and gowns or aprons made of materials that provide an effective barrier shall be worn during procedures that commonly result in the generation of droplets, splashing of blood or body fluids, or the generation of bone chips. A practitioner who performs, participates in, or assists in a vaginal or caesarean delivery shall wear gloves and gowns when handling the placenta or the infant until blood and amniotic fluid have been removed from the infant's skin and shall wear gloves during post-delivery care of the umbilical cord. If, during any invasive procedure, a glove is torn or punctured, the glove should be removed and a new glove used as promptly as patient safety permits.

2. Hand washing. Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.

3. Percutaneous Injury Precautions. A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. If a needlestick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needlestick injuries, needles should not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.

4. Resuscitation Devices. To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.

5. Sterilization and Disinfection. Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (October 1992).

#### **§6707. Prohibitions and Restrictions**

Except as may be permitted pursuant to §6709 of this Chapter, a practitioner who is HBsAg seropositive or HIV Seropositive, or who otherwise knows or should know that he or

she carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (October 1992).

#### §6709. Exception; Informed Consent of Patient

A. Conditions. Notwithstanding the prohibition of §6707 of this Chapter, an HBsAg or HIV seropositive practitioner may nonetheless perform or participate in an exposure-prone procedure with respect to a patient when each of the following four conditions is met:

1. the practitioner has affirmatively advised the patient, or the patient's lawfully authorized representative, that the practitioner has been diagnosed as HBsAg seropositive and/or HIV seropositive, as the case may be;

2. the patient, or the patient's lawfully authorized representative, has been advised of the risk of the practitioner's transmission of HBV and/or HIV to the patient during an exposure-prone procedure. The practitioner, if a physician or podiatrist, shall personally communicate such information to the patient or patient's representative. If the practitioner is other than a physician or podiatrist, such information shall also be communicated to the patient's physician;

3. the patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:

a. identification of the exposure-prone procedure to be performed by the practitioner with respect to the patient;

b. an acknowledgement that the advice required by subsections (A)(1) and (2) hereof have been given to and understood by the patient or the patient's representative; and

c. the consent of the patient, or the patient's lawfully authorized representative to the performance of or participation in the designated procedure by the practitioner.

4. the practitioner's HBsAg and/or HIV seropositivity has been affirmatively disclosed to each practitioner or other health care personnel who participates or assists in the exposure-prone procedure.

B. Revocation of Consent. Consent given pursuant to Subsection (A) of this Section may be revoked by a patient, or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the practitioner expressing an intent to revoke, rescind or withdraw such consent.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (October 1992).

#### §6711. Self-Reporting

A. Applicability. Any practitioner who in the course of practice may at any time undertake to perform or participate in an exposure-prone procedure and who is or becomes HBsAg seropositive or HIV seropositive shall give notice of such seropositivity to the board in accordance with the provisions of this Section.

b. Procedure. On or before the applicable initial request deadline specified by Subsection (C) of this Section, a practitioner required by Subsection (A) hereof to report his or her HBsAg or HIV seropositivity to the board shall request a

self-reporting form from the board's physician Medical Consultant, by mail directed to the confidential attention of the Medical Consultant or by personal telephone communication with the Medical Consultant at the board's offices. In making such request, a requesting practitioner shall advise the Medical Consultant of the address to which the self-reporting form should be mailed or delivered. Upon receipt of any such request, the Medical Consultant will promptly mail or deliver a board-approved self-reporting form to the requesting practitioner, accompanied by an addressed, postage-prepaid envelope directed to the confidential attention of the Medical Consultant. Within 10 days of receipt of such form the requesting practitioner shall complete, subscribe and cause such self-reporting form to be delivered or mailed to the Medical Consultant.

C. Initial Request Deadlines. The initial request deadline for a practitioner:

1. who is HBsAg or HIV seropositive on or prior to the effective date of this Chapter, or who becomes HBsAg or HIV seropositive within 60 days from the effective date of this Chapter, shall be 90 days from the effective date of this Chapter;

2. who becomes HBsAg or HIV seropositive more than 60 days from the effective date of this Chapter shall be 30 days from the date on which the practitioner becomes seropositive; and

3. who is HBsAg or HIV seropositive on the date on which any license, permit or certification is issued by the board to the practitioner shall be 10 days from such date.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (October 1992).

#### §6713. Confidentiality of Reported Information

A. General Confidentiality. Reports and information furnished to the board pursuant to §6711 of this Chapter and records of the board relative to such information shall not be deemed to constitute public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; providing that such reports, information and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

B. Confidentiality of Identity of Seropositive Practitioners. The identity of practitioners who have reported their status as carriers of HBV or HIV to the board's Medical Consultant pursuant to §6711 hereof shall be maintained in confidence by the Medical Consultants and shall not be disclosed to any member, employee, agent, attorney or representative of the board nor to any other person, firm, organization, or entity, governmental or private, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter.

C. Disclosure of Statistical Data. Provided that the identity or self-reporting practitioners is not disclosed, either directly or indirectly, the provisions of this Section shall not be deemed to prevent disclosure by the Medical Consultant or the board, to governmental public health agencies with a legitimate need therefor, of statistical data derived from such reports, including, without limitation, the number and licensure class of practitioners having reported themselves as HB

sAg and/or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (October 1992).

#### §6715. Interpretation

Nothing in this Chapter shall be construed to require the mandatory testing of any practitioner for HBsAg or HIV seropositivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (October 1992).

Delmar Rorison  
Executive Director

### RULE

#### Department of Health and Hospitals Board of Practical Nurse Examiners

##### Education and Licensure

Notice is hereby given that the State Board of Practical Nurse Examiners, under the authority imposed in R.S. Title 37:961-979, has amended the administrative rules and minimum requirements relating to practical nursing education and licensure to practice in the state of Louisiana, LAC 46:XLVII.Chapter 1, at its meeting on October 2, 1992.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

##### Subpart 1. Practical Nurses

#### Chapter 1. Authority

##### §101. Foreword

This manual of administrative rules and minimum requirements contains the approved rules and regulations of the Louisiana State board of Practical Nurse Examiners relating to practical nurse education, the development, progression and discontinuation of practical nursing programs, and practical nurse licensure in the state of Louisiana. These rules and requirements have been adopted and promulgated in accordance with the law relating to the practice of practical nursing with the authorization vested in the board by the Louisiana Revised Statutes of 1950, Title 37, Chapter 11. Nurses, Part II. Practical Nurses, Section 961-979, as amended through 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### Chapter 3. Board of Practical Nurse Examiners

##### §301. Organization

Louisiana State Board of Practical Nurse Examiners consists of 13 members appointed by the governor and is the

regulatory agency created by statute to act with legal authority on matters related to practical nursing education and the practice of practical nursing in Louisiana as determined by the Louisiana Revised Statutes, Title 37, Section 961-979, as amended through 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, and 37:962 as amended Act 642, 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October, 1992).

#### §307. Rules and Adjudication and License Suspension and Revocation Proceedings

A. - U. ...

1. - 6. ...

a. - m. ...

n. has violated any provisions of this Part (R.S. 37:961-979 as amended 1991) or aid or abet therein.

V. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of hearing and/or the expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 2:275 (September 1976), amended LR 3: 193 (April 1977), LR 7: 587 (November 1981), LR 10:336 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### Chapter 5. Definitions

##### §501. Terms in the Manual

A. - G. ...

H. *Initial License*—the original license issued to a candidate.

I. ...

J. *Licensure Examination*—the official examination approved by the board.

K. - P. ...

Q. *Survey*—periodic on-site review of a practical nursing program by the board to determine compliance with the adopted minimum requirements outlined herein.

R. *Temporary Permits*—temporary work authorization issued to Louisiana graduates to practice practical nursing upon successful completion of an approved program of practical nursing pending the results of the first board approved licensure examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 2:274 (September 1976) amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### Chapter 7. Program Establishment

##### §703. Initial Requirements

A. - K.1. ...

2. Nursing homes shall be licensed by the Department of Health and Hospitals.

3. - 9. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:337 (April 1984) amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

### **Chapter 9. Program Projection**

#### **Subchapter A. Faculty and Staff**

##### **§901. Faculty**

A. Shall consist of a minimum of one full-time nurse member for every eighteen students admitted; one of whom shall be designated as program coordinator/department head. At no time shall a faculty consist of less than two full-time nurse members.

B.1.- 5. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:338 (April 1984), LR 16:133 (February 1990), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### **Subchapter C. Records**

##### **§917. Protection**

Administration shall provide for the protection of all student records and transcripts, faculty personnel records, contractual agreements, communications and other pertinent program information against loss, destruction and unauthorized use. Such protection includes maintenance of such records for a period of not less than 60 years in fireproof and waterproof storage.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### **Subchapter D. Program Policies**

##### **§921. Approval**

All policies affecting the students or the program shall be subject to board approval prior to implementation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:195 (April 1977), amended LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

##### **§923. Development and Implementation of Policies and Procedures**

A. The policies for admission, evaluation, level advancement and completion shall be developed by the faculty and approved by the board prior to implementation.

B. - G. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37: 969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:195 (April 1977), amended LR 10:338 (April

1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

##### **§931. Length of Program**

A. A program shall cover a minimum of 1500 hours of scheduled instruction. At least 700 hours shall be the minimum number of theory hours and at least 800 hours shall be the minimum number of clinical hours. Theory and clinical experience should be concurrent, if possible, progressing from the simple to the complex.

B. - C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:196 (April 1977), amended LR 8:67 (February 1982), LR 10:339 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October, 1992).

##### **§933. Curriculum**

A. The curriculum shall include a minimum of:

1. 70 hours of Body Structure and Function providing the student with a foundation for understanding basic anatomy and the normal functions of the human body and deviations from the normal;

2. 10 hours of Introduction to Microbiology presenting a basic understanding of microbes necessary in carrying out nursing procedures and in helping to prevent illness and/or its transfer to others;

3. 20 hours of Vocational Adjustments including concepts of self adjustment, personality development, ethical, legal and social relationships with parents, families, employers and co-workers, communication skills, responsibilities of the practical nurse and general information on nursing and nursing organizations, and the Louisiana Revised Statute, Title 37, Chapter 11, Subpart II. Practical Nurses and LAC 46:XLVII. Nursing, Subpart 1. Practical Nurses;

4. 10 hours of Personal, Family and Community Health presenting concepts of health and its maintenance, human development throughout the life cycle, development, spread and control of disease, and local, state and national health resources;

5. 40 hours of Nutrition in Health and Illness describing concepts of proper nutrition for all age groups and diet modifications for therapeutic purposes;

6. 70 hours of Introduction to Pharmacology presenting concepts relating to action, dosage, side effects and administration of medications;

7. Principles and Practices of Nursing presenting the application of concepts which will provide basic principles of nursing care and correlated experiences to develop competency in Medical-Surgical Nursing which shall include 285 hours of theory and 600 hours of clinical; Geriatric Nursing, which shall include 80 hours of theory and 80 hours of clinical; Obstetrics which shall include 40 hours of theory and 40 hours of clinical; pediatric Nursing which shall include 40 hours of theory and 40 hours clinical and Mental Health Nursing which shall include 20 hours of theory and 40 hours of clinical. Clinical experience must include experience in medication administration;

8. 15 hours of Career Readiness presenting information relating to interviews, completing job application forms,

writing resumes, requesting license endorsement in another state, job seeking, career opportunities, continuing education availability and review for the practical nurse licensure examination;

9. A review of L.R.S Title 37 and LAC 46:XLVII as in A.3 is to be included.

10. Instruction in Acquired Immune Deficiency Syndrome must be included in the curriculum.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:196 (April 1977), amended LR 8:67 (February 1982), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### **Subchapter F. Admissions**

##### **§937. Regular Admissions**

Regular admissions shall:

A. receive a grade placement of at least 10.5 in Mathematics and 11.0 in Reading and Language on an achievement test approved by the board.

B. - G. ...

H. provide certified copy of birth certificate or possess a valid United States passport.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 6:657 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

##### **§939. Advanced Standing**

A. - C. ...

D. At the discretion of the nursing faculty and based upon individual evaluation, a student who has withdrawn from approved or accredited practical nursing program within the previous four years may be granted advanced credit for units previously completed.

E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### **Subchapter G. School Records**

##### **§945. Student Records**

Individual files shall be maintained for each student officially enrolled and shall contain:

A. - H. ...

I. transcript: a board-approved final transcript form must be completed in duplicate for each student upon completion of the program; one copy shall remain at the institution, one shall be submitted to the board office with student application for license;

J. licensure examination results;

K. copy of birth certificate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### **Subchapter H. Board Report and Records**

##### **§953. Periodic Reports**

All programs shall submit periodic reports as requested by the board to include:

A. - B. ...

C. faculty qualification record forms to be obtained from the board office and to be submitted to the board on each newly appointed faculty member. Additional records should be submitted as additional education is achieved; review §901.B.2.;

D. copies of current contracts with each cooperating agency shall be submitted to the board office annually.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

#### **Chapter 11. Program progression**

##### **§1101. Program Changes**

A. Program coordinator shall schedule regular evaluation, revision and improvement of programs and entire faculty shall participate.

B. 1.- 7. ...

8. all policies and procedures listed in §923.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:198 (April 1977), amended LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

##### **§1105. Student and Program Evaluation**

A.1. - 3. ...

4. evaluation and grading systems which shall be realistic and consistent with the objectives of the program. Evaluation of student transcripts submitted to the board for application for licensure by examination or endorsement will be based on a letter grade of "C" or number grade of "80" out of 100 in each and every course. A grade of "Pass" will be acceptable for clinical grades if "Pass" is interpreted as "80" or above out of 100. Program evaluation shall be based upon the standardized achievement test scores, the performance of graduates and results of the practical nursing licensure examination. Programs having been approved by the board for five years or less receiving a 20 percent or higher failure rate on the NCLEX-PN examination shall be placed on provisional accreditation; programs having been approved by the board for six or more years receiving a 20 percent or higher failure rate on the NCLEX-PN may be placed on provisional accreditation; programs having been approved by the board for six or more years receiving a 20 percent or higher failure rate on two consecutive NCLEX-PN examinations shall be placed on provisional accreditation. Programs placed on provisional accreditation shall be required to follow the board rules in §1305.E.

**AUTHORITY NOTE:** Promulgated in accordance with

R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:198 (April 1977), amended LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).  
**Chapter 13. Program Approval and Accreditation**

**§1301. General Information**

A. A practical nursing program which has been established, projected and has progressed within the minimum requirements as set forth in this manual shall be issued accreditation status which shall be reviewed annually.

B. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:198 (April 1977), amended LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**§1303. Board Survey Objectives**

A. - D. ...

E. evaluate each program's attainment of all minimum requirements essential for the continuation of quality education.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Human Resources, Board of Practical Nurse Examiners, LR 3:198 (April 1977), amended LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**§1305. Types of Approval**

A. Initial Approval

1. Initial approval shall be granted to institutions having received board approval for the establishment of a program in practical nursing and shall be limited to two years or until the first class has written the practical nursing licensure examination approved by the board, and results have been received by the board.

2. programs on initial approval shall be surveyed annually.

3. a program on initial approval which does not maintain the minimum requirements of the board, including that of less than 20 percent failure rate on the practical nursing licensure examination shall be subject to closure by the board when the currently enrolled class completes and, until examination results are received, the next class cannot be admitted. At the time the examination results are received, the board will make further determination.

B. Accreditation shall be granted to programs which have successfully completed the initial approval period and have maintained the minimum requirements established by the board. Programs receiving accreditation shall be surveyed at least every five years thereafter.

C. Annual accreditation renewal shall be issued to programs which maintain the minimum requirements established by the board and which meet the board-approved program objectives and which submit the required annual report and certification fee.

D. Certificates of initial approval, accreditation, and accreditation renewal, shall be sent to the designated institutions by the board upon board determination of

compliance with minimum requirements listed herein.

E. Provisional Approval

1. programs having been approved by the board for five years or less but now fail to maintain minimum requirements and/or which receive a 20 percent or higher failure rate on the NCLEX-PN examination shall be placed on provisional accreditation; programs having been approved by the board for six or more years which receive a 20 percent or higher failure rate on the NCLEX-PN may be placed on provisional accreditation; programs having been approved by the board for six or more years receiving a 20 percent or higher failure rate on two consecutive examinations shall be placed on provisional accreditation.

2. - 5. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:355 (November 1979), LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**Chapter 15. Discontinuation of a Program**

**§1503. Involuntary**

A. If the stipulations of provisional accreditation or initial approval have not been met, withdrawal of accreditation or approval shall be considered by the board.

B. If the board's findings warrant withdrawal of accreditation/approval or closure, only those students presently enrolled shall be permitted to complete the program and apply for licensure.

C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969, and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**Chapter 17. Licensure**

**§1701. Qualifications**

A. - C. ...

D. attain a score of 350 or above for those writing the board approved licensure examination for practical nursing prior to October, 1988, or a result of "Pass" for those writing the examination in October, 1988 and beyond.

E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:970.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**§1703. Types of Licensure**

A. - C. ...

D. A licensee who has attained a score of 350 or above on the board approved licensure examination for practical nursing prior to October, 1988, or a result of "Pass" for those writing the examination in October, 1988 and beyond, may be endorsed to Louisiana provided all other requirements are met.

**AUTHORITY NOTE:** Promulgated in accordance with

R.S. 37:969, 37:971 and 37:972.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 10:341 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**§1705. Temporary Permit**

A. ...

1. A temporary permit will be issued to graduates of approved or accredited practical nursing programs in Louisiana pending the results of the first board approved licensure examination taken, providing the application for licensure and the specified fee have been submitted by the applicant and an official transcript has been submitted by the institution from which he/she graduated.

2. - 6. ...

B. A temporary permit may be issued to licensees pending disciplinary action at time of license renewal.

C. The candidate failing to submit the application for the National Council Licensure Examination for Practical Nursing and the application for a practical nurse license in Louisiana by the closing date for the examination will be handled on a case by case basis.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:976.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:65 (March 1979), LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**§1707. Retirement from Practice**

A. A licensee who is retiring from practice shall send a written notice to the board. Upon receipt of this notice the board shall place the name of the licensee upon an inactive list. While on this list, the licensee shall not be subject to the payment of any renewal fees and shall not practice practical nursing in the state. When the licensee desires to resume practice, a renewal license shall be issued to a licensed practical nurse who submits the required fee.

B. Delinquent License.

1. Licensees who have failed to renew licensure and have not requested to be placed on inactive status as required, and are unemployed and wish to renew licensure, will be subject to late renewal fees as listed in §715 of this manual.

2. Licensees whose licenses have been delinquent for one or more years will be subject to pay fees for the delinquent year(s) to update licensure.

3. Licensees who neglect to renew licensure and continue to practice nursing without benefit of licensure will be subject to penalties commensurate with the amount of time employment has continued.

C. Review Courses. Licensees or applicants for endorsement to Louisiana who have been out of practice for four or more years shall be required to successfully complete a refresher course approved by the board. Said course shall have a clinical component of a minimum of 60 hours. Special student permits may be issued by the board to participants in such courses.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969, 37:972-975, 37:977, and 37:978.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**§1713. Verification of Licensure**

A. An employer requesting verification of a practical nurse's license shall submit the request in writing to the board accompanied by the required fee.

B. A licensee requesting verification of lost/stolen/never received license shall obtain a "verification of renewal" form from the board office, submit the completed form and a certified copy of his/her birth certificate accompanied by the appropriate fee. Upon receipt of the above a verification of license shall be issued.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18: (October 1992).

**§1715. Fees to be Submitted to the Boards**

A. Fees

1. Examination fee	\$ 30
2. Original Licensure	\$ 20
3. Renewal of Licensure	\$ 20
4. Endorsement from another state	\$ 34
5. Endorsement to another state	\$ 4
6. Late Renewal	\$ 10
7. Verification of Licensure	\$ 2
8. Student Evaluations	\$ 2
9. Reinstatement of License	\$ 20
10. Survey fee	\$ 50
11. Renewal of Certificate of Accreditation	\$ 30

B. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969 and 37:977.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:(October 1992).

Terry L. De Marcay, R.N.  
Executive Director

**RULE**

**Department of Health and Hospitals  
Office of Public Health**

Neonatal Screening

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Neonatal Screening Law, R.S. 40:1299 et seq., the Genetics Program of the Office of Public Health has amended the following rules and regulations.



**Title 48**  
**PUBLIC HEALTH - GENERAL**  
**Part V. Public Health Services**  
**Subpart 19. Genetic Diseases Service**

**Chapter 63. Neonatal Screening**

**§6303. Purpose, Scope, Methodology**

**A. Purpose and Scope**

R.S. 40:1299 et seq. requires physicians to test Louisiana neonates for phenylketonuria, congenital hypothyroidism and sickle cell disease. OPH maintains a laboratory for screening tests for hyperphenylalaninemia manifest in phenylketonuria (PKU), for Thyroxine (T<sub>4</sub>) and thyroid stimulating hormone (TSH) used in congenital hypothyroidism detection, and hemoglobin electrophoresis for sickle cell disease. Definitive diagnostic tests are provided if the screening test is positive. Act No. 0729, 1991 added screening for galactosemia, but this test cannot yet be offered by the Office of Public Health.

**B. Methodology**

1. Filter Paper Specimen Form (Lab-10). The filter paper form used in blood specimen collection for neonatal screening, the Lab-10 form, can be obtained at OPH parish health units. There are two different types of Lab-10 forms which are color coded.

a. For patients covered by Medicaid, including those in the Kid-Med Program, blue border Lab-10 forms are used. There is no charge to private providers for these blue border forms. The patient's Medicaid number (or mother's number, if the patient has not been issued one) must be indicated on the form.

b. For private and non-Medicaid patients, red border Lab-10 forms are used. These red border Lab-10 forms are \$12 each.

2. Private providers should order a mix of red and blue Lab-10 forms from their local parish health unit (or OPH Regional Office for certain areas) to match the Medicaid/non-Medicaid composition of newborns to be screened at their facility. The Lab-10 forms must be completely filled out.

**C. Policy for Predischarge and Repeat Screening**

1. All hospitals that have maternity units shall institute and maintain a policy of screening all neonates before discharge regardless of their length of stay in the hospital. Newborns remaining in the hospital for an extended period should be screened initially no later than seven days after birth. Neonatal screening results on specimens collected from babies younger than 48 hours of age may not be valid because of a large percentage of false negative results particularly at 24 hours or less (16 percent)<sup>1</sup>. These newborns must be re-screened at the first medical visit, preferably between one and two weeks of age, but no later than the third week of life. Selection of 48 hours, though somewhat inconsistent with the American Academy of Pediatrics (AAP) Guidelines for Perinatal Care, 2nd Edition, was recommended by our Genetics Advisory Committee and the pediatric endocrinology consultants.

2. The repeat screening of a newborn who was initially screened before 48 hours is the responsibility of the submitter. This responsibility may be delegated to the primary pediatrician, as long as they are notified of the results by the initial submitter in a timely manner. To assure that neonates who need re-screening (due to unsatisfactory

specimens or age at collection) actually receive the repeat test, hospitals with maternity units must establish a system for prompt forwarding of result data to the physician of the newborn.

**D. Notification of Screening Results**

1. Providers are notified immediately of positive screens by telephone. Otherwise, submitters should receive the result slip from the State Central Lab within two to three weeks. Submitters can speed up the turn-around time by using overnight mail. Submitters may call the Central Lab for results 10 days after submission. The telephone number for the central Lab is (504) 568-8990.

**E. Unsatisfactory Specimens**

The accuracy of a test depends on proper collection of the blood spot. Specimens of unsatisfactory quality for testing will be indicated on the result slip. Submitters must make arrangements for re-screening immediately. Training on collecting adequate specimens can be arranged by calling the Genetics Nurse Consultant at (504) 568-5070.

**F. Medical/Nutritional Management**

1. For a patient with PKU or other rare inborn errors of metabolism to receive the special formulas for the treatment of these disorders from the Genetics Program, the following must be provided:

- a. receive a medical evaluation at least once annually at Tulane Human Genetics Program Clinic;
- b. submit blood samples as requested by the medical specialist under contract with the program;
- c. include dietary records with the submission of each blood specimen;
- d. sign and submit all insurance forms relative to charges for special formula;
- e. inform the program office immediately of any changes in insurance coverage;
- f. if a patient fails to comply with these requirements, he/she will not be able to receive formula.

**Reference<sup>1</sup>**

American Academy of Pediatrics, Committee on Genetics: New Issues in Newborn Screening for Phenylketonuria and Congenital Hypothyroidism. *Pediatrics* 1982; 60:104-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18: (October 1992).

J. Christopher Pilley  
Secretary

*(Editor's Note: The September 20, 1992 Louisiana Register, page 962, incorrectly indicated a rule from the Department of Health and Hospitals as promulgated by the Board of Nursing. The correct office promulgating this rule is Office of the Secretary.)*

**RULE**

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

**Controlled Dangerous Substances  
(LAC 48:I.Chapter 39)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, hereby adopts LAC 48:I.Chapter 39.

In accordance with the regulations and licensing authority contained in Louisiana Revised Statutes, Title 40, §§961 - 1036, and Title 46, §51; LAC 48:I.Chapter 39, Controlled Dangerous Substances are being adopted. These regulations concern the licensing and certification of parties authorized to engage in the manufacture, distribution, or dispensing of controlled dangerous substances.

The full text of these final rules may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA (504)342-5015. Please refer to Log 9209#074 when requesting a copy of this rule.

J. Christopher Pilley  
Secretary

**RULE**

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

**FQHC Reimbursement**

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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall reimburse for "core" services and other ambulatory services covered under Medicaid and delivered by federally-qualified health centers as required by Section 6404 of the Omnibus Reconciliation Act of 1989 in accordance with state policy and procedures. Reimbursement for these services shall be based on allowable costs in accordance with Medicare principles of cost reimbursement found at 42 CFR 413. Annual cost reporting and full cost settlement shall be required to participate in Title XIX as a federally-qualified health center.

J. Christopher Pilley  
Secretary

**RULE**

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

**Removal of Free-standing  
Psychiatric Facilities**

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.

The Department of Health and Hospitals, Bureau of Health Services Financing, will no longer regulate the number of free-standing psychiatric beds approved for Title XIX reimbursement. Therefore, the policies and procedures for Facility Need Review have been revised to remove all reference to free-standing psychiatric beds under scope of coverage of the Facility Need Review Process.

J. Christopher Pilley  
Secretary

**RULE**

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

**Reimbursement for Inpatient Hospital  
Services to Infants Under One Year**

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.

Effective for services provided on or after July 1, 1991, the Bureau of Health Services Financing shall revise Medicaid reimbursement for inpatient hospital services to provide for carve-out of inpatient services to infants under one year of age (or through discharge if an inpatient on their first birthday). Reasonable costs in accordance with Medicare (Title XVIII) principles of reimbursement and methods of cost apportionment, which are related to inpatient hospital services to infants under one year of age, shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change or effective date by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley  
Secretary

**RULE**

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

**Food Stamp Fraud and Recovery**

The Department of Social Services, Office of Family Support, has amended LAC 67:III.19105. This rule is mandated by Public Law 101-624 §1746, Public Law 102-237 §911, and Public Law 97-253, Title I, Subtitle E, §177.

**Title 67**

**DEPARTMENT OF SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 3. Food Stamps**

**Chapter 19. Certification of Eligible Households**

**Subchapter P. Recovery of Overpayments and Disqualification Penalties**

**§19105. Recovery of Overpayments and Disqualification Penalties**

\* \* \*

D. Provisions relative to the recovery of recipient overissuance will also be implemented. First, the agency may collect any type of overissuance by using means other than allotment reduction or cash repayment. Second, the household of a disqualified individual is allowed 10 days to choose between cash repayment or a reduced allotment before the agency takes action to reduce the household's allotment. Likewise, the household responsible for any inadvertent overissuance will be allowed 10 days to choose between cash repayment or a reduced allotment before the agency takes action to reduce the household's allotment. Third, the agency will not retain any portion of recovered overissuances which resulted from agency error.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273.16, 276 and 277.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18: (October 1992).

Gloria Bryant-Banks  
Secretary

**RULE**

**Department of Social Services  
Office of the Secretary**

The Department of Social Services, Office of the Secretary adopts the following rule in the Child Care Assistance Program effective October 20, 1992.

The Department of Social Services is administering this program pursuant to § 5082 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, and 45 CFR Parts 98 and 99.

**Title 67**

**DEPARTMENT OF SOCIAL SERVICES  
Part I: Office of the Secretary**

**Chapter I. Child Care Assistance Program**

**§101. Eligibility Requirements**

**A. Child Care and Development Block Grant**

1. Household income does not exceed 75 percent of the state median income for a household of the same size.

a. Income is defined as gross earnings from all sources of employment. Earnings must be verified, using a minimum of three check stubs from the most recent three pay periods, or a written statement from the employer.

b. Medical expenses are deducted from the household's total earned income to determine income eligibility if they are:

- i. verified by the applicant;
- ii. regular and incurred at least once each month;
- iii. non-reimbursable by insurance or other sources;
- iv. not covered by Medicaid;
- v. \$35 or more each month.

Verification can consist of receipts from a drugstore or a doctor's office, etc., but must be sufficient to satisfy the criteria listed above. Deductions shown on check stubs for hospitalization, dental insurance, or Medicare premiums are to be deducted as medical expenses;

c. a household is defined as a group of persons who share income and living expenses, with one or more adults acting as parents to the dependent children. The household must reside in Louisiana to be eligible for Child Care Assistance. Homelessness does not preclude being considered a "household";

2. the family includes a child currently in need of child care services who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or under court supervision. If the child is not already placed with a child care provider, current need is defined as child care that is scheduled to begin within:

- a. three weeks of the application date, or
- b. two weeks of receipt of the Child Care Certificate in the regional office;

3. the child resides full-time with a parent(s) or guardian(s) who is applying for child care services;

4. the parent(s) or guardian(s), regardless of age, as well as all household members 18 years of age and older, is:

a. employed at least 20 hours per week and earning gross wages equivalent to the federal minimum wage multiplied times 20 hours per week, or

b. attending a job training or educational program at least 20 hours per week, or

c. some combination of employment and training that equals at least 20 hours per week, or the child is in need of or receiving protective services, in which case the parent(s) or guardian(s) and all adult members of the household are not required to be employed or attending a job training or educational program. (Attendance at a job training or educational program must be verified, including the date of completion; protective services status must be verified by the Office of Community Services);

5. the child for whom application is being made is not eligible for or receiving child care benefits through the Aid to Families with Dependent Children (AFDC) program (including AFDC Child Care Assistance, Project Independence

Child Care, Transitional Child Care, etc.);

6. the family requests child care services, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state.

B. Title IV-A At-Risk Child Care

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18: (October 1992).

Gloria Bryant-Banks  
Secretary

**RULE**

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby adopt the amended rules and regulations governing game breeders.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§107. Game Breeder's License**

A. This commission regulation established general requirements, minimum pen specifications and animals that will be permitted under the game breeder's license to read as follows.

B. Minimum pen specifications and requirements for game quadrupeds and birds. The pen dimensions and specifications described herein are minimum requirements for permanent exhibit and commercial facilities. It must be emphasized that these are minimum standards and the optimum conditions for most animals would include dimensions several times greater than those cited. Game breeders should also recognize and provide for any unique requirements of the species they possess. In addition to the following pen specifications, all pens must have adequate sanitation as well as appropriate feeding and watering facilities.

1. Waterfowl (ducks, geese, swans and coots endemic to North America)

a. ducks and coots:

i. exhibit purposes: 100 square feet with 25 percent in water area for up to four birds; increase pen size by 25 square feet for each additional bird with one fourth of this increase being in water area.

ii. commercial operation: up to six weeks old; 1 square foot per duck; over six weeks old; 3 square feet per duck.

b. geese: 150 square feet per goose.

2. Doves (order columbiformes endemic to North America except rock dove i.e., domestic pigeon)

a. single bird: 3 feet x 2 feet x 5 feet high. Community Group: large enough to fly or at least 8 feet in diameter.

3. Game Birds (ringneck pheasant, chukar, and vari-

ous quail, grouse and partridge endemic to North America)

a. exhibit purposes: 20 square feet; per bird.

b. commercial operation:

i. quail: 1-10 days old: 9 chicks per square foot; 10 days - 6 weeks old: 6 chicks per square foot; 6 weeks and older: 3 birds per square foot; 1 breeding pair per square foot.

NOTE: If only pharaoh quail are to be kept then the game breeder's license is not required.

ii. pheasants and chukar, grouse and partridge: 1-10 days old: 6 chicks per square foot; 10 days 6 weeks old: 4 chicks per square foot; 6-14 weeks old: 1 bird per 4 square feet; 1 breeding pair per 8 square feet.

4. \*Wild Turkeys (License will not be issued). It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

5. Hawk, Falcons. Refer to federal raptor facilities specifications

6. Squirrels (gray, fox, red, flying and others endemic to North America)

a. single animal: 3 feet long x 3 feet wide x 4 feet high;

b. additional animals: add 6 inches more in length per additional animal; several limbs, nest box;

c. due to the inherent tendency of these animals to bite people, it is further required that applicants provide a certificate of good health from a license veterinarian stating that the squirrels do not show symptoms of rabies.

7. Rabbits (cottontail, swamp and wild hares endemic to North America)

a. single animal: 6 feet long x 3 feet wide x 3 feet high; gnawing logs; den or retreat.

b. additional animals: add 1 foot in length per animal.

8. Whitetail Deer or Other North American Deer

a. no license will be issued in metropolitan or urban areas. A rural environment is required to keep these animals. Qualified zoos, educational institutions and scientific organizations will be exempted on a case by case basis.

b. single animal: 5000 square feet paddock or corral (for example: 50 feet wide x 100 feet long); increase corral size by 2500 square feet for each additional animal; shelter required. Pen site must be well drained so as to prevent extended periods of standing water.

c. materials: chain link or other satisfactory woven wire, 12 gauge minimum, 8 feet high minimum. Welded wire is not acceptable.

9. \*Elk (license will not be issued)

a. single animal: 5000 square feet paddock or corral; increase corral size by 50 percent for each additional animal; barn, shaded or protected area attached to or adjoining corral fence, 9 gauge chain link or woven wire; 8 feet high. Welded wire is not acceptable.

NOTE: Regulation of elk is under jurisdiction of the Louisiana Department of Agriculture and Forestry by Act 41 of the 1992 Legislative Session.

10. \*Bear (license will not be issued)

a. single animal: Sturdy pen (chain link wire) not less than 9 gauge with top cover 25 feet long x 12 feet wide x 10 feet high;

b. pair: 30 feet x 15 feet x 10 feet high;

c. pool: 6 feet x 4 feet x 18 inches deep, with facili-

ties for spraying or wetting bears;

d. den: 6 feet long x 4 feet wide x 4 feet high, per animal.

11. \*Wolves and Wolf Crosses (license will not be issued)

Single animal: 15 feet long x 8 feet wide x 6 feet high; double cage area for each additional animal; secluded den area required, 4 feet x 4 feet for each animal, sturdy wire required.

12. \*Cougar, Mountain Lion (License will not be issued)

a. single animal: 10 feet long x 8 feet wide x 8 feet high, covered roof;

b. pair: 15 feet long x 8 feet wide x 8 feet high;

c. materials: not less than 9 gauge chain link or equivalent and safety perimeter rail, danger sign, claw log; 24-inch wide shelf, 8 feet long, 40 inches off floor.

\*NOTE: Valid game breeder's license holders for these species legally possessed prior to October 1, 1988, will be "grandfathered" and renewed annually until existing captive animals expire, or are legally transferred out of state or to a suitable public facility. No additional animals may be required. This position by the department is necessary due to the ability of these animals to cause serious physical injury to the owner or other innocent bystanders and/or their potential to transmit disease to wildlife or livestock. Qualified educational institutions, municipal zoos or scientific organizations will be exempted to this provision on a case-by-case basis.

13. Other Game Quadrupeds and Birds. Other game quadrupeds and birds endemic to North America may not be kept without approval of the Wildlife Division. Pen specifications for animals not listed will be developed by the Wildlife Division as needed.

#### C. General Requirements

##### 1. General Rules

a. game quadrupeds and birds cannot be taken from the wild, nor can domesticated game quadrupeds or birds be released into the wild except as provided on licensed hunting preserves, and as provided by valid bird dog training permit, field trial permit or federal falconry permit.

b. game breeders can only keep those classes of animals for which they have been approved. If an applicant desires to keep additional classes of animals, the facilities for those animals must be approved prior to obtaining the new animals.

##### 2. Application Requirements

a. a game breeders license must be issued before any game quadrupeds (deer, rabbits, squirrels, etc.) are obtained. In the case of game birds, waterfowl, or doves a buyer has 30 days after acquisition of the first bird to either apply for a license or slaughter all the birds. In either case, the buyer must possess a valid bill of sale containing the seller's permit number, date of sale, and number of birds sold. The buyer cannot resell live birds until a game breeders license is obtained. If the application for a game breeders license is denied, the applicant must dispose of any birds in possession as instructed by the department.

b. an applicant or licensee must comply with pen specifications. Applicants for waterfowl, doves, game birds, squirrels and rabbits must submit a form verifying their facilities meet or exceed the described pen specifications. Their facilities may require inspection at the biologist's discretion. All pens built for raising deer, birds of prey and potentially

dangerous animals are required to be inspected prior to issuance of a license.

c. all applicants for a game breeder's license for deer and potentially dangerous animals must submit:

i. a signed waiver statement holding the Department of Wildlife and Fisheries and its employees harmless for liability as a result of issuing a game breeder's license. Licenses will only be issued to those applicants who are willing to accept full responsibility and liability for any damages or injuries resulting from their animals or activities as a licensed game breeder of domesticated wildlife in Louisiana;

ii. a written plan of action for the recapture of an escaped animal must be submitted and approved by the department before the application is processed. The plan of action should include:

(a). equipment;

(b). personnel;

(c). recovery techniques; and

(d). method of mitigation payments for damages caused by the escaped animal.

d. this information is necessary because the Department of Wildlife and Fisheries will not provide these services.

##### 3. Records and Inspections

a. all applicants and licensees are required to have a bill of sale for each animal acquired. Except for sales of game birds, waterfowl, or doves of ten or fewer birds per buyer, per 24 hour period, license holders must keep records of all animals sold or transferred including names and addresses of persons to whom they were sold or transferred. An annual report detailing animals in possession and all transactions must be submitted annually with license renewal application.

b. license holders must allow inspections of premises by Department of Wildlife and Fisheries employees for purposes of enforcing these regulations. Inspections may be unannounced and may include but are not limited to, pens, stalls, holding facilities, records, and examination of animals as necessary to determine health and/or identification of species.

4. Hunting. Hunting or killing of confined deer or other big game animals held under a game breeder's license by individuals other than the licensee must conform to all hunting regulations including season and hunting license requirements for the area in which the animals are confined. A game breeder licensee may at any time, during daylight hours, kill a confined deer or other big game animal at the licensee's own facility.

5. Administrative Fees. An inspection fee of \$50 will be assessed when a pen is inspected as part of the application process as required for birds of prey, deer and potentially dangerous animals. A license renewal processing fee of \$5 will be assessed annually. These fees are in addition to the \$25 required for the game breeder's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.171.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), amended LR 18: (October 1992).

James H. Jenkins, Jr.  
Chairman

## RULE

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

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission does hereby adopt a rule governing hunting preserves.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part V. Wild Quadrupeds and Wild Birds

#### Chapter 3. Wild Birds

#### §305. Hunting Preserve Regulations

As provided by R.S. 56:651, the department may issue a license to operate hunting preserves. Hunting preserves are to be operated under the following regulations.

##### A. Application Requirements

1. Application shall be made in writing on forms provided by the department.

2. Applicant must provide proof of ownership or verification of exclusive hunting rights from the landowner upon the property the hunting preserve is to be operated. This is to be returned with the application.

3. The department may revoke/deny any hunting preserve license for failure to comply with any fish or wildlife laws; for reasons relating to disease or public health or for failure to abide by the rules and regulations established for this hunting preserve program. Revocation/denial shall be for a minimum of one entire hunting preserve season.

##### B. Suitability of Area for Use as a Hunting Preserve

1. No license for a hunting preserve shall be issued until an on-site investigation has been completed by the department and the department has determined that the property is suitable for the purpose of the proposed hunting preserve. The department shall base its determination on whether or not the proposed shooting area will cause conflicts with wild migratory game bird hunting, or be in violation of state and federal regulations concerning the feeding of migratory waterfowl or the use of live decoys, that the establishment of the shooting area will be in the public interest, and that the operation of a hunting preserve at the location specified in the application will not have a detrimental effect upon wild migratory or resident game birds.

2. No license shall be issued for any hunting preserve situated on a marsh, lake, river or any other place where there are concentrations of wild waterfowl or if its operations are likely to result in attracting such concentrations of wild waterfowl.

3. No hunting preserve using mallards shall be located within five miles of any wildlife area with significant waterfowl concentrations owned or leased by the state or federal government or by non-profit conservation organizations.

4. Licenses for hunting preserves using mallards will not be issued in the coastal zone, defined as that area south of I-10 from the Texas state line to Baton Rouge, south of I-12 from Baton Rouge to Slidell and south of I-10 from Slidell to the Mississippi state line.

5. No license shall be issued for the use of pheasants on any hunting preserve situated within areas with medium to high turkey populations. In areas with low turkey populations and low potential for expansion pheasants may be used. This determination will be made at the local level by a department biologist in consultation with the turkey study leader. Agricultural areas contiguous to occupied turkey habi-

tat may use pheasants if the preserve boundaries are at least 1/2 mile from the nearest woodland.

##### C. Types of Releases Allowed

1. The use of mallards on hunting preserves is limited to those operations whereby domestic mallards are released in a controlled fashion to proceed over positioned shooters in their flight path. No direct releases of any species of domesticated waterfowl into the wild for any sporting purposes or for any reasons are permitted within the state.

2. Quail may be released after September 1 on hunting preserves for the purpose of providing coveys for hunting. Pheasants and chukars may not be released on hunting preserves more than one day prior to a scheduled hunt. No direct releases of domesticated game birds, including but not limited to quail, pheasants and chukars, into the wild for purpose of population establishment are permitted within the state.

##### D. Inspection of Permitted Areas and Domesticated Game Birds

1. Applicant must provide proof that the birds to be released originated from a source flock participating in the National Poultry Improvement Plan (NPIP) within 365 days prior to release and have not been in contact with birds from non-NPIP sources.

2. The premises of game bird production facilities and/or holding pens may be inspected by the department or by a designated agent for assessment of health of birds and sanitation of facilities. General pen requirements must conform to those adopted by the Louisiana Wildlife and Fisheries Commission for game breeders.

3. Accurate records of animal husbandry and mortality must be maintained at production/holding facilities and will be subject to periodic inspection by the department.

4. Every person who brings or causes to be brought into this state live domestically reared game birds for shooting purposes must comply with Livestock Sanitary Board regulations on livestock, poultry, and wild animals (R.S. 7:11705, 11767 and 11789). A copy of the health certificate must also be forwarded to the Department of Wildlife and Fisheries within 10 days for each shipment of birds. Any shipment of birds not accompanied by a health certificate shall be destroyed or returned to the place of origin by the importer at his sole cost and responsibility.

##### E. Hunting Licenses Requirements

1. A basic hunting license or hunting preserve license is required of all persons hunting on hunting preserves. In addition, a state duck stamp is required as provided by law of all persons taking mallards on any hunting preserves.

##### F. Season Dates

1. The season during which shooting will be permitted shall be set by the Louisiana Wildlife and Fisheries Commission. The current season is fixed for the period of October 1 through April 30.

##### G. Shooting Hours

1. Shooting hours for hunting preserves shall be set by the Louisiana Wildlife and Fisheries Commission. The current hours are one-half hour before sunrise to sunset.

##### H. Methods of Take

1. shotguns 10 gauge or smaller capable of holding no more than three shells in the magazine and chamber combined; steel shot only may be specified on hunting preserves using waterfowl;

2. muzzle-loading shotguns;

3. falconry;  
 4. archery equipment.  
 I. Existing state laws R.S. 56:651-659 and federal law 50 CFR 21:13 address bird banding, bird identification, bird transportation, reports and records and other issues. Compliance with these state and federal laws are mandatory.

J. Changes in Rules. The Louisiana Wildlife and Fisheries Commission, Louisiana Department of Agriculture, and the U.S. Fish and Wildlife Service may from time to time make changes in these rules and it is the responsibility of the licensee to apprise himself of any changes and to abide by them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:651-659.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18: (October 1992).

James H. Jenkins, Jr.  
 Chairman

# Cumulative Administrative Code Update

## CUMULATIVE ADMINISTRATIVE CODE UPDATE January, 1992 through September, 1992

Vol.	Title:Part.Section	Effect	Location LR 18 Month	Page
1	<b>LAC 10</b>			
	I.113,115	Adopted	Feb	144
	I.Chapter 27	Adopted	Jan	24
	V.Chapter 1	Amended	Apr	392
	VII.301	Amended	Jan	26
	<b>LAC 35</b>			
	I.1733	Amended	Apr	367
	I.1737	Amended	Apr	369
	I.1775	Amended	Apr	368
	III.5702	Amended	Apr	366
	III.2101	Amended	Apr	367
	V.6319	Amended	Apr	367
	V.6329	Amended	Apr	368
	VII.8903	Amended	Apr	369
	XIII.11115	Amended	Apr	366
	XV.12357	Amended	Apr	366
2	<b>LAC 7</b>			
	I.105	Adopted	Feb	144

	XIII.8763	Amended	Sep	954
	XV.Chapter 95	Amended	Jul	700
	XXIII.Chapter 131	Adopted	Mar	247
	XXIX.15107-15113	Amended	Mar	249
	XXI.Chapter 117	Amended	Aug 835-	840
	XXIII.Chapter 131	Amended	Sep	953
	XXXIX.Chapter 209	Adopted	Jun	597
3	<b>LAC 46</b>			
	I.501	Amended	Jun	599
	I.511	Adopted	Jun	599
	I.1117	Amended	Mar	250
	XXXIII.104	Adopted	Jul	740
	XXXIII.Chapter 3	Amended	Jul	738
	XXXIII.415,419	Amended	Jul	741
	XXXIII.706,707	Adopted	Jul	737
	XXXIII.Chapter 12	Adopted	Jul	741
	XXXIII.Chapter 12	Repromulgated	Aug	843
	XLV.Chapter 69	Adopted	Jul	744
	XLV.Chapter 69	Repromulgated	Aug	843
	XLIX.Chapter 1-15	Repeal/Repromul	Feb	181
	XLIX.1701	Repromulgated	May	507
	LIII.729-751	Amended	Mar	273
	LIII.753,755	Repealed	Mar	274
	LIV.115,501	Amended	Sep	962
	LV.307,308	Amended	Jan	30
	LIX.Chapters 1-9	Amended	Feb	189
	LX.Chapters 5,9,13	Amended	Jan	51
	LX.Chapters 7,8	Amended	Mar	269
	LXVII.Chapter 34	Adopted	Jan	24
	LXVII.Chapter 103	Amended	Jun	600
	LXVII.Chapter 105	Adopted	Feb	144
	LXVII.10307	Amended	Jun	599
	LXXXV.501	Amended	Apr	380
	LXXXVI.Chapters 1-7	Adopted	Apr	381
4	<b>LAC 4</b>			
	VII.937	Amended	Mar	269
	VII.1141,1143	Amended	Jun	610
	VII.1199,1201	Amended	Jun	611
	VII.1229	Amended	Mar	267
	VII.1235	Adopted	Jul	735
	VII.1273	Adopted	Mar	265
	IX.503	Amended	Jun	610
	IX.2001	Adopted	Jun	610
5	<b>LAC 76</b>			
	I.301	Amended	May	508
	I.315	Amended	Mar	290
	I.317	Amended	Aug	877
	I.321	Adopted	Jan	82
	III.107	Adopted	Mar	290
	VII.125	Amended	Mar	294
	VII.	Amended	Sep	978
	VII.163	Adopted	Mar	294
	VII.201	Adopted	Jan	81
	VII.201,203	Repromulgated	Feb	198
	VII.203	Adopted	Jan	82
	VII.341	Adopted	Feb	199
	VII.345	Adopted	Feb	199
6	<b>LAC 22</b>			
	I.103	Amended	Jan	77
	IX.Chapters 1,2	Repromulgated	Feb	164
	IX.Chapters 1-4	Adopted	Jan	44
	IX.Chapters 2,4	Amended	Sep	960
	<b>LAC 55</b>			

	I.1773-1787	Amended	Mar	283
	I.Chapter 23	Adopted	Mar	283
	I.Chapter 24	Adopted	Feb	196
	IX.Chapter 12	Adopted	Aug	866
7	<b>LAC 37</b>			
	III.507,509	Amended	Jul	737
	<b>LAC 40</b>			
	I.Chapter 7	Repromulgated	Feb	148
	I.2715	Repromulgated	Mar	257
	III.Chapters 1-17	Adopted	Feb	167
	IV.333	Amended	Apr	372
	IV.309	Adopted	Apr	372
	XIII.121,133	Amended	Apr	372
	XIII.121	Repromulgated	May	493
8	<b>LAC 48</b>			
	I.Chapter 39	Adopted	Sep	962
	I.Chapter 53	Amended	Sep	970
	I.Chapter 91	Adopted	Jan	57
9	<b>LAC 48</b>			
	I.Chapter 135	Adopted	Feb	182
	I.15101	Adopted	Jan	54
	I.15103	Adopted	Feb	181
	I.Chapter 161	Adopted	Feb	185
	VII.703,712	Amended	Aug	845
10	<b>LAC 61</b>			
	II.101	Adopted	Mar	287
	V.909	Amended	Feb	197
11	<b>LAC 33</b>			
	III.Chapter 15	Amended	Apr	374
	III.3155	Adopted	Feb	150
	III.3337	Adopted	Mar	262
	III.3337	Repromulgated	Apr	376
	III.3525	Adopted	Apr	377
	III.3795	Adopted	Apr	380
	III.3805	Adopted	May	496
	III.3815	Adopted	Jun	610
	III.4841	Repromulgated	Apr	376
	III.4865	Adopted	May	493
	III.4881	Adopted	Feb	158
	III.4885	Amended	Jan	31
	III.4887	Amended	Jan	31
	III.4891	Adopted	Feb	150
12	<b>LAC 33</b>			
	III.6081	Adopted	Jul	707
	III.6088	Adopted	Mar	258
	III.6523	Repromulgated	Jan	31
	III.Chapter 65	Amended	Jul	706
13	<b>LAC 33</b>			
	V.10305	Repromulgated	Jan	78
	V.Chapters 1-49	Amended	Jul	723
	V.Chapter 51	Amended	Jul	723
	V.10305	Amended	Jul	746
	V.Chapter 301	Amended	Aug	861
14SW	<b>LAC 33</b>			
	VII.Chapters 103,105	Adopted	Jan	34
	VII.Chapter 104	Adopted	Aug	840
	VII.Chapter 104	Repromulgated	Sep	960
	VII.10307	Amended	Feb	164
	VII.1107	Amended	Jul	725
14WQ	<b>LAC 33</b>			
	IX.Chapter 13	Amended	Jul	730
	XIII.Chapter 13	Amended	Jul	729
14UT	<b>LAC 33</b>			

	XI.103,307	Amended	Jul	726
	XI.Chapters 1-11	Amended	Jul	727
15	<b>LAC 33</b>			
	XV.Chapters 1,3,7,20	Amended	Jan	34
	XV.Chapter 14	Repeal/Repromul	Jun	604
	XV.Chapter 25	Adopted	Jul	718
	XV.Chapter 25	Repromulgated	Sep	955
16	<b>LAC 70</b>			
	III.Chapter 9	Adopted	Sep	973
	IX.Chapter 7	Adopted	Jul	761
	XV.Chapter 1	Adopted	Jul	749
	<b>LAC 73</b>			
	I.309,561	Amended	May	508
17	<b>LAC 43</b>			
	I.Chapter 8	Adopted	Mar	281
	I.1515	Amended	Apr	391
	V.101,103	Amended	Jan	70
	XI.Chapter 1	Amended	Jan	64
	XI.Chapter 25	Adopted	Jan	60
	XII.101	Amended	Aug	852
	XII.Chapters 1-27	Amended	Aug	852
18	<b>LAC 28</b>			
	I.313	Adopted	Jun	602
	I.931,933	Amended	Sep	954
	I.1523	Amended	Jan	29
	I.1523	Amended	Jan	30
	I.1525	Adopted	Jun	602

# Notices of Intent

## NOTICE OF INTENT

Department of Economic Development  
Office of Financial Institutions

### Lending Limit Exceptions

Under the Authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the commissioner gives notice that rule making procedures have been initiated to implement the provisions of Act 1129 of 1992 to provide for the Acquisition of Loan Pools and Loan Participations, in accordance with R.S. 6:415(A)(6).

### Title 10

### BANKS AND SAVINGS AND LOANS

#### Part I: Banks

#### Chapter 5. Powers of Banks

#### Subchapter D. Legal Lending Limit Exception - Acquisition of Loan Pools



### §551. Authority and Purpose

This rule provides an exception to a state bank's legal lending limit based on the treatment of a loan pool acquisition under R.S. 6:415(A) (6).

**AUTHORITY NOTE:** Promulgated in accordance with Act 1129 of 1992.

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

### §553. Definitions

**Creditworthy**—meeting established standards which are positive assessments of a borrower's ability to repay debt.

**Executive Officer**—an officer of the bank selected by the board of directors at the level of vice president or above possessing sufficient technical knowledge of and experience in the lending and collection functions of the bank.

**Legal Lending Limit**—the level of both direct and indirect extensions of credit that a bank may have outstanding at one time to any one individual borrower as established under R.S. 6:415.

**Loan Pool**—a group of individual loans that are packaged by the present owner for sale to another party.

**Originating Officer**—officer of the bank who initiates and/or is involved in negotiation for the bank's consideration of the purchase of a pool of loans.

**Qualified Third Party**—a person contracted by the bank who has prior experience in and technical knowledge of the lending and collection functions of a bank and/or sufficient prior experience in credit analysis.

**Recourse**—the added protection that if a certain event or chain of events occurs, the seller will buy back or reimburse purchaser for loss sustained on those assets previously sold. May include a guaranty and/or reserve placed with bank by the seller.

**Representative Portion**—a sampling of loans included in the pool sufficient in dollar volume and/or number to reasonably assure the bank that the total package complies with all of the bank's internal underwriting guidelines.

**AUTHORITY NOTE:** Promulgated in accordance with Act 1129 of 1992.

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

### §555. Review of Representative Portion

A. Designation of Person - The board of directors shall adopt a resolution in writing designating an executive officer of the bank or qualified third party to conduct a review of a representative portion of the pool of loans to determine that the individual borrowers appear credit worthy. If the board designates an officer of the bank to conduct the review, the person designated shall be someone other than the originating officer.

B. Documentation of Sample - The person designated by the board shall document the method by which the bank selected a representative portion of loans from the pool for review. The board shall document both its review of the method chosen and its reasons for acceptance of the method of selection.

C. Board Discussion of Initial Review - Prior to purchase, the board should discuss all aspects of the purchase, including the initial review of sampling of loans within the pool, agreements to be entered into between the

bank and the seller, and any additional information that is necessary for the board to make a fully informed decision. This discussion shall be fully noted within the board minutes.

D. Loan Review - On each loan selected for review, the following information should be documented.

1. date of review;
2. borrower's name;
3. original loan amount;
4. present balance of the loan;
5. purpose of the loan;
6. description of collateral pledged, if applicable;
7. collateral value and how obtained;
8. holder of any prior liens and the balance of same, if applicable;
9. payment history of the loan, if applicable;
10. credit history of borrower;
11. any documentation exceptions;
12. any other information deemed necessary for the proper analysis of the credit.

Documentation exceptions noted during the review process shall be corrected prior to the purchase. The bank shall conduct its review of the individual loans for compliance with its own underwriting standards established within its loan policy and state its reasons for acceptance of those loans which do not meet these standards.

E. Compliance with Applicable Laws - The bank shall be responsible for reviewing appraisals to determine their compliance with State and Federal Statutes addressing appraisal standards for loans which are above a certain level established within these statutes and are secured by real estate. The bank shall maintain a copy of all such appraisals which document its review for compliance. On those applicable loans for which the appraisal does not meet the established standards, the bank shall take all steps necessary to bring it into compliance. In addition, the bank shall also be responsible for taking reasonable steps to ensure that all other applicable laws and regulations are being followed.

F. Agreements Between Seller and Bank - Any agreements to be entered into between the bank and the seller of the pool shall be reviewed by the bank's legal counsel to ensure that no unreasonable restrictions or undue risk is placed upon the bank. The agreement shall address the seller's liability for reimbursement to the bank in the event that records evidencing the bank's ownership rights are lost or misplaced.

G. Safekeeping of Records - Once the decision to purchase the loan pool is made, the bank shall take all steps necessary to ensure that notes for individual loans contained in the pool are properly identified as sold to the bank.

H. Retention of Initial Review - If the board approves and the bank purchases the pool, it shall maintain the initial review of the selected representative portion of the pool for inspection at subsequent regulatory examinations.

**AUTHORITY NOTE:** Promulgated in accordance with Act 1129 of 1992.

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

### §557. Pool Treated as Individual Loans for Lending Limit Purposes

A. For treatment of the pool as individual loans for legal lending limit calculations, the bank must maintain an affidavit signed by the person or persons conducting the review and

countersigned by the Board of Directors stating that:

1. a representative portion of the individual loans contained within the pool were reviewed to determine that the individual borrowers appear credit worthy; and

2. the bank is relying primarily on the individual maker's responsibility for payment of the loans.

Without the above affidavit, the pool will be deemed a direct borrowing of the seller for purposes of determining compliance with the bank's legal lending limit.

B. The bank shall maintain a listing of all loans included in the pool at the time of purchase.

C. On all payments received, the bank shall procure a breakdown of such payments by borrower name and the amount of payment applicable to principal and interest.

**D. Delinquent Loans**

1. The bank shall obtain a monthly listing of all loans in which payments are overdue and shall report those loans overdue 30 days or more in its overdue loan calculations.

2. The bank shall obtain a monthly listing of all loans contractually requiring monthly payments of principal and interest which are currently paying interest only. These loans should also be reflected in the bank's overdue calculations based on their amortization schedule.

3. The bank shall obtain a quarterly status report, corresponding with call report dates, on all loans in process of foreclosure along with collection efforts being made on those loans which are delinquent but not in the process of foreclosure.

4. The bank shall obtain a quarterly status report, corresponding with call report dates, on any collateral seized through foreclosure.

E. Loan Loss Reserve Analysis - Although the pool may have a partial recourse endorsement and/or guarantee of the seller, the bank shall assess risk and provide for such risk on an individual loan basis in its loan loss reserve analysis.

F. Subsequent Reviews - At least semi-annually, the bank shall conduct subsequent reviews of a portion of the loans within the pool to ensure that all information being provided by the servicer of the pool is substantially correct. Subsequent reviews should also be conducted by someone other than the originating officer. Documentation of subsequent reviews should be maintained by the bank for review at subsequent examinations.

G. Reporting of Pools - These pools shall be reported in accordance with the Federal Financial Institutions Examinations Council's Instructions for Consolidated Reports of Condition and Income (Call Report Instructions). The treatment of a pool as individual loans is only for purposes of assessing the bank's compliance with its legal lending limit.

**AUTHORITY NOTE:** Promulgated in accordance with Act 1129 of 1992.

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

**§559. Other**

A. Although the pool may be considered as individual loans for legal lending limit purposes, the bank shall also review the financial condition of the seller on a regular basis, including condition at purchase date, on those agreements where full or partial recourse exists.

B. The bank shall take steps to ensure its compliance with the above criteria and maintain separately the necessary

documentation of such for each pool being considered for purchase.

C. Effective Date - This rule shall become effective upon publication in the *Louisiana Register*.

**AUTHORITY NOTE:** Promulgated in accordance with Act 1129 of 1992.

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

A proposed rule is being promulgated to implement regulations and supervision of Act 1129 of 1992 to provide for the Acquisition of Loan Pools and Participations, in accordance with R.S. 6:415(A)(6). This proposed rule is to become effective on January 20, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*. A public hearing may be requested no later than November 9, 1992, by submitting a written request in accordance with R.S. 49:953(A) (2) (a) to the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095.

All interested persons are invited to submit written or oral comments on the proposed regulation. Such comment should be submitted no later than November 9, 1992, at 4:30 p.m. to Gary L. Newport, Senior Attorney, Office of Financial Institutions, Box 94095, or in person at 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70804-9095.

Larry L. Murray  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Legal Lending Limit**

**Exception - Acquisition of Loan Pools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimate implementation cost for this regulation will be an initial rule notification expense of \$286. Review for compliance with the proposed rule will be conducted by this agency during the normal regulatory examination process, in accordance with R.S. 6:123A(1).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections of either state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The only estimated costs anticipated for persons or non-governmental groups directly affected by this proposed rule will be those associated with the initial and subsequent reviews of individual loans within the pool purchased, if conducted by a qualified third party. An economic benefit may result as a pool of loans will generally earn a higher yield than some alternative investments available.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will not have an effect on competition and employment.

Larry L. Murray  
Commissioner

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Economic Development Office of Financial Institutions

#### Exchange of Other Real Estate

Under the Authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the commissioner gives notice that rule making procedures have been initiated to implement the provisions of Act 789 of 1991 to provide for the exchange of other real estate by banks, in accordance with R.S. 6:243(B)(5).

#### Title 10

#### Banks and Savings and Loans

#### Part I: Banks

#### Chapter 5. Powers of Banks

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

#### §541. Authority and Purpose

A. This regulation is issued pursuant to the authority provided by R.S. 6:243(B)(5).

B. It is the purpose of this regulation to provide for those exceptions where a bank may exchange any property, lawfully acquired as provided by R.S. 6:243 A.

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

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

#### §543. Definitions

For purposes of these regulations, the following terms shall have these meanings:

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

**Exchanged Property**—property lawfully acquired by a bank pursuant to R.S. 6:243(A) which is exchanged for property in compliance with this regulation.

**Current Appraisal**—an appraisal which has been obtained within 12 months prior to the exchange, provided there has been no significant change to the property.

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

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

#### §545. Regulation

A. A bank, solely for the purpose of minimizing potential loss, may exchange property which is complex (including an undivided interest), difficult and/or uneconomical to maintain for property which is less complex, less difficult and/or more economical to maintain. This would include residential property exchanged for residential property of a lesser value.

1. Any such exchange must have prior approval of the bank's board of directors. The approval must be documented in the board minutes and contain the rationale to support the exchange.

2. The exchange must be supported by current appraisals of both the exchanged property and the property acquired in the exchange. Exchanged property with a book value greater than \$100,000 is required to have an appraisal in compliance with Part 323 of the Federal Deposit Insurance Corporations Rules and Regulation. Exchanged property with

a book value of \$100,000 or less must have an appraisal performed by an independent appraiser with documentation on file sufficient to support the value given.

3. The bank must maintain on file for examiner review, supporting documentation of any exchange made since the previous examination, including the bank's marketing efforts to otherwise dispose of the exchanged property.

4. The 10-year divestiture period as required by R.S. 6:243(B)(1) shall begin the original date of acquisition of the exchanged property, not the date of exchange. As allowed by R.S. 6:243(B)(2), a bank may choose to reduce the value of immovable property by at least one-tenth of the original book value each year that the property is held. If the bank has chosen this option for the exchanged property, the property acquired from the exchange must be reduced by at least an equal rate each year to insure a zero balance at the end of the divestiture period.

5. The book value of the property acquired in the exchange can not exceed either the book value of the exchanged property or appraised value, whichever is less.

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

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

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

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

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

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

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

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

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

A proposed rule is being promulgated to implement regulations and supervision of Act 789 of 1991 to provide for the exchange of other real estate by banks, in accordance with R.S. 6:243(B)(5). This proposed rule is to become effective on January 20, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*. A public hearing may be requested no later than November 9, 1992, by submitting a written request in accordance with R.S. 49:953(A)(2)(a) to the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095.

All interested persons are invited to submit written or oral comments on the proposed regulation. Such comments

should be submitted no later than November 9, 1992, at 4:30 p.m. to Gary L. Newport, Senior Attorney, Office of Financial Institutions, Box 94095, or in person at 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70804-9095.

Larry L. Murray  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Exchange of Other Real Estate Owned**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated implementation cost for this regulation will be an initial rule notification expense of \$99. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that there will be no additional requirements for new equipment, employee costs, or professional services.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections of either state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The estimated costs to directly affected persons or non-governmental groups will remain largely unaltered by the implementation of this rule. The rule provides for exceptions by a state-chartered bank to facilitate an exchange of property held as other real estate for another property if it is more economically beneficial to the particular bank. In some cases, transactions will require prior written approval by the agency, enabling the commissioner to render judgement in advance of an applicant's request. This requested material will be a minimal cost to the applicant along with other required documentation to be maintained for compliance with the rule. Benefits anticipated would derive from conversion of a more complex, difficult and/or uneconomical to maintain parcel of property to one that is less complex, less difficult and/or more economical to maintain.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no impact on competition or employment in the public or private sector.

Larry L. Murray  
Commissioner

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Economic Development  
Office of Financial Institutions**

Financing Other Real Estate

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the commissioner gives

notice that rule making procedures have been initiated to implement the provisions of Act 1129 of 1992 to provide for the financing of other real estate by banks, in accordance with R.S. 6:415(7).

**Title 10  
Banks and Savings and Loans  
Part I. Banks**

**Chapter 5. Powers of Banks**

**Subchapter B. Real Estate Financing Legal Lending Limit Exception**

**§531. Authority and Purpose**

A. This regulation is issued pursuant to the authority provided by §415(7) of Title 6 of the Louisiana Revised Statutes (R.S.).

B. It is the purpose of this regulation to provide a method by which a state bank may exceed lending limit restrictions, imposed by R.S. 6:415 A(1)-(3), when financing the sale of other real estate which a bank acquired for debts previously contracted or for use as bank premises.

**AUTHORITY NOTE:** Promulgated in accordance with Act 1129 of 1992.

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

**§533. Definitions**

For purposes of these regulations, the following terms shall have these meanings:

**Commissioner** - the commissioner of Financial Institutions.

**Directors, Executive Officers, and Principal Shareholders of the Originating Bank** - persons so defined under the Federal Reserve Board's Regulation O, Title 12, Code of Federal Regulations, Section 215.2, and shall apply with respect to every director, executive officer, and principal shareholder of a non-member bank in the same manner and to the same extent as if the non-member bank were a member bank.

**Lending Limit(s)** - lending restrictions imposed by R.S. 6:415 A(1)-(3).

**Other Real Estate** - an identified parcel or tract of land with or without improvements, and including easements, rights of way, undivided or future interests, and any accessory rights or interests involving the associated parcel or tract of land. "Other real estate" shall include property:

1. acquired by the state bank in partial or complete satisfaction of debts previously contracted;

2. owned by the state bank and which has been, but is no longer, used or intended to be used as bank premises.

**State Bank or Bank** - for purposes of this regulation "state bank" or "bank" means any corporation organized under the provisions of Chapter 3 of R.S., Title 6, as a state commercial bank.

**AUTHORITY NOTE:** Promulgated in accordance with Act 1129 of 1992.

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

**§535. Regulation**

A. Any state bank may provide financing to facilitate the sale of other real estate, in excess of lending limits as established in R.S. 6:415 A(1)-(3), provided prior written approval of the commissioner has been obtained and, subject to compliance with provisions of this regulation, the extension of credit will be in accordance with all other applicable state or federal laws.

B. Submission of requests for the commissioner's approval must be in writing. Requests must have the prior approval of, and be detailed in the minutes of a meeting held by, the bank's Board of Directors. Approved transactions shall apply only to purchase money mortgages taken by a state bank in consideration for the sale of other real estate owned by the bank.

C. Approval of requests will be based on all relevant factors surrounding individual transactions; however, the following shall be required and will receive consideration.

1. A demonstration by the requesting bank that attempts to participate the proposed loan portion that is in excess of the bank's current lending limit have proven unsuccessful.

2. Copies of the original record of acquisition must be given. Should acquisition of other real estate have originated from a partnership or corporation, the state bank shall provide the names of the partnership or corporation principals.

3. Proposed transactions must be accompanied by documentation, which shall include accounting entries, indicating that the accounting treatment to be employed has been reviewed and approved by a certified public accountant for compliance with generally accepted accounting principles.

4. Other real estate to be used as supporting collateral for proposed transactions should be appraised, and copies of current appraisals (less than one year old) shall be submitted with each request. The buyer's anticipated use of the property must be indicated.

5. Before approval by the bank's directors, the bank shall have performed an appropriate credit analysis which shall indicate the potential borrower's ability to repay the extension of credit. A copy of the analysis shall be provided with each request, along with the bank's stated justification for engaging in the proposed transaction. The analysis must include a written summary of findings and disclose the names and financial information of the borrower(s) and any guarantor or endorser, as well as the terms of the proposed transaction. Directors, executive officers, and principal shareholders of the originating bank, and of other corporations, partnerships, associations, joint ventures, or other unincorporated entities, having related interests in the proposed extension of credit must be revealed. Previous business relationships with the potential borrower shall be disclosed, with a summary of the borrower's current and related debts, if any, given. All prior losses, renegotiations, or delinquencies related to the potential borrower must be shown.

6. The structure of any proposed transaction shall conform with prudent underwriting standards. Justification of all special terms and lending policy exceptions must be disclosed.

7. If other real estate proposed for sale has been marketed, the bank should provide information detailing how, and for how long, the property has been offered, including original and subsequent asking prices. Additional information should be given listing all offers received and details of subsequent counter-offers made. The bank must disclose if potential buyers have withdrawn offers. If offers were rejected by the bank, the bank shall provide its reasons for the rejection.

8. Changes in the book value and a history of the bank's expenses and income associated with the other real estate identified for sale must be provided.

9. Each bank shall be subject to requests for additional information, as needed, in order to facilitate an appropriate review of all transactions presented for the commissioner's approval.

D. Each request shall be accompanied by a non-refundable fee to be set by the commissioner.

E. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

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

A proposed rule is being promulgated to implement regulations and supervision of the financing of other real estate by banks, in accordance with R.S. 6:415(7). This proposed rule is to become effective on January 20, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*. A public hearing may be requested no later than November 9, 1992, by submitting a written request in accordance with R.S. 49:953(A)(2)(a) to the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095.

All interested persons are invited to submit written or oral comments on the proposed regulation. Such comment should be submitted no later than November 9, 1992, at 4:30 p.m. to Gary L. Newport, Senior Attorney, Office of Financial Institutions, Box 94095, or in person at 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70804-9095.

Larry L. Murray  
Commissioner

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Real Estate Financing Legal  
Lending Limit Exception

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The estimated implementation cost for this regulation will be an initial rule notification expense of \$126. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency envisions no additional requirements for new equipment, employee costs, or professional services.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
New fees imposed will be offset by a like reduction in general assessments. Hence, there will be no effect on revenue collections for the state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
With the exception of a \$500 filing fee, the estimated costs to directly affected persons or non-governmental groups will remain largely unaltered by the implementation of this rule. The proposed rule provides the agency a means for requesting information for evaluation, enabling the commissioner to adequately

render judgment of an applicant's request for exception to lending limits imposed by R.S. 6:415 A(1)-(3). Requested material is limited to information normally compiled or judged usual for transactions submitted for review. Therefore, additional costs associated with compliance will be for copying and submission of documentation and research previously compiled. Benefits anticipated would derive from conversion of an asset, subsequent to approval of any request, to a higher yielding investment.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment in the public or private sector.

Larry L. Murray  
Commissioner

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Department of Economic Development Office of Financial Institutions

#### Loan Production Offices (LAC 10:I.1733-1735)

Under the Authority of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the commissioner gives notice that rulemaking procedures have been initiated to implement the provisions of Act 112 of 1992 to provide for the establishment and regulation of Loan Production Offices, in accordance with R.S. 6:452.

#### Title 10

#### FINANCIAL INSTITUTIONS

#### Part I. Banks

#### Chapter 17. Applications

#### Subchapter E. Loan Production Offices

#### §1733. Purpose

This rule applies to application for Certificate of Authority to operate a loan production office under Louisiana Revised Statutes, Title 6, Section 452.

**AUTHORITY NOTE:**Promulgated in accordance with Act 112 of 1992.

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

#### §1735. General Provisions

##### A. Definitions

1. *Applicant* - a financial institution or one of its wholly-owned subsidiaries seeking a certificate of authority from the commissioner.

2. *Application* - shall consist of forms prescribed by the commissioner, submitted in a completed form, along with all supporting documents, and other information required by this rule, requesting that a certificate of authority be issued.

3. *Commissioner* - The commissioner of Financial Institutions.

4. *Financial Institution* - any bank, savings bank, homestead association, building and loan association, savings and loan association, or credit union chartered by the commissioner.

5. *Loan Production Office* - a location other than the financial institution's main office, branch or subsidiary where only the solicitation and origination of applications for loans by employees of a financial institution or its subsidiary are conducted, provided that the loans are approved and made at the main office, branch or subsidiary of the financial institution and which location is subject to the provisions of this rule.

##### B. Application

1. *Filing*. All applications filed in accordance with this rule shall be in such form and contain such information as the commissioner may from time to time prescribe. When application is made, the original and one copy, must be submitted. A completed application shall be filed at least 45 days prior to the anticipated first day of operation. The commissioner reserves the right to make subsequent requests for additional information. Any material submitted must have prior approval from the financial institution's board of directors before filing an application.

2. *In-State Financial Institution for In-State Loan Production Office*

a. *Approval Process*. The commissioner may approve any request to establish a loan production office if he finds that the proposed operation of such loan production office does not violate the provisions of the rule. If the commissioner disapproves a request to establish a loan production office, the reasons for such denial shall be stated in writing. The commissioner shall consider the following factors: (1) Financial History and Condition; (2) Adequacy of Capital; (3) Future Earnings Prospects; (4) Management; (5) Impact on the Public's Interest; and (6) Any additional factors deemed necessary and appropriate.

##### b. Instructions for Applicant

i. *Financial History and Condition*. A financial institution's ability to successfully operate a loan production office system must be measured in terms of the whole and not in terms of a part of the financial institution's complete system of providing financial services. Consequently, the emphasis is placed upon the financial history and condition of the applicant. Applicant's aggregate direct and indirect fixed asset investment, shall not exceed 45 percent of equity capital and reserves for a new financial institution or 50 percent of equity capital and reserves for existing financial institutions, except with the prior written approval of the commissioner.

(a) *Premises to be Occupied by the Loan Production Office*

(i) *Description of Premises--Fixed assets* are of primary concern in analyzing the asset condition of a financial institution.

(ii) *Premises Leased--The terms of the lease* are to be outlined and subject to the approval of the commissioner. A copy of the proposed lease, which shall contain the "Standard Bankruptcy Clause," must accompany the application along with a statement from a certified public accountant stating whether the lease is to be considered an operating lease or a capitalized lease according to the provisions of the Statement of Financial Accounting Standards #13 - Accounting For Leases.

(iii) *Premises Owned--If the premises are to be owned*, the following information is required: the original cost of the premises at time of construction with a breakdown between land and building; original cost to applicant; date of

construction; reasonableness of purchase price; from whom purchased; insurance to be carried; assessed value; prospective or immediate repairs or alterations; estimated useful life of the building as of the beginning of business.

(iv) Temporary Quarters--In applications anticipating the use of temporary quarters, pending construction or renovation of permanent facilities, details should be provided regarding the location of the site in relation to the municipal or rural address of the permanent location.

(v) Proposed Investment In and Rental of Furniture, Fixtures, and Equipment--A total dollar amount in furniture, fixtures, and equipment including cost, if owned, or annual rental, if leased; total property and casualty insurance to be carried; and total annual depreciation. If leased, copies of proposed contracts and leases should be submitted for the confidential use of the Office of Financial Institutions.

ii. Adequacy of Capital. Adequacy of the capital shall be determined by the commissioner in light of the nature and location of the proposed loan production office, the projected nature of its business, future growth potential, projected future earnings, and quality of its management. Distribution and adequacy of capital structure should be considered in terms of the applicant and all of its existing branches and loan production offices. An existing financial institution should have capital sufficient to support the volume, type and character of the business presently conducted, provide for the possibility of loss inherent therein, and permit the financial institution to continue to meet the reasonable credit requirements of the community served. If an increase in capital of applicant is proposed prior to the establishment of the loan production office, details should be included in the application.

iii. Future Earnings Prospects. When considering the future earnings prospects, evaluation is based on income and expenses of the loan production office and its influence on the applicant as a whole. In determining this factor, applicants must estimate the probable income from loans to be generated. Assistance in this computation may be from existing lending policies and interest rates; the demand for loans in the area and types thereof; the probable competitive reaction from existing financial institutions; the economic conditions in the community; and the business expertise of the applicant's management. In addition, estimates must be made for expenses such as salaries and other employee benefits, interest, occupancy and equipment outlays and other current operating expenses. Assumptions used to calculate income and expenses and loans should be included in the comment section.

iv. Management. The quality of management is vital in determining the applicant's acceptability. The staffing of proposed loan production office should be fully reported as to qualifications and experience, especially if new personnel not previously associated with the applicant are to be employed. The supervision to be maintained and procedures with respect to audits or examinations of loan production office activities by the main office should be provided. Data on fidelity coverage should also be included. A letter from the insurer acknowledging that coverage will be extended to the proposed loan production office employee(s) will suffice.

v. Impact on the Public's Interest. In determining this factor, the applicant must submit a detailed business plan for the proposed loan production office. The plan must include an estimate of both the number and type of loans to be generated during the first year of operation. All assumptions

utilized in the development of the business plan should be clearly stated.

c. Fee. A nonrefundable fee of \$750 must accompany the application before it can be considered for filing and approval.

3. In-State Financial Institution for an Out-of-State Loan Production Office. In addition to the requirements in Section II, B., an in-state financial institution seeking to establish a loan production office out-of-state shall submit the following:

a. Authority. The applicant must submit a "No Objection Letter" from the appropriate chartering authority in the state which the loan production office is to be located.

b. Secretary of State. The applicant must submit a letter or other evidence of authority from the Secretary of State in the state which the loan production office is to be located, indicating that the applicant is authorized to do business in that state.

c. Fee. A nonrefundable fee of \$750 must accompany the application before it can be considered for filing and approval.

4. Out-of-State Financial Institution for an In-State Loan Production Office. An out-of-state financial institution seeking to establish a loan production office in state must submit the following:

a. No Objection Letter. The applicant must submit a letter stating no objection to the commissioner's request to obtain a copy of the financial institution's latest examination report from the primary regulator of the applicant.

b. Audit. The applicant must submit a copy of its most recent external audit.

c. Resolution. The applicant must submit a board resolution authorizing establishment of a loan production office and a statement that the articles of incorporation have been examined for conformity to proposed loan production office activities.

d. Secretary of State. The applicant must submit a letter or other evidence of authority from the Louisiana Secretary of State's office indicating that the applicant is authorized to do business in this state.

e. Location. The applicant must submit the municipal or rural route address of the proposed loan production office.

f. Operations. The applicant must submit detailed information on the projected nature of business including type and number of loans to be generated; future earnings projected; and management of the proposed loan production office. Assumptions used for any projection(s) should also be included.

g. Other. The applicant may be subject to any other factors which the commissioner deems necessary and appropriate.

h. Approval Process. The commissioner may approve any request to establish a loan production office unless he finds that the proposed operation violates the provisions of this rule, or any other pertinent provision of law. If he disapproves a request to establish a loan production office, the reasons for such denial shall be stated in writing.

i. Fee. A nonrefundable fee of \$1,500 must accompany the application before it can be considered for filing and approval.

### C. Activities

1. Permissible Activities for a Loan Production Office Operating in Louisiana. A loan production office is limited to the following activities:

a. soliciting loans on behalf of its financial institution or one of its wholly-owned subsidiaries, by any means which discloses the nature and limitations of the loan production office;

b. providing information on loan rates and terms;

c. interviewing and counseling loan applicants regarding loans only, including the provisions for disclosure required by various regulation; and

d. aiding customers in the completion of loan applications including the obtaining of credit investigations, ordering title insurance, mortgage certificates, hazard insurance or any other information deemed necessary to insure that the loan application is complete.

2. Prohibited Activities for a Loan Production Office Operating in Louisiana. A loan production office is prohibited from conducting or engaging in the following:

a. signing or accepting notes, security agreements, or other instruments obligating the loan customer to the financial institution;

b. delivering loan proceeds to the customer;

c. providing forms which enable the customer to open deposit accounts directly or by mail;

d. counseling customers regarding savings accounts, checking accounts, or any other services except loan origination services;

e. advertising, stating or implying that the loan production office provides services other than loan origination services;

f. providing information to a customer concerning the status of the customers non-loan accounts at the financial institution;

g. charging, or providing for the charging of, interest on loans running from a date prior to the time at which the proceeds of the loan are actually disbursed to the customer by the loan production office's main office, branch or subsidiary thereof;

h. accepting of loan payments;

i. approving loans or making lending decisions (Approval of loans at the main office, branch or subsidiary thereof is not intended to be perfunctory, i.e., merely final execution of the loan documents. Approval at the main office, branch or subsidiary thereof shall be in accordance with safe and sound lending practices, including a review of the credit quality of the loan and a determination that it meets the applicant's credit standards. In making an independent credit decision, the employee at the main office, branch or subsidiary may consider recommendations made by the loan production office as a factor when assessing the credit quality of the loan.); and

j. allowing customers access to an electronic communications facility (e.g., ATM) at the premises of the loan production office.

#### D. Other

1. Periodic Inspection. Upon issuance of a certificate of authority, a loan production office may be subject to periodic inspection by the Office of Financial Institutions to ensure compliance with its rules and regulations concerning loan production office activities. Should the operations of a loan production office be found to be in noncompliance under this rule the commissioner may revoke the loan production office's certificate of authority or take any other measure deemed necessary under his powers pursuant to Louisiana Revised Statutes of 1950, Title 6:121 and 6:121.1, or any other pertinent provisions of the law.

2. Pre-Existing Loan Production Office. Financial institutions currently operating loan production offices shall register, by letter, said offices with the commissioner of the Office of Financial Institutions within 60 days of the effective date of this rule. The letter must indicate the name and title of the officer in charge and the municipal or rural address of the loan production office(s) to allow for the issuance of a certificate of authority from this office.

3. Emergency Issuance of Certificate of Authority. In the case of acquisition of a failed or failing financial institution, the commissioner may waive any provision of this rule which is not required by statute, for the purpose of issuing a certificate of authority to operate a loan production office by the acquiring institution.

4. Name. Loan production offices shall include the words "loan production office" in their title, official documents, letterhead, advertisements, signs, or in any other medium prescribed by the commissioner.

5. Closure/Change of Location. The commissioner shall be notified, in writing, at least 30 days prior to the closure or change of location of a loan production office.

6. Effective Date. This rule shall become effective upon final publication.

**AUTHORITY NOTE:** Promulgated in accordance with Act 112 of 1992.

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

A proposed rule is being promulgated to implement regulations and supervision of Act 112 of 1992 to provide for the establishment of the Loan Production Offices, in accordance with R.S. 6:452. This proposed rule is to become effective on January 20, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*. A public hearing may be requested no later than November 9, 1992, by submitting a written request in accordance with R.S. 49:953(A)(2)(a) to the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095.

All interested persons are invited to submit written or oral comments on the proposed regulation. Such comments should be submitted no later than November 9, 1992, at 4:30 p.m. to Gary L. Newport, Senior Attorney, Office of Financial Institutions, Box 94095, or in person at 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70804-9095.

Larry L. Murray  
Commissioner

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost for this rule is \$1,200 for FY 92/93, \$1,000 for FY 93/94 and \$1,000 for FY 94/95. The agency anticipates no new hardware, employee costs, or professional services will be required to implement this rule. The similarity between loan production offices and other financial service entities regulated by this agency will allow it to utilize existing personnel and equipment in the implementation process.



II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The agency anticipates an increase of \$10,500 in fiscal years 92/93; 93/94; and 94/95. There will be no impact on the revenue of local governmental units. Source of revenue will be derived from the fees generated from the granting of certificates of authority provided in this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The only estimated cost anticipated for persons or non-governmental groups directly affected by this rule will be those associated with the preparation of an application to establish a loan production office. The economic benefits derived by a loan production office will result from the fact that they will be generating loans to its financial institution, at less cost than operating a full-service branch.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Loan production offices will only originate loans, which is a more limited activity as opposed to that of full-service branches of financial institutions. There are currently 180 state-chartered banks, 28 state-chartered savings and loan associations and 1 state-chartered savings bank, that operate approximately 553 full-service "manned" branches. Due to the insignificant number of loan production offices anticipated to seek certificates of authority in relation to existing financial institutions, it is not expected that these offices will affect competition. Nominal staffs required to operate these offices will not affect employment to any significant degree.

Larry L. Murray  
Commissioner

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Amendment to 8(g) Policy Manual**

In accordance with the Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted an amendment to Section 172 (Final Programmatic Report) of the 8(g) Policy Manual to add the following statement.

"Those 8(g) recipients who have not submitted End of Year Reports on prior year projects as of September 1 shall not receive current year 8(g) funds until reports have been submitted."

Interested persons may comment on the proposed rule until 4:30 p.m., December 8, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Amendment to the 8(g) Policy and Procedures Manual**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects 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 NON-GOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to directly affected persons or non-governmental units associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment associated with this rule.

Carole Wallin  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1508 - Pupil Appraisal Handbook**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board approved the interim changes to Bulletin 1508, *Pupil Appraisal Handbook*.

These changes were approved in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the state of Louisiana's Special Education Programs. The changes were adopted as an emergency rule and printed in full in the August, 1992 issue of the *Louisiana Register*. Paragraphs (5) and (6) under Independent Individual Evaluation which were inadvertently omitted when the other changes were adopted and printed in the August, 1992 issue of the *Louisiana Register* have been adopted and printed in this issue of the *Register*. This notice of intent includes all changes to Bulletin 1508.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:1941 et seq.

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 19:

Interested persons may comment on the proposed rule until 4:30 p.m., December 8, 1992 at the following address: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
Rule Title: Bulletin 1508 Revision**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no increase in the costs to state and local governmental units as a result of the revisions to Bulletin 1508. There could be an increase in the number of evaluations that must be conducted by local pupil appraisal personnel as a result of the addition of Traumatic Brain Injury (TBI) as a special education category; however, there will be a concomitant reduction in the number of gifted re-evaluations required, additional appraisal personnel as a result of these revisions. If gifted re-evaluations do not occur at the end of the third grade, as they are presently required, then some students will continue to generate gifted teachers and thus there would be a cost increase in programming at the state and local levels.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There could be an increase in the revenue in the amount of federal dollars (340 students x \$328 which is the per child allocation from the federal level), due to an increase in child count.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

There are no costs or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There is no effect on competition and employment.

John Guilbeau  
Deputy Superintendent

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1573 - Complaint Management System**

In accordance with the Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board approved the interim changes to Bulletin 1573, Complaint Management System.

These changes were adopted in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the State of Louisiana's Special Education Programs. These changes were adopted as an emergency rule and printed in full in the August, 1992 issue of the *Louisiana Register*.

Interested persons may comment on the proposed rule until 4:30 p.m., December 8, 1992 at the following address: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
Rule Title: Complaint Management Bulletin**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated cost to the state for printing of the required bulletin is \$136.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

No substantial costs are estimated from this proposed change. Complainants should receive direct benefits from the noted changes by receipt of the written resolution of their complaint.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There will be no effect on competition or employment from this proposed change.

John Guilbeau  
Deputy Superintendent  
Management & Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1706, Exceptional Children's Act**

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the Interim Changes to Bulletin 1706, *Regulations for the Implementation of the Exceptional Children's Act*.

These changes were adopted in accordance with the requirements of the Corrective Action Plan relative to the federal compliance monitoring of the State of Louisiana's Special Education programs. These interim changes to Bulletin 1706 were also adopted as an emergency rule and printed in full in the August, 1992 issue of the *Louisiana Register*.

Interested persons may comment on the proposed rule until 4:30 p.m., December 8, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
Rule Title: Revisions to Bulletin 1706**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule would increase the costs to the

state and local governmental units based on the estimated 340 newly identified Traumatic Brain Injured (TBI) students who would not have been identified previously under the category of Other Health Impaired and would now be eligible for special education services. The estimated implementation cost for 20 new teachers (salary and related benefits) is \$455,520. It estimated that 253 students will be served in resource rooms with a pupil/teacher ratio of 12:27, while the other 87 students would be served in self-contained classes with an overall pupil/teacher ratio of 4:9. The estimated cost for printing and mailing copies of the revisions to Bulletin 1706 is \$320. There is a possibility that an increase in costs would occur by deleting the requirement that social work services be provided in schools.

**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. The increase revenue of federal dollars (340 students x \$328/student) is reflected in the fiscal and economic impact statement for the revisions to Bulletin 1508.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Estimated costs would provide salary and related benefits to 20 teachers employed with an average salary of \$19,250 plus benefits. Additional children will receive specialized services which will improve their quality of life and functional skill levels thus making them contributing citizens in the future.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There would be a need for additional special education teachers, as more children are placed in special education, giving an opportunity for increased funds to those teachers' families.

John J. Guilbeau  
Deputy Superintendent

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Louisiana Components of Effective Teaching (LCET)**

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 the recommendations for the Louisiana Components of Effective Teaching (LCET): A Position Paper, Teacher Evaluation Panel I Report. This report of LCET was also adopted and advertised as an emergency rule and printed in full on pages 927-928 in the September, 1992 issue of the *Louisiana Register*.

Interested persons may comment on the proposed rule until 4:30 p.m., December 8, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary

Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**Rule Title: Louisiana Components of Effective Teaching**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated costs for FY 92-93 are for printing of the Louisiana Components of Effective Teaching (\$52.50 at the state level and none at the local level).

The costs for FY 92-93 will be to print copies of the Louisiana Components of Effective Teaching (LCET) to be used by panelists developing the Louisiana Teacher Appraisal Instrument and the Louisiana Department of Education staff revising the Personnel Evaluation Guidelines, Bulletin 1525. The cost of printing the LCET will be approximately \$52.50. There are no postage costs to be incurred.

**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.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There is no cost and/or economic benefit to directly affect persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The printing of the LCET does not affect competition.

John J. Guilbeau  
Deputy Superintendent

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Student Financial Assistance Commission  
Office of Student Financial Assistants**

**Tuition Assistance Plan Billing Procedures**

The Student Financial Assistance Commission, Office of Student Financial Assistance, proposes to amend the Scholarship/Grant Policy and Procedure Manual, Chapter VI, Subparagraph E (3) b, as follows:

\*\*\*

E. (3) b. Institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment, renewal students' full-time enrollment and renewal students enrolled less than full-time who will graduate in the same term as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill LASFAC for students who are enrolled less than full-time on the fourteenth class day unless the student will graduate in the same term. In such cases, the students are responsible for reimbursing the institutions for any monies owed. Refunds

for less than full-time enrollment after the fourteenth class day are to be retained by the institution.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., December 20, 1992 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack Guinn  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Tuition Assistance Plan Billing Procedures**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule is revenue neutral. While a small decrease may occur in the amount of the waiver made to the affected students, the savings will be used to award other students up to the level of the appropriation. Cost of printing and distributing this policy change will be absorbed in the current budget, which allowed for such.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated from implementing this policy.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Tuition Assistance Plan recipients who are graduating seniors, but are enrolled less than full-time, will retain eligibility for their grant.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No impact on competition and employment is anticipated from implementation of this policy.

Jack L. Guinn  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection**

**Benzene Emissions from Benzene Storage Tanks (AQ35)  
(LAC 33:III.5143)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2054 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 regulations, LAC 33:III.5143, (AQ35).

This proposed rule is identical to 40 CFR 61, Subpart Y, with changes to the outline and internal references to correspond to the Louisiana Administrative Code (LAC). The

proposed rule does not deviate from the CFR except for the above references format. The proposed rule establishes standards for the control of benzene emissions from benzene storage vessels.

These proposed regulations are scheduled to become effective on January 20, 1993, or upon publication in the *Louisiana Register*.

A public hearing will be held November 25, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, November 30, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by AQ35. Check or money order is required in advance for each copy of AQ35. This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge LA 70804 (504) 342-5015 and at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 3519 Patrick Street, Lake Charles, LA 70605;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Benzene Emissions from Benzene Storage Tanks**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no expected costs (savings) to state or local governmental units from the implementation of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule is not expected to effect the revenue collection of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS ON NON-GOVERNMENTAL GROUPS (Summary)**

There is no expected incremental cost or economic benefits to directly affected persons or governmental groups from the implementation of the proposed rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND**

**EMPLOYMENT (Summary)**

There is no expected effect on competition or employment from the implementation of the proposed rule.

Gus Von Bodungen  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection**

Toxic Air Pollutants (AQ62)

*(Editor's Note: The following Section of a notice of intent, which appeared on pages 981 - 994 of the September, 1992 Louisiana Register, is being republished to correct a typographical error.)*

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**§5171. Louisiana Emission Standard for Equipment Leaks  
(Fugitive Emission Sources)**

**A. Applicability and Designation of Sources**

\* \* \*

4. Any equipment in benzene service that is located at a plant site designed to produce or use less than 1100 tons (300,000 gallons) of benzene per year is exempt from the requirements of this Section, except that the requirements of Subsection R.9.a of this Section shall still apply.

\* \* \*

**R. Recordkeeping Requirements**

\* \* \*

9. The following information shall be recorded in a log that is kept in a readily accessible location for use in determining exemptions as provided in the applicability section of this Subchapter and other specific subchapters:

a. an analysis demonstrating the design capacity of the process unit; or

\* \* \*

**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 17:1204 (December 1991), amended LR 18:

James B. Thompson, III  
Assistant Secretary

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Water Resources**

Groundwater (GW04) (LAC 33:XIII.Chapter 11)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Groundwater Protection regulations, LAC 33:XIII.Chapter 11, (GW04).

This proposed rule will require any person proposing construction activity (1) associated with a permit, permit modification, or in compliance with any other departmental action or regulation, or (2) through areas of known or suspected contamination, apply for a groundwater quality certification. This requirement will prevent vertical spread of contamination and help protect the state's drinking water.

These proposed regulations are to become effective on January 20, 1993, or upon publication in the Louisiana Register.

**Title 33  
ENVIRONMENTAL QUALITY  
Part XIII. Groundwater**

**Chapter 11. Groundwater Quality Certifications**

**§1101. Authority**

Rules and regulations are hereby established by the Department of Environmental Quality as authorized by R.S. 30:2014.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, Groundwater Protection Division, LR 19:

**§1103. Introduction**

The groundwaters of the state are a valuable source of drinking water for the majority of the population of the state. This resource must be preserved and protected for the use by and for the welfare of the public.

A. Past land uses may have affected the quality of the underlying soil and groundwaters. Therefore, construction activities occurring over or through areas of existing contamination could exacerbate existing groundwater conditions or impede or otherwise interfere with remediation activities. These regulations identify situations where groundwater certifications are necessary to ensure that such activities will not result in or exacerbate groundwater contamination nor impede or otherwise interfere with corrective actions.

B. Any person who proposes to commence any construction covered by LAC 33:XIII.1107 must conduct a groundwater quality assessment in the area(s) of proposed construction and to the depth of proposed subsurface impact unless otherwise approved by the department, or unless a submittal is made pursuant to LAC 33:XIII.1111.A.2.e,f, and g which shows that soil and groundwater samples are not necessary. Contamination identified in such an assessment must be reported to the administrative authority in accordance with LAC 33:I.3919. Subsequent to the groundwater quality assessment and prior to the commencement of construction, application must be made to

and a groundwater quality certification must be issued by the Groundwater Protection Division.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, Groundwater Protection Division, LR 19:

**§1105. Purpose**

These rules and regulations are promulgated to assure that the quality of the groundwater and soil in the vicinity of or under the site of construction activity has been evaluated and that the act of construction will not adversely affect the existing quality of the groundwater nor impede any proposed or ongoing groundwater remediation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, Groundwater Protection Division, LR 19:

**§1107. Applicability**

A. Except as covered in Subsection B of this Section, the provisions of this Chapter apply to:

1. all persons applying for any permit, permit modification, or construction authorization issued by the department or undertaking an activity directed by the department which involves construction; and
2. all persons proposing construction activities over or through areas of known or reasonably suspected contamination; and
3. all construction on past or present NORM sites where cleanup has been or will be required by the Radiation Protection Division.

B. The provisions of this Chapter do not apply to:

1. permit actions for changes or modifications which do not require any subsurface construction activities;
2. incidental construction as defined in LAC 33:XIII.1109;
3. any registration or license issued by the Radiation Protection Division not involving subsurface construction, unless specifically required by another regulation;
4. any construction over coastal waters, bays, estuaries, rivers, and lakes where there is no known or reasonably suspected contamination;
5. activities regulated by the Underground Storage Tanks Division where construction will not exacerbate existing groundwater conditions nor impede or otherwise interfere with any proposed or ongoing remediation activities;
6. offsite sewers, pipes, and other means of collection or conveyance associated with publicly owned treatment works (POTW), except where the construction of said collection or conveyance system is through areas of known or reasonably suspected contamination;
7. drilling and pipeline activities associated with the exploration, development, production, or transportation of crude oil, natural gas, sulfur, or geothermal energy, unless said activities are in areas of known or reasonably suspected contamination and/or certification is required by another regulation. This exclusion does not apply to pipelines within the confines of an industrial facility; and
8. construction activities not requiring department-issued permits which are underway prior to the effective date of these rules and regulations, or activities for which a groundwater quality certification has already been applied for and/or received under the department's current certification

policy.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, Groundwater Protection Division, LR 19:

**§1109. Definitions**

For the purpose of this Chapter, the following terms shall have the meanings ascribed to them below.

**Administrative Authority**—the secretary, assistant secretary, or designated representative, of the Department of Environmental Quality.

**Assessment Report**—a document containing the results and conclusions of the groundwater quality assessment.

**Corrective Action Plan (Groundwater)**—a detailed schedule of remedial actions that will restore the quality of contaminated groundwater.

**Department**—the Louisiana Department of Environmental Quality.

**Groundwater Quality Assessment**—data collection following accepted scientific practice to determine the concentration of potential contaminants in soil and groundwater in the vicinity of proposed construction activities.

**Groundwater Quality Certification**—an approval by the administrative authority that the quality of the soil and groundwater in the vicinity of or under the site of construction has been adequately evaluated and that the act of construction will not adversely affect the existing quality of the groundwater nor impede or otherwise interfere with any proposed or ongoing groundwater remediation activities.

**Incidental Construction**—construction involving subsurface impact to a depth less than four feet below land surface, not involving spread footings, and covering a contiguous surface area of less than 1000 square feet, including the areal extent of any subsurface structures. Said construction must be conducted in such a manner so as to not restrict remediation activities within the area(s).

**Naturally Occurring Radioactive Material (NORM)**—any nuclide that is radioactive in its natural physical state (i.e., not manmade), but not including source or special nuclear material.

**NORM Site**—any part of a location or land area (i.e., well site, pipeyard, scrapyards, production pit, treater/disposal facility, landfarm, landfill) that contains enhanced NORM, both active and inactive.

**Permit**—a written authorization issued by the administrative authority for the construction, installation, modification, or operation of, or discharge from any process or treatment units that are sources of emissions to air, land, or water.

**Person**—any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent of subdivision thereof, or any other juridical person.

**Publicly Owned Treatment Works (POTW)**—any device or system owned by the state, a municipality, or a parish, which is used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, Groundwater Protection Division, LR 19:

**§1111. Procedures For Issuance of Groundwater Quality Certification**

**A. Application Requirements**

1. **Filing.** Any person requiring issuance of a groundwater quality certification as specified in LAC 33:XIII.1107 shall file an application for certification with the Department of Environmental Quality, Groundwater Protection Division, at its main office.

**2. Content of Application**

a. the date of application;  
b. the name, address, and principal place of business of the applicant;  
c. if the applicant is a corporation, the state in which it is incorporated, the names of its principal officers, and the name and address of the Louisiana agent for service of process;

d. the name of the plant manager or other individual responsible for operation of the facility;

e. a summary of the plant's past and current operations and productions in the area(s) of proposed construction;

f. maps, plans, and drawings of sufficient scale and detail to clearly define and delineate the site, the location of the proposed construction within the facility, the nature of the construction, and the historical uses of the area(s) of proposed construction. This is to include:

i. previously built facilities;

ii. existing facilities;

iii. description and design of proposed foundation construction, i.e., amount of paved or concreted area, depth and number of pilings, etc.; and

iv. map delineating areas of known groundwater contamination and all waste management areas.

g. land use history of the area(s) of proposed construction (e.g., waste disposal, surface impoundments, storage);

h. based on the results of Subsection A.2.e, f, and g of this Section, either an assessment report or a report of current groundwater and soil conditions in the area(s) of proposed construction. The assessment must be based on chemical parameters that are representative of all past and current activities conducted in the vicinity. The administrative authority may require additional parameters as deemed necessary;

i. in areas of proposed construction where groundwater contamination is under remediation, an analysis of the design and proposed construction methods and the impact on remediation activities in sufficient detail to demonstrate that the proposed construction will not impede or otherwise interfere with the groundwater remediation; and

j. the signature of the responsible party, certifying that all information contained in the application is true and correct to the best of the applicant's knowledge. All applications for certification shall be signed by the person authorized to sign the permit application or modification associated with the groundwater certification. If no associated permit application or modification exists, it shall be signed as follows:

i. for a corporation - a corporate officer or any other person who performs similar policy or decision-making functions for the corporation, or the manager or other management representative of an operating facility if authority to sign documents has been assigned or delegated

to that person in accordance with corporate procedures.

ii. for a partnership or sole proprietorship - by a general partner, the proprietor, or the person authorized to sign such documents in accordance with the procedures of the partnership or proprietorship.

iii. for a municipality, parish, state, federal, or other public agency - by either a principal executive officer or ranking elected official.

3. **Processing Fee.** A one-time processing fee of \$250 will be assessed all applicants. Payment shall accompany the application for certification. The application will be considered incomplete without payment. Payment shall be by check or money order made payable to the Department of Environmental Quality - Fiscal Services Division, and shall be nonrefundable.

4. **Power to Request Additional Information.** For the proper consideration of the application, the administrative authority may request and the applicant shall furnish any additional information deemed necessary to determine whether the proposed construction will adversely affect the existing quality of the groundwater or impede or otherwise interfere with any proposed or ongoing groundwater remediation activities.

5. **Confidentiality of Information.** Confidentiality shall be handled in accordance with the requirements of R.S. 30:2030.

**B. Application Review**

1. All applications will be reviewed for adequacy of content in accordance with application criteria and the type and extent of the proposed construction activity. An application will be considered complete if the administrative authority does not indicate otherwise by a written notice sent by certified mail to the applicant within 45 days of the department's receipt of the application. The notice will state the specific items of deficiency in the application.

2. The administrative authority may conduct investigations concerning the application as deemed necessary. The applicant shall cooperate to the extent that he shall furnish additional information, allow access to lands or works of the applicant, and lend reasonable assistance.

3. **Approval or denial (including reasons for denial)** of the groundwater quality certification shall be completed and sent by certified mail to the applicant within 45 days of determination that an application is complete, unless an extension is agreed to jointly by the department and the applicant. In the event the administrative authority fails to notify the applicant according to this Paragraph, the certification will be considered approved.

4. Any requirements or restrictions to construction activity necessary to prevent groundwater contamination or exacerbation of existing groundwater contamination, or to prevent interferences with corrective action will be included in the approved certification.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources,

Groundwater Protection Division, LR 19:

A public hearing will be held November 25, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, November 30, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by Log GW04.

James B. Thompson  
Assistant Secretary

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Facility Planning and Control**

**Historic Restoration Prequalification**

Notice is hereby given that Facility Planning and Control intends to adopt a rule governing the prequalification of bidders for historic restoration projects, the text of which appears in its entirety in the Emergency Rule Section of this October, 1992 issue of the *Louisiana Register*.

Interested persons may submit written comments to the following address: William Morrison, Facility Planning and Control, Box 94095, Baton Rouge, LA 70804-9095. He is the person responsible for responding to inquiries regarding this proposed rule.

Roger Magendie  
Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Groundwater Quality Certifications**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs or savings to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
At the present rate of evaluation requests, the state expects an increase in revenue collections in the amount of \$60,000. This figure may increase or decrease, depending on the number of construction activities taking place over the next several years.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OF NON-GOVERNMENTAL GROUPS (Summary)  
Direct costs for applying for groundwater quality certifications is anticipated to be approximately \$60,000 per year to the regulated community. Indirect costs for supplying the information needed to evaluate the requests will range between \$3,000 to \$45,000, depending upon the scope of evaluation needed. The average indirect costs are estimated to be \$14,000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No negative effect is anticipated, as it is not expected that this program will restrict or inhibit economic development.

J. Dale Givens  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Prequalification of Bidders for  
Historic Restoration Projects**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No anticipated costs or savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Small work load increases may be expected for contractors bidding on certain state construction projects due to this rule. Architects and engineers providing services on these projects may expect small increases or decreases in work load.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This rule will have no effect on real competition. It will not eliminate any qualified bidders from bidding on these projects, but may reduce the total number of bidders by eliminating unqualified bidders.

J. Roger Magendie  
Director

John R. Rombach  
Legislative Fiscal Officer



## NOTICE OF INTENT

### Department of Health and Hospitals Board of Examiners of Psychologists

#### Continuing Education (LAC 46:LXIII.Chapter 8)

In accordance with R.S. 37:2357, et seq., notice is hereby given that the Louisiana State Board of Examiners of Psychologists intends to revise LAC 46:LXIII as follows:

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXIII. Psychologists

#### Chapter 8. Continuing Education

##### §801. Preface

Pursuant to R.S. 37:2357.B. each licensed psychologist is required to complete 30 credits (credit hours), of acceptable continuing education within biennial reporting periods. The continuing education requirements of psychologists are designed to promote their continued familiarization with new developments within the profession. Continuing education offerings shall be at the post graduate level in terms of content, quality, organization, and presentation.

**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 16:769 (September 1990), amended LR 19:

##### §803. Requirements

A. Each psychologist is required to complete 30 credits of continuing education within the biennial reporting period.

B. Two of the above 30 credits must be within the area of ethics and/or forensic issues.

C. Licensees can accumulate continuing education credits by two methods:

1. continuing education credits are awarded by an acceptable sponsoring institution or organization and are counted as specified by the sponsor;

2. licensees may count their attendance at professional meetings, conferences, or conventions which last one full day or longer as three credits. However, within the biennial reporting period, they may claim no more than three credits per professional meeting, conference, or convention, and no more than a total of 12 credits, or four professional meetings, conferences, or conventions. The number of continuing education credits claimed for attendance at professional meetings, conferences, or conventions may not exceed the number of credits awarded by the sponsor of the professional meeting, conference, or convention.

D. Acceptable continuing education activities are defined as:

1. formally organized and planned instructional experiences;

2. programs which have objectives compatible with the post doctoral educational needs of the licensed psychologist;

3. professional meetings, conferences, or conventions designed to promote professional development.

**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:

##### §805. Acceptable Sponsorship

A. Accredited institutions of higher education.

B. Veterans Administration Hospitals which have approved Regional Medical Continuing Education Centers.

C. Veterans Administration Hospitals which have APA approved doctoral internship training programs.

D. National, regional, or state professional associations, or divisions of such associations, which specifically offer post doctoral continuing education training.

E. Activities (including home study courses) offered by the APA which carry approved Category I sponsorship.

**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:

##### §807. Unacceptable Offerings and/or Activities

The board will not recognize the following activities as fulfilling the continuing education requirements, even though such activities may be valuable for other professional purposes:

A. presentations by the licensee;

B. teaching or supervision by the licensee;

C. holding organizational or professional offices or performing editorial responsibilities by the licensee;

D. participating in or attending case conferences, grand rounds, informal presentations, or general continuing education programs sponsored by private and/or local hospitals;

F. participating in general continuing education programs sponsored only by divisions of continuing education or conferences and institutes without the sponsorship of university graduate training departments;

G. participating in informal self-study, self-selected reading, journal clubs, and/or audio/video tape review not awarded APA Category I continuing education credit;

H. personal psychotherapy.

**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:

##### §809. Reporting Requirements

A. Report Form. Each psychologist shall, in typewritten form, complete the Continuing Education Report provided by the board. The board will routinely distribute the Report Form along with its License Renewal Form.

B. Signature. By signing the Report Form, the licensee signifies that the report is true and accurate.

C. Documentation. Each licensee shall retain corroborative documentation of their continuing education for two years. Although this documentation is not routinely required as part of the licensee's submission, the board may, at its discretion, request such documentation. Any misrepresentation of continuing education will be cause for disciplinary action by the board.

D. Biennial Reporting Period. Psychologists holding even numbered licenses must submit to the board, in even numbered years, their Continuing Education Report along with their License Renewal Form. Psychologists holding odd numbered licenses must submit to the board, in odd numbered years, their Continuing Education Report along with their License Renewal Form. Continuing Education Reports shall be due July 1, and considered delinquent at the close of business July 31, in the year in which their continuing

education is due.

**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 19:

**§811. Extensions/Exemptions**

A. Licensees on extended active military service outside the state of Louisiana during the applicable reporting period and who do not engage in delivering psychological services within the state of Louisiana may be granted an extension or an exemption if the board receives a timely confirmation of such status.

B. Licensees who are unable to fulfill the requirement because of illness or other personal hardship may be granted an extension or an exemption if timely confirmation of such status is received by the board.

C. Newly licensed psychologists are exempt from continuing education requirements for the remainder of the year for which their license is granted.

D. Licensees approved by the board for emeritus status are exempted from the continuing education requirements.

E. Licensees who are unable to comply with continuing education requirements due to unusual circumstances may petition to have their cases reviewed (i.e., extended medical illness) on an individual basis.

**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 19:

**§813. Noncompliance**

A. Noncompliance shall include, in part, incomplete reports, unsigned reports, failure to file a report, and failure to report a sufficient number of acceptable continuing education credits as defined in §803 above.

B. Failure to fulfill the requirements of the continuing education rule shall cause the license to lapse pursuant to R.S. 37:2357.

C. The State Board of Examiners of Psychologists shall serve written notice of noncompliance on a licensee determined to be in noncompliance. The notice will invite the licensees to request a hearing with the board or its representative to claim an exemption or to show compliance. All hearings shall be scheduled within 30 days of the date of notice of noncompliance.

**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 19:

**§815. Reinstatement**

A. For a period of two years from the date of lapse of the license, the license may be renewed upon proof of fulfilling all continuing education requirements applicable through the date of reinstatement and upon payment of all fees due under R.S. 37:2354.

B. After a period of two years from the date of lapse of the license, the license may be renewed by passing a new oral examination before the board, and payment of a fee equivalent to the application fee and renewal fee.

**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 19:

Interested persons may submit written comments to Brenda Rockett, Executive Director, Board of Examiners of Psychologists, 11853 Bricksome Avenue, Suite B, Baton Rouge, LA 70816. Comments will be accepted through the close of business, 4:30 p.m., November 20, 1992.

Mark P. Vigen, Ph.D.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Continuing Education**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
No additional costs, and no savings to state or local governmental units.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
This rule will have no effect on revenue collections.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**  
This rule is being rewritten for clarification. The original Fiscal Statement showed a cost of \$500 to each affected person.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
This rule clarification will have no effect on competition or employment.

Mark P. Vigen, Ph.D.  
Chair

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Louisiana Board of Veterinary medicine intends to amend rule 307 as follows:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part LXXXV. Veterinarians**

**Chapter 3. Licensure Procedures**

**§307. Temporary Permits**

A. The board may issue temporary licenses when the following conditions are satisfied:

1. applicant must make full application for licensure; Such application is to include:

a. payment of fee to enroll in the next available state board examination, and

b. transfer from the Professional Examination Service of NBE and CCT scores which meet or exceed the passing score for Louisiana for the specific examination date and

payment of fee for those transfers, except where applicant meets criteria of rule 303 A.2, and

c. payment of fee for temporary licensure.

2. applicant must demonstrate circumstances which prevented his ability to have taken the state examination on its last administration date;

3. applicant must demonstrate the intent to become a permanent or long-standing resident in the state of Louisiana;

4. applicant must demonstrate other extenuating circumstances which necessitate temporary licensure to the satisfaction of the board;

5. applicant must have participated in a preceptorship/intern program which meets or exceeds the requirements set forth in Chapter 11 of these rules.

B. Approval of temporary licensure may be granted by a majority vote of the board.

C. Only one temporary license may be issued to any individual.

D. All temporary licenses shall expire 30 days after publication of the scores on the next available state board examination.

E. No person having failed the state board examination may receive a temporary license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, LR 19:

Interested persons may submit written comments on the proposed rule to Vikki Riggle, Executive Director, Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203 until November 30, 1992 at 12 noon.

L. Mike Cummings  
DVM President

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Rule 1103: Definitions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the proposed rule amendment will result in minor additional costs to the State Board of Veterinary Medicine. Costs will be recovered by a charge for each license issued.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The board expects an increase in revenue collections of approximately \$750 each fiscal year from the implementation of this rule change. The increase will result from anticipated collection of fees for each license issued.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

It is anticipated that the implementation of the proposed rule amendment §307 will cost each temporary licensee \$100. No other persons will be affected.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule change should have no effect whatsoever on competition or employment. Without this rule change, persons receiving temporary licensure would still be eligible for licensure after taking the state board examination, a maximum period of six months.

L. Mike Cummings  
DVM President

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Louisiana Health Care Authority**

Under the authority of Act 390 of 1991 and in accordance with the provisions of R.S. 49:950 et seq., the Louisiana Health Care Authority proposes to adopt the following rule.

**Annual Service Agreement**

**Introduction**

This service agreement for state fiscal year 1992-93 is entered into by the Department of Health and Hospitals (DHH) and the Louisiana Health Care Authority (LHCA) in compliance with Act 390 of 1991. The agreement is a cooperative endeavor agreement in accordance with provisions of Article VII, Section 14C of the Louisiana Constitution.

**I. Definitions**

A. *Medically Indigent*—any bona fide resident of the state of Louisiana whose family unit size and gross income is less than or equal to 200 percent of the Federal Poverty Income Guidelines for that size family unit, rounded up to the nearest thousand dollars.

B. *Overcollections*—any monies from Medicare, Medicaid or other third party payor, or from direct patient payments, collected by or on behalf of the medical centers operated by the LHCA in excess of the amounts budgeted in the General Appropriations Bill for FY 92-93, as enacted, for operating expenses, as certified by the commissioner of administration and the Joint Legislative Committee on the Budget.

C. *Licensed Beds*—the number of beds in each medical center licensed by the Bureau of Health Services Financing and certified for participation in the Medicaid and Medicare programs.

**II. General Agreement**

The Louisiana Health Care Authority acknowledges that the Department of Health and Hospitals is legally responsible for the development and provision of health care services for the uninsured and medically indigent citizens of Louisiana, as well as preventative health services for the entire population.

The LHCA agrees to provide inpatient and outpatient hospital services on behalf of the Department of Health and Hospitals. The LHCA acknowledges that the provision of services to the medically indigent, to the uninsured and to others with problems of access to health care is its highest priority.

DHH agrees to work cooperatively with the Authority to provide acute mental health services at Authority facilities, in accordance with a memorandum of understanding be-

tween DHH and the LHCA.

### III. Provision of Adequate Health Care Services

In accordance with the intent of Act 390 of 1991, the Louisiana Health Care Authority will strive to provide health services of sufficient quality and volume to meet the needs of the uninsured and medically indigent citizens of Louisiana. The LHCA and DHH agree that for FY 1992-93, "adequate services" shall be considered to consist of the following:

A. Those major services that are available at the medical centers on June 30, 1992 to any bona fide resident and taxpayer of the state of Louisiana determined to be uninsured, underinsured, or medically indigent and that are funded in the General Appropriation bill for FY 1992-93, provided that such appropriated funds are made available to the medical centers.

B. Adequate service provision shall also require that the medical centers maintain policies of access to services governed by the following:

1. The medically indigent or uninsured shall be afforded first priority for admission for any form of treatment available at the particular medical center.

2. Those persons who are determined not to be medically indigent or uninsured shall be admitted on a space available basis and shall be reasonably charged for treatment or service received.

3. Emergency treatment shall not be denied to anyone.

### IV. Reduction, Elimination or Relocation of Services

A. The LHCA shall secure written approval from the secretary of DHH at least 60 days in advance of any reduction, elimination or relocation to another medical center of any major programs or services, or establishment of Centers of Excellence that require shifting of major services provided on the date of this agreement. DHH will not arbitrarily withhold approval as long as appropriate services continue to be provided and the change does not adversely effect any of the DHH's budget units.

B. The LHCA agrees not to construct, operate or fund a health care facility, or substantial portion thereof, which primarily treats insured patients other than those covered by Medicare and Medicaid.

### V. Service Improvement and Development

The LHCA recognizes the need to improve and expand services in the medical centers in order to more fully meet the health care needs of the uninsured and medically indigent citizens of Louisiana. The Authority will work to improve access to care, placing highest priority on the following:

A. improved access to prenatal and HIV clinics in every medical center;

B. reduced waiting times for all outpatient services for which there exist medically inappropriate delays in scheduling appointments;

C. improved access to emergency services.

### VI. Financing Arrangements

A. DHH agrees not to adjust interim Medicaid payment rates, target rates, disproportionate share formulas, or to amend the Medicaid State Plan as it relates to inpatient and outpatient hospitals services, without timely notice to the LHCA CEO.

B. LHCA agrees not to process any budget adjustment (BA-7) request to increase the expenditure authority at the LHCA or at any of its facilities without prior written approval

of the secretary of DHH.

C. DHH agrees not to process any BA-7's where the means of financing would reflect use of the overcollections by the LHCA or its facilities without prior written approval of the LHCA CEO.

D. DHH and LHCA agree that no later than March 1, 1993, and annually thereafter, a meeting will be held to determine the amount of overcollections, if any, to be transferred from the Louisiana Health Care Authority to the Department of Health and Hospitals, as required by law.

E. LHCA agrees to provide DHH with monthly reports detailing collections by source of payment for each of its medical centers.

F. With regard to the liability for payment for services for those inpatients who are classified as self pay, the LHCA agrees to adhere to DHH Policy No. 4600-77 (DHH Liability Limitation Policy), until such time as a revised policy may be promulgated by the Authority through the Administrative Procedure Act.

G. Costs associated with the transition from DHH to LHCA administration of the medical centers and not otherwise specified in this agreement will be paid by the agency that is budgeted funds to cover those costs. Where a cost may be incurred in an area in which there is an incomplete functional separation between DHH and LHCA, each agency will bear its proportionate share of costs, based upon the approved cost allocation plan for the particular unit or upon another appropriate methodology for determining proportionate cost, as agreed by the two agencies.

H. LHCA shall not shift monies specifically earmarked in the budget process to alternative uses without prior written approval from the secretary of the Department of Health and Hospitals.

This includes outpatient clinic services, AIDS clinics and medication, and nurse stipends.

### VII. Annual Revision of Service Agreement

DHH and the LHCA agree to revise this service agreement on annual basis, as required by law, and to promulgate the agreement through the Administrative Procedure Act. The draft annual agreement shall be published in the *Louisiana Register* in August of each year, in order for significant changes to be considered in the budget process for the ensuing fiscal year.

Interested persons may submit written comments on the proposed rule no later than December 1, 1992 to: Charles F. Castille, Acting Chief Executive Director, Louisiana Health Care Authority, Box 3947, Baton Rouge, LA 70821.

J. Christopher Pilley  
Secretary  
Department of Health and Hospitals

Charles F. Castille  
Acting Chief Executive Officer  
Louisiana Health Care Authority

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: LHCA/DHH Annual Service Agreement for FY 92-93

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no additional costs associated with this service agreement over and above the LHCA budget for FY 92-93. The agreement proposes no services in addition to those budgeted for the year. There is no fiscal impact associated with the annual service agreement between the Department of Health and Hospitals and Louisiana Health Care Authority. The nature of this agreement is not such that funds are expended or revenues altered in consequence of its adoption.

The service agreement is a device established by the legislature to assure that DHH and the LHCA Medical Centers (formerly the Charity Hospitals) maintain a formal linkage with respect to the delivery and future planning of substantive programs and services in the hospitals. Act 390 of 1991 retained the DHH programmatic responsibility for indigent medical care, created a vendor-like relationship with the hospitals under the Authority, and required DHH to perform an oversight function with respect service delivery.

The service agreement will establish the ground rules of the ongoing relationship between DHH and the Authority, including the terms under which DHH will discharge its oversight responsibilities regarding service delivery during the course of the year. Ultimately, service levels are determined through the budget process. It is anticipated that the annual agreement will become a means to help create a consensus in support of service levels to be funded, as well as to provide a mutually agreeable basis for DHH monitoring of service delivery.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This service agreement will have no impact on revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs or benefits to non-governmental persons or entities. It is anticipated that the LHCA will transfer \$155 million in overcollections of non-general fund revenues to DHH to finance the Medicaid Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition or employment.

Charles F. Castille

David W. Hood

Acting Chief Executive Officer, Senior Fiscal Analyst  
LHCA

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

Effective January 20, 1993, the Department of Health and Hospitals, Office of Public Health proposes to amend the Louisiana Sanitary Code, Chapter XIII, Appendix A, VI., Mechanical Wastewater Treatment Plant, in part, more specifically as follows:

Delete:

A:6.4 in its entirety and replace with the following:

Add

A:6.4 Permitted individual mechanical plants shall

comply with "Standard Number 40 - Individual Aerobic Wastewater Treatment Plants" as adopted by the NSF Board of Trustees, Ann Arbor, Michigan as revised July 1990 and shall comply with the following deletions, amendments and/or additions: (Copies of this standard may be acquired from the National Sanitation Foundation, Box 1468, Ann Arbor, MI 48106 and the amendments may be acquired from the Chief Engineer, Office of Public Health, Box 60630, New Orleans, LA 70160.)

\* \* \*

(a). Deletions:

5.1.1 (in part) Individual effluent samples shall not exceed a BOD<sub>5</sub> of 60 mg/l and SS of 100 mg/l.

\* \* \*

5.5 (entirely) Modification of Test Methods

\* \* \*

Appendix A, G.1(a) (entirely)

\* \* \*

Appendix A, H.3. (entirely)

\* \* \*

Appendix A, I (in part) along with the rationale for exclusion of any data due to adverse conditions during testing:

\* \* \*

Appendix C (entirely)

\* \* \*

Add:

A:6.4.1 Permitted individual mechanical plants shall strictly comply with the related requirements provided for in Appendix A:6.5 of this Chapter. In all cases, judgment as to compliance with either NSF Standard Number 40 requirements (as revised May, 1983 and July 1990 as applicable) and/or additional, related requirements provided for in appendix A:6.5 of this Chapter shall be the responsibility and sole authority of the Chief Engineer of the Office of Public Health. Such judgment as to compliance with either NSF Standard Number 40 requirements (as revised May, 1983 and July 1990 where applicable) and/or additional, related requirements provided for in Appendix A:6.5 of this Chapter, by the Department of Health and Hospitals, Office of Public Health, shall be evidenced upon issuance of approval in accordance with provisions of Appendix A:6.7 of this Chapter.

Add:

A:6.4.2 In addition to the provisions of the "Standard Number 40 relating to Individual Aerobic Plants" adopted by the Board of Trustees of the National Sanitation Foundation (NSF) Ann Arbor, Michigan, as revised May 1983, and revised July 1990, the following Department of Health and Hospitals/Office of Public Health (DHH/OPH) requirements, as referenced to the appropriate section(s) of NSF Standard Number 40, shall also apply:

(a). Scope:

As this Standard deals with the operation and maintenance requirements of the plants, as well as a plant's ability to function over a long period of time, once installed, no physical changes or substitution of component parts are to be made without the express written consent of DHH/OPH. Absent mitigating circumstances, which will be considered by DHH/OPH, the testing agency utilized, unless with approval of the Chief Engineer, must be the same agency as the one which conducted the original performance testing and evaluation.

(b). Minimum Requirements:

Any proposed variations in plant design or compo-

nents must receive DHH/OPH approval. Such approval by DHH/OPH shall not be considered unless and until appropriate, related approval (or certification) is first secured from the testing agency by the manufacturer, establishing that the proposed variations in plant design or components are in comprehensive compliance with any/all provisions of the NSF Standard, respectively as may be applicable.

Applications for DHH/OPH acceptance of proposed variations must be in writing and must be accompanied by both the testing agency approval, as required, and adequate/appropriate supporting data which clearly justifies any proposed variations. If an application for proposed variations is considered approvable by DHH/OPH, such acceptance (or approval) shall be so indicated to the manufacturer in writing by DHH/OPH. In no case shall variations in design or components of installed plants occur without benefit of (in advance of) written DHH/OPH approval.

(c). Alternate Materials:

This Section clearly requires the approval of alternate materials by the testing agency. In addition, as is generally detailed in (b). above, written DHH/OPH approval shall also be required prior to use of any alternate materials, as compared to those originally tested, certified and approved (by both the testing agency and DHH/OPH). As in Section (b). above, similar requirements for written application by the manufacturer (to DHH/OPH) for approval of alternate materials, accompanied by testing agency certification (or approval) and adequate/appropriate supporting data, as justification, shall also apply.

(d). Materials:

All "General": In light of the requirements of (a)., (b)., and (c). above, the durability and suitability of materials, coatings and fittings shall be addressed by the testing agency in the performance evaluation. Minimum requirements shall be specified by the manufacturer. In the course of such minimum requirements considerations, detailed handling specifications, particularly for "coated" plants or portions thereof, shall be provided and assured. It shall be the responsibility of the testing institution, in the conduct of the evaluation process, to consider the ability of materials to withstand the anticipated adverse impact due, in particular, to contact with those soil conditions, and other, related environmental circumstances peculiar to Louisiana, i.e., acidic conditions, highly conductive soils, and etc.

(e). Design and Construction:

Structural Soundness and Characteristics:

Minimum standards, with reference to nationally accepted specifications (such as ASTM), shall be established by the manufacturer and approved by the testing agency. Assurance of quality control by the manufacturer (and his subcontractor) shall be provided.

Accessibility for Inspection and Maintenance:

The grade level "access manholes" shall be of sufficient size and so located so as to allow for all of the following:

1. visual inspection and removal of all mechanical or electrical components;
2. visual inspection and removal of any component which requires periodic cleaning or replacement;
3. visual inspection and sampling of aeration chamber;
4. removal (manually or by pumping) of collected grease or sludge.

(f). Indicators of Failure:

The absence of any particular function or sound shall not be considered as an acceptable indicator of failure. The Standard calls for "a positive and recognizable indication or warning" such as a light or audible alarm. Such light or audible alarm must be overtly recognizable, i.e., the light or audible alarm must be "on" (seen or heard) during the failure situation. Additionally, the location of the failure indicator shall be considered critical, i.e., the location of the failure indicator shall be such that it would be easily observed or heard during the course of a normal day's activities by the homeowner/user. The suitability of the failure indicator, both in terms of nature (or functionally) as regards the intended failure indication capability and in terms of contrived or alternately acceptable positioning (location) of the device, shall be certified (or approved) by the testing agency. Additionally, DHH/OPH approval of (concurrence with) any testing agency certification of a particular failure indicator (light or alarm) shall also be required prior to such failure indicator(s) usage.

(g). Serviceability:

The requirements of this Section must be included in the consideration of compliance with (a). through (f).

(h). Data Plates:

The required data plates, as well as the information thereon, shall be of a permanent type, i.e., shall be of such material(s) so affixed and inscribed (etched) so as to reasonably guarantee persistence (of the data plate and discernible, required information indicated thereon) under various of anticipated environmental or other adverse conditions throughout the expected useful life of the plant.

(i). Mechanical Component Parts:

Component parts protected against flooding by means of a high-level electrical cutoff switch shall include indication of failure for loss of electrical power.

(j). Electrical Component Parts and Plants:

Control "boxes" with appropriate fuses/breakers shall be provided for all plants. Failure indicator shall be incorporated into such control boxes.

(k). Covers or Other Protection:

Protection of openings of smaller than eight inches in diameter may be accomplished by tight fitting "cap" or plug. For all openings of eight inches in diameter and larger the requirements of acceptable protection shall be complied with.

(l). Standard Performance Evaluation Method Pre-qualification:

In addition to the required submission of complete design information and a complete installation/operation/maintenance manual to the testing agency, an identical, conjunctive submittal shall also be made to DHH/OPH.

(m). General Test Conditions and Reporting:

A "minimum of six months" shall be interpreted to mean for a minimum of 26 consecutive weeks, which shall be represented by a minimum of 130 sampling days.

(n). Loading (Manufacturer's Design):

The testing agency shall provide advance information to DHH/OPH specifying how proper hydraulic loading of the plant (to be tested) will be accomplished. Additionally, subsequent to the testing of the plant, the testing agency must be able to provide verification (to DHH/OPH) of proper hydraulic loading, i.e., "feed rate," etc., and confirmation as to how such proper (required) loading was accomplished.

(o). Operation, Installation, and Maintenance:

In the interest of reasonably assuring "objectivity" of plant testing, the following plant test site "security" measures shall be accomplished:

(1). Manufacturer (or representative thereof) access to the plant test site may be allowed only for test plant installation and set-up. Subsequent access to the test site by the manufacturer (or representative thereof) shall be discouraged.

(2). The plant test site shall be fenced and locked with access thereto strictly controlled by the testing agency. Each plant test site visit (access) by all persons, including other than authorized employees of the testing agency, shall be properly documented and recorded by the testing agency. Further, all visitors shall be accompanied by authorized employees of the testing agency.

(p). Testing Season:

Testing may be performed anytime during the year. However, at no time shall the temperature of the aeration compartment contents exceed 30°C (86°F), unless mitigating circumstances can be justified as contributing to short term temperature excursion. Mitigating circumstances which may be considered as justifiable include test unit structural weakness, defect and/or failure of process support equipment.

(q). Start Up Performance Specifications and Procedures:

All testing, both "general" and "stress," must be accomplished on only one singular plant. The testing on this one plant shall be continuous, with "general" testing preceding "stress" testing.

Filling of the plant with "water" shall be interpreted to mean filling of the plant with clear, potable water.

"Raw wastewater of reasonably typical domestic character" shall be interpreted to mean wastewater of a domestic (sanitary) sewage nature which characteristics, as shall be reflected by the daily influent composites analyses required in NSF Standard Number 40, shall be consistently observed to be within the range of 160 mg/l to 290 mg/l, both for biochemical oxygen demand (BOD<sub>5</sub>) and for total suspended solids (SS), except that up to and not greater than five percent of the total number of such series of daily observations for influent character may be allowed to reflect representative values which occur "outside," i.e., "lower than" or "higher than" the range of 160 mg/l to 290 mg/l.

(r). Stress Testing:

Immediately prior to each "stressing sequence," 24-hour composites of both (one each) influent and effluent shall be collected, per composite sampling requirements otherwise specified in the Standard. Additionally, immediately following each "special dosing requirement," 24-hour composites of both (one each) influent and effluent shall be collected for a period of seven (consecutive) days. Daily aeration chamber grab samples shall also be collected during each composite-sampling day. Analyses of all samples shall be in accordance with the specified Standard requirements.

(s). Effluent Quality:

All testing, as specified for color, threshold odor, oily film and foam, shall be conducted on the 1:1000 diluted effluent.

(t). Noise:

Compliance for "noise" measurement, as specified, shall be determined by at least five noise level tests con-

ducted around the plant, e.g., directly north, east, south, and west of the plant and at a point directly downwind during a period when all electrical and/or mechanical components are in actual operation.

(u). Initial Service Policy:

Compliance with the two-year initial service policy and with the provisions thereof (which shall be furnished to the purchaser by the manufacturer) shall be required. Evidence of such compliance shall be appropriately maintained by the manufacturer and/or agent therefor, and shall be made available to DHH/OPH upon request, as may be required.

(v). User's Manual:

7.7.3 "Flow diagram(s)" must be provided in the Users' Manual. "Flow diagram" is interpreted to mean a diagram of "wastewater" flow through the plant.

(w). Test Protocol:

Strict adherence to resumptive design loading provisions, between each stressing sequence, shall be required.

\* \* \*

Amend A:6.5 to read:

Whereas NSF Standard Number 40 includes two classes of plants designated as Class I and Class II, only Class I plants will be permitted in Louisiana. All plants installed shall be required to meet NSF Standard Number 40 for Class I plants, as revised May 1983 and revised July 1990 as applicable.

\* \* \*

Add A:6.6.2:

As initial basis for approval by the Health and Hospitals, Office of Public Health, manufacturers of individual mechanical plants shall submit, for approval, evaluation reports indicating compliance with applicable provisions of NSF Standard Number 40 and with related requirements specified in Appendix A:6.5 of this Chapter. Approval by the Department of Health and Hospitals, Office of Public Health of such evaluation reports shall be a prerequisite to consideration of issuance by the Department of Health and Hospitals, Office of Public Health, Box 60630, New Orleans, LA 70160, and shall be reviewed and considered for approval by same (Engineering Services Section), subject to following:

(a). The compliance evaluation report shall be prepared by an appropriate competent, unbiased independent testing laboratory or institution, i.e., a college or university. Evidence of competency and unbiasedness on the part of the testing (evaluation) authority which may propose to conduct testing and to prepare an evaluation report, as specified in this Section, shall be required by the Department of Health and Hospitals, Office of Public Health. A minimum, such evidence must consist of written documentation of the credentials of the principals scheduled to be directly or indirectly involved in the testing/evaluation, i.e., curriculum vitae, and execution of written affidavits by all involved testing/evaluation principals attesting to respective unbiasedness. The latter, affidavits of attested unbiasedness, shall be so structured and conform to language/content specifications as shall be specified by Department of Health and Hospitals, Office of Public Health, upon advise of its legal counsel.

(b). The compliance evaluation report, which shall be prepared subsequent to related actual, physical individual mechanical plant testing in strict accordance with NSF Standard Number 40 testing/evaluation requirements (as revised May, 1983 and revised July 1990, where applicable) and in accordance with additional, related requirements

specified in Appendix A:6.5 of this Chapter, shall be directly tendered to Department of Health and Hospitals, Office of Public Health by the testing/evaluation authority, with manufacturer (of record) permission. Comparative evaluations, based on prior, not-directly related to individual mechanical plant(s) testing(s)/evaluation(s), and submissions of compliance evaluation report(s) based upon such comparative evaluations shall be considered as unacceptable basis for approval consideration and/or approval issuance by Department of Health and Hospitals, Office of Public Health, as is required by this Code.

(c). Prior to initiation of testing/evaluation of an individual mechanical plant, in accordance with applicable provisions of Sections 6.4, 6.5, 6.6 and 6.7 of this Appendix, the aforementioned independent testing laboratory or institution shall submit a protocol (or written specification) of testing/evaluation, as is proposed, to the Engineering Services Section of the Department of Health and Hospitals, Office of Public Health for review and written approval. Such protocol shall include certain information as well as specified by Engineering Services Section, upon direct inquiry to same. Upon approval of the testing/evaluation protocol by Department of Health and Hospitals, Office of Public Health, the testing/evaluation authority, i.e., independent testing laboratory or institution, shall, in writing, notify the Engineering Services Section of the Department of Health and Hospitals, Office of Public Health of the proposed date and time of testing initiation. Such projected date/time of testing initiation shall be so scheduled as to allow sufficient opportunity, as shall be mutually agreed to between the testing/evaluation authority and Engineering Services Section, for test plant/site, support evaluation/laboratory facilities and other facilities inspection(s) by personnel of Engineering Services Section of the Department of Health and Hospitals, Office of Public Health, both before and during the testing of the individual mechanical plant, as may be proposed. In the case of similar compliance testing/evaluation performed in other states, the Department of Health and Hospitals, Office of Public Health may consider obviation of certain or all of the prior notification and test site inspection requirements herein specified. Alternately, however, an evaluation of the test facilities, procedures and other related details may be required to be provided by an appropriate state regulatory agency having delegated jurisdiction in the respective state, other than Louisiana, in which such individual mechanical plant testing/evaluation may be performed.

(d). Any fraudulent or otherwise intentionally misrepresented information submitted to Department of Health and Hospitals, Office of Public Health, as regards evaluation reports and/or related, required documentation requirements in these regards, shall serve as basis for summary denial of petition for approval of an evaluation report and, alternately, in the event that an evaluation report has been approved and approval has been granted, as basis for approval/permit revocation. Further, in the event that a denial of petition for approval of an evaluation report and/or a revocation of approval may occur, upon declaration of fraudulent or intentional misrepresentation of information basis, Department of Health and Hospitals, Office of Public Health shall not consider for approval any subsequent or alternate similar information tendering by any entity, whether individual or corporate, who/which has been determined to have participated, in any manner or by any means, whether jointly or severally, in the prep-

aration of and/or tendering of fraudulent or otherwise misrepresented information to Department of Health and Hospitals, Office of Public Health.

(e). The personnel of the Office of Public Health shall have unrestricted access to the test site, equipment and records at all times before, during and after the testing.

(f). The testing institution shall provide in writing to Office of Public Health, both prior to start of testing and subsequently with respect to conclusion thereof, that no testing institution personnel are involved either directly or indirectly with the material, equipment, sales, testing, servicing, maintenance or any other aspect that may involve either directly or indirectly monetary gain and/or benefit from said units, as may become/may have been tested and/or as may become approved for subsequent manufacture and/or sale, consequent to successful testing/evaluation with respect thereto (said units).

(g). All documentation including but not limited to notes, data, calculations, bench data, inspections, and pictures, as may become performed, created, or otherwise derived in association with testing/evaluation as is governed by these Codal provisions, shall be provided to OPH upon written request within seven calendar days of request by DHH/OPH and shall become part of the public records. All such documents shall be certified as to authenticity and completeness.

(h). All items in (g). shall be maintained by the testing institution for a minimum of a period of three years after final approval by Office of Public Health.

(i). Failure to provide all requested documentations, as may be required with respect to these Codal provisions, categorically within the time frame and manner so requested, shall serve as basis for summary denial of the entire submittal, i.e., denial of application.

(j). Positive identification of all owners, officers, agents, stockholders, contractors, sub-contractors, as may be in any manner or by any means associated with the petitioner, e.g., manufacturer, of record concerning any application for approval, in these regards, as may become evidenced to DHH/OPH, shall be approved at the time of submittal.

(k). All change(s) of owners, etc., in (j). for the three years after approval by Office of Public Health shall be provided when said changes occur; failure to do so shall be grounds for withdrawal of approval and decertification from the Louisiana list of approved units.

(l). No person involved with the testing facility or college either directly or indirectly, may become an owner, partner, or stockholder of any individual mechanical treatment plant within three years of the approval date of said unit by DHH. Said unit shall be decertified and removed from the Louisiana list of approved units.

(m). Persons, corporations, etc., appealing the denial of their application under the Administrative Procedure Act shall post a cost bond prior to the scheduling of such hearing. The plaintiff shall forfeit the cost bond to the state when said appeal is turned down by the hearing officer. The hearing officer is to determine the amount of the cost bond, on a per diem basis. The costs shall include room rental, hearing officer fees, court reporter fees, and transcript costs.

All remaining portions of Part VI, Chapter 13 shall be in full force and effect. All currently approved listed mechanical wastewater treatment plants shall maintain their approved



listing and are not required to retest according to this revision to remain on said approved list.

Interested persons may submit written comments on the proposed Code amendments to the following address: Larry J. Hebert, M.D., Assistant Secretary and State Health Officer, Box 60630, New Orleans, LA 70160.

A public review hearing will be held on November 24, 1992 at 2 p.m. in the first floor auditorium of the Department of Transportation and Development located at 1201 Capitol Access Road, Baton Rouge, LA to hear comments on the proposed rule.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Amendment to Louisiana Sanitary Code  
Chapter XIII, in part**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No estimated costs or savings are expected to accrue to state or local governmental units, consequent to the promulgation of this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No discernible effect on revenue collections of state or local governments is expected, consequent to the promulgation of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
No significant additional estimated costs and/or economic benefits to directly affected persons or non-governmental groups are expected to accrue, consequent to the promulgation of this proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition and employment is expected, consequent to the promulgation of this proposed rule.

Larry J. Hebert, M.D.,  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Labor  
Office of Workers' Compensation  
Medical Reimbursement Schedules**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 23:1034.2 of Act 938 of 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the Department of Labor, Office of Workers' Compensation, hereby gives notice of its intent to adopt and promulgate rules to implement the medical reimbursement schedules:

This notice of intent replaces the notice which previously ran in the July, 1992, LR, 776.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration**

- Chapter 25. Hospital Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 29. Pharmacy Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 31. Vision Care Services, Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 33. Hearing Aid Equipment and Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 35. Nursing/Attendant Care and Home Health Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 37. Home and Vehicle Modification Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 39. Medical Transportation Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 41. Durable Medical Equipment and Supplies Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 43. Prosthetic and Orthopedic Equipment
- Chapter 45. Respiratory Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 47. Miscellaneous Claimant Expenses Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 49. Vocational Rehabilitation Consultant Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 51. Medical Reimbursement Schedule, and Billing Instructions

The purpose of the Medical Reimbursement Schedules is to coordinate an efficient program to administer medical services to injured workers. The medical reimbursement schedules will include fee schedules for drugs, supplies, hospital care and services, medical and surgical treatment and any non-medical treatment recognized by the laws of this state as legal and due under the Workers' Compensation Act and is applicable to any person or corporation who renders such care, services or treatment or provides such drugs or supplies to all employees covered by Chapter 10 of Title 23 of the Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

The medical reimbursement schedules establish a ba-

sis for billing and payment of medical services provided to all injured employees. A copy of the medical reimbursement schedules shall be available for view at the Office of Workers' Compensation Administration, 1001 North Twenty-third Street, Baton Rouge, LA 70804. Contact Judy Albarado at (504) 342-7559 of the Medical Services Section to schedule appointment to review the medical reimbursement schedules.

Comments should be forwarded to Alvin Walsh, Director of Labor, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be received through the close of business on December 15, 1992.

Alvin J. Walsh  
Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Medical Reimbursement Schedules**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation costs to produce the medical reimbursement schedules with billing and maintenance procedures is \$41,539 as prepared by Blue Cross - Blue Shield of Louisiana. The cost to the Office of Workers' Compensation to reproduce one copy of the reimbursement schedules is \$20.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This will have no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
The medical reimbursement schedules with billing and maintenance instructions will provide guidelines and procedures for appropriate reimbursement amounts to the various health care providers for a proposed or already performed service provided to a person receiving benefits legally due because of a job related injury or illness. The precise economic benefit is not ascertainable. It is estimated that there could be approximately a 15 percent - 25 percent reduction in total medical payments in workers' compensation cases. Employers through their insurance carriers will realize a considerable reduction in medical payments for the medical services provided as a result of an on the job injury or illnesses.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no effect on competition and employment. The reimbursement schedules are designed to provide maximum allowable reimbursement to health care providers for services rendered to injured employees. The impact is not directly felt on employment or competition.

Alvin J. Walsh  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Food Stamp Disaster Program (LAC 67:III.1713)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamp Program.

This rule is necessary to establish the emergency food assistance program declarable by the United States Department of Agriculture in times of disaster.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 3. Food Stamps**

**Chapter 17. Administration**

**Subchapter C. Food Stamp Disaster Program**

**§1713. Emergency Food Assistance Program for Disaster Victims**

A. Under the authority of Section 5(h)(1) of the Food Stamp Act of 1977 and 7 CFR Part 280, the Department of Social Services, Office of Family Support, does hereby establish an Emergency Food Assistance Program for victims of disaster.

B. This program provides emergency food stamp assistance to households in an area which has been included in a food stamp disaster declaration. The secretary of the U.S. Department of Agriculture (USDA), or his designee, determines the areas to be included in such a declaration, the temporary eligibility standards, grant amounts, and duration of the program. The public will be informed of said determinations via Potpourri Notice in the *Louisiana Register*.

C. In order for a parish or community to be eligible for inclusion in a food stamp disaster declaration, the following criteria must be met:

1. Normal commercial channels for food distribution were disrupted by the disaster.
2. Normal food distribution channels were restored.
3. The normal, ongoing Food Stamp Program is unable to expeditiously handle the volume of households affected by the disaster.

**AUTHORITY NOTE:** Promulgated in accordance with 7 CFR 280 and Section 5(h)(1) of the Food Stamp Act of 1977.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support and implemented by Emergency Rule effective September 1, 1992, LR 18:939. Amended LR 19:

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on November 24, 1992 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Food Stamp Disaster Program**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There are no costs or savings in the implementation of this rule. Each disaster is inherently different and the costs cannot be predicted or projected.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There is no effect on revenue collection.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**  
There are no immediate costs or economic benefits to any persons or groups. Individuals who are affected by a declared disaster would derive economic benefits if found eligible for the program.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
There is no effect on competition and employment.

Howard L. Prejean  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

Individual and Family Grant Program  
(LAC 67:III.Subpart 10)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 10, Individual and Family Grant Program. This change is necessary to amend the maximum grant and flood insurance amounts in the Individual and Family Grant Program.

**Title 67  
SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 10. Individual and Family Grant Program**

**Chapter 65. Application, Eligibility, and Furnishing Assistance**

**Subchapter C. Need and Amount of Assistance**

**§6501. Maximum Grant Amount**

A. The maximum grant amount in the IFG Program for Federal Fiscal Year October 1991 through September 1992 is \$11,500.

B. The amount will be adjusted at the beginning of each federal fiscal year to reflect changes in the Consumer Price Index for All Urban Consumers published by the U. S. Department of Labor. Notice of the applicable grant amount changes will be published in the Potpourri Section of the *Louisiana Register*.

**AUTHORITY NOTE:** Promulgated in accordance with 44 CFR 206.131 and F.R. 56:58378.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), implemented by Emergency Rule, LR 15:444 (June 1989), amended by Emergency Rule, Office of Family Support, LR 17:474 (May 1991), amended LR 17:766 (August 1991), LR 17:888 (September 1991). Amended by Emergency Rule, LR 18:939 (September 1992), amended LR 19:

**§6502. Flood Insurance**

A. In order to be eligible for assistance under the IFG Program, an individual or family must agree to purchase adequate flood insurance and maintain such insurance for three years or as long as they live in the residence to which the grant assistance relates, whichever is less.

B. For Federal Fiscal Year October 1991 through September 1992, the dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is \$7,000 building and \$4,500 contents for a homeowner, and \$11,500 contents for a renter.

C. These amounts will be adjusted at the beginning of each federal fiscal year to reflect changes in the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor. Notice of the applicable flood insurance amounts for housing and personal property will be published in the Potpourri Section of the *Louisiana Register*.

**AUTHORITY NOTE:** Promulgated in accordance with 44 CFR 206.131 and F.R. 56:58378.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989). Implemented by Emergency Rule LR 15:444 (June 1989). Amended by Emergency Rule by the Office of Family Support, LR 17:474 (May 1991) and LR 17:766 (August 1991), amended LR 17:888 (September 1991), amended by Emergency Rule, LR 18:939 (September 1992), amended LR 19:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on November 24, 1992 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Individual and Family Grant Program**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The maximum grant amount and the value of required flood insurance for certain disaster victims increases by \$500, but since each disaster is unique and unpredictable, no costs can be anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs or benefits to persons or non-governmental groups. In the event of disaster, there may be greater economic benefits to individuals and a cost for an increase in insurance but these cannot be projected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Howard L. Prejean  
Assistance Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Bylaws**

In accordance with R.S. 49:950, et seq., notice is hereby given that the Louisiana State Board of Registration for Professional Engineers and Land Surveyors intends to amend LAC 46:LXI as follows:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part LXI. Professional Engineers and Land Surveyors**

**Subpart 2. Bylaws**

**Chapter 27. General Information**

**§2703. Board Members**

**A. Number of Board Members**

The board shall be comprised of 11 members, each of whom shall be appointed by the governor in accordance with the requirements established by law.

\*\*\*

**C. Date of Elections**

The election of board officers shall take place at the board's annual meeting in July. In the event that an officer cannot complete his term, an election in order to fill the unexpired term shall be scheduled at the earliest practical regular or special meeting.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1179 (December 1985), LR 19:

**§2705. Standing Committees**

**A. Committees**

The board shall establish the following Committees: Executive Committee, Agricultural Engineering Committee,

Chemical Engineering Committee, Civil Engineering Committee, Electrical Engineering Committee, Industrial Engineering Committee, Mechanical Engineering Committee, Metallurgical Engineering Committee, Mining Engineering Committee, Nuclear Engineering Committee, Petroleum Engineering Committee, Land Surveying Committee, Engineer-in-Training Committee, Finance Committee, and Nominations Committee.

\*\*\*

**D. Engineering Committees**

\*\*\*

- 9. Nuclear Engineering Committee;
- 10. Petroleum Engineering Committee.

**E. Land Surveying Committee**

\*\*\*

The Land Surveying Committee shall (1) review applications for registration as a professional land surveyor; (2) review applications for certification of persons as a land surveyor-in-training; (3) conduct oral examinations or interviews; (4) supervise the selection of examinations on the fundamentals of, on principles and practice of, and on the laws and procedures of land surveying; (5) recommend passing scores for their respective written examinations; and (6) evaluate and recommend land surveying curricula acceptable to the board.

\*\*\*

**H. Curricula Committee**

The chairman shall appoint a Curricula Committee to evaluate and make recommendations to the board concerning the quality of the engineering, related science, related technology, curricula, the faculties, and facilities of schools within the state of Louisiana. The curricula committee shall have the power to make inspections in the course of its evaluations. The committee chairman shall coordinate the selection of board observers for all ABET visitations in the state.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1180 (December 1985), LR 19:

**§2707. The Executive Secretary**

\*\*\*

**C. Duties of the Executive Secretary**

\*\*\*

18. be an associate member of the National Council of Examiners for Engineering and Surveying (NCEES);

\*\*\*

24. keep a register of receipts and expenditures, maintaining such financial books and will at all times show the financial condition of the board and the validity of the registrations and of the certificates which have been issued;

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1180

(December 1985), LR 19:

**§2709. Meetings**

\*\*\*

**B. Annual Meeting**

The first regular meeting of the fiscal year is to be held in July and shall be designated as the annual meeting.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1181 (December 1985), LR 19:

**§2713. Executive Session**

**A. Reasons for Calling Executive Sessions**

Executive sessions may be held for the following purposes:

\*\*\*

4. investigative proceeding regarding allegations of misconduct;

5. cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude; or

6. discussion of board office operations, staff personnel assignments, pay, and benefits.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19:

**§2715. Voting**

\*\*\*

**I. (Repealed)**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19:

**§2719. Publications of the Board**

**A. Roster**

A roster showing the names and addresses of all registered professional engineers, the branch of engineering in which professional engineers are registered, and all registered land surveyors may be published by the board. Upon request, a copy of this roster shall be mailed without charge to each person so registered. Extra copies to registrants and copies to others shall be furnished upon payment of a fee established by the board. The roster shall be placed on file with the secretary of state and in the libraries of all colleges and universities in this state.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 19:

**§2725. Compensation and Expenses**

**A. Authority to Incur Traveling Expenses**

\*\*\*

2. The board may, by resolution at one of its meetings, authorize any of its members or representatives to travel at the expense of the board to attend meetings and conventions such as those of the National Council of Examiners for Engineering and Surveying (NCEES), the Accreditation Board for Engineering and Technology (ABET), or other allied organizations. Per diem for time spent traveling and for time spent at the meeting will be allowed. The allowance of per diem for time spent traveling shall not exceed the total number of days computed by dividing the most direct route driving mileage by 400 miles per day.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 19:

**§2727. Board Nominations**

**A. Guidelines and Procedures**

The following guidelines and procedures will be observed in order that timely and prudent advice can be given to the Louisiana Engineering Society and the Louisiana Society of Professional Surveyors with regard to nominees for vacancies on the board.

1. At each annual meeting, the board will determine and publish in the minutes of the meeting, and include in the annual report issued to the governor, the names of the sitting board members and the respective division of engineering practice of each, in the case of engineers, and the identity of the registered professional land surveyor member. A copy of the list will be forwarded by certified mail, return receipt requested, to the Louisiana Engineering Society and the Louisiana Society of Professional Surveyors.

\*\*\*

b. If a board member is not a member of the Louisiana Engineering Society or the Louisiana Society of Professional Surveyors, it shall be his duty to notify the executive secretary of any significant change in his regular employment; the executive secretary shall so advise the Louisiana Engineering Society and the Louisiana Society of Professional Surveyors for its action, if any, prior to the annual meeting.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 5:120 (May 1979), LR 11:1182 (December 1985), LR 19:

**Chapter 29. Organization of the Board**

**Repealed (Reserved)**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:53 (February 1976), amended LR 3:502 (December 1977), LR 5:118 (May 1979), repealed LR 19:

**Chapter 31. Administration**

Repealed (Reserved)

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:54 (February 1976), amended LR 5:119 (May 1979), repealed LR 19:

Interested persons may submit written comments or offer amendments to the proposed rules to the Board Office at 1055 St. Charles Avenue, Suite 415, New Orleans, LA 70130, at any time prior to November 4, 1992. The board proposes to consider and take action on the adoption of these amendments at a meeting in its office at 11 a.m., November 10, 1992.

Paul L. Landry, P.E.  
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**Rule Title: Bylaws**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The cost associated with the addition of one board member is \$5,000 per year. The Board of Professional Engineers and Land Surveyors has sufficient funds to implement this rule change.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
These proposed rule changes will have no impact on revenue collections of state or local government units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**  
There will be no cost to persons or non-government groups from this action.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
There will be no effect on competition as a result of this action.

Paul L. Landry, P.E.  
Executive Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

Certification, Registration, Temporary Permits

In accordance with R.S. 49:950, et seq., notice is hereby given that the State Board of Registration for Professional Engineers and Land Surveyors intends to revise LAC 46:LXI as follows:

**Title 46  
PROFESSIONAL AND OCCUPATIONAL STANDARDS**

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

**Subpart 1. Rules**

**Chapter 3. Requirements for Certification and Registration of Individuals and Temporary Permit to Practice Engineering (Reference Chapter 11. Curricula, Chapter 13. Experience, and Chapter 15. Examinations.)**

**§305. Professional Engineer Registration**

A. An applicant for registration as a professional engineer must be of good character and reputation and recommended by five personal references, three of whom are registered professional engineers and who have personal knowledge of the applicant's character and abilities.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:693B.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:350 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:

**§311. Land Surveyor Registration**

\*\*\*

B. 4. Reciprocity (or Comity)

The applicant shall be a person who holds a valid certificate of registration to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provision of the registration law (R.S. 37:681 through 37:703 as amended by Act 568 of 1980) and the rules of the board, who has passed a written examination in the laws, procedures, and practices pertaining to land surveying in Louisiana, who is of good character and reputation, and who has satisfied the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia in which he/she is registered will accept the certificates of registration issued by the board on a reciprocal basis.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:693B and R.S. 37:694.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:351 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:

**Chapter 5. Rules Governing Corporations and Firms**

**§503. Firm Title**

Repealed

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:689.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:116 (May 1979), LR 8:191 (April 1982), repealed LR 19:

**§509. Enforcement**

\*\*\*

B. Any firm that has qualified with the board in accordance with the above rules shall be deemed to be a

registrant of the board and therefore shall be subject to all disciplinary provisions provided for in the registration law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:689.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:503 (December 1977), amended LR 5:117 (May 1979), LR 8:191 (April 1982), LR 19:

#### **Chapter 7. Applications and Fees**

##### **§701. Applications**

A. Applications for registration as professional engineer or land surveyor shall be typed on forms furnished by the board, shall contain statements made under oath showing the applicant's qualifications, and the names and addresses of persons who can verify such statements and in addition, the names and addresses of five personal references. Three or more of the five personal references furnished by an applicant for registration as a professional engineer shall be registered professional engineers. Three or more of the five personal references furnished by an applicant for registration as a land surveyor shall be registered land surveyors.

\*\*\*

I. Any application for registration of an engineering firm and/or land surveying firm must be typed on the form provided by the board, must be completed in its entirety and must contain the name, registration number, and signature of all Louisiana registered professional engineers designated as supervising professionals in accordance with Chapter 5. The name and signature of an officer of the firm duly authorized to make certifications on behalf of the firm must appear in the specified location of the form. If the applicant is a corporation, a copy of the corporation's Louisiana State Charter (domestic) or Certificate of Authority (foreign) must accompany the application. Designated supervising professionals for the firm must also successfully complete the Louisiana Laws and Rules Questionnaire prior to registration of the firm.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:689.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), LR 19:

#### **Chapter 11. Curricula**

##### **§1101. Approved Curricula**

\*\*\*

D. Until January 1, 1995, the board may recognize as approved for the registration of land surveyors under R.S. 37:693B(4)(b) all approved engineering curricula that contain at least six semester credit hours, or equivalent, of satisfactory surveying courses.

E. Until January 1, 1995, the board, by a majority vote at a regular meeting, may recognize a curriculum of a college or university of recognized standing, leading to a bachelor of science degree, as an approved curriculum for the registration of land surveyors under R.S. 37:693B(4)(b) provided the curriculum contains at least six semester credit hours, or equivalent, of satisfactory surveying courses.

F. Until January 1, 1995, the board may recognize that the formal education of an applicant for registration as a land surveyor meets the requirements of R.S. 37:693B(4)(b) if

he/she has passed 60 semester hours, or the equivalent, of courses above the high school level, including at least six semester hours, or the equivalent, of satisfactory surveying courses.

G. The board, by a majority vote at a regular meeting, may approve curricula that contain at least 30 semester credit hours, or the equivalent, of satisfactory land surveying, mapping, and real property courses as required under R.S. 37:693B(3)(b) for certification as a land surveyor-in-training and under R.S. 37:693B(4)(f) for registration as a professional land surveyor.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:693.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 10:805 (October 1984), LR 19:

#### **Chapter 15. Examinations**

##### **§1501. General**

\*\*\*

E. Examinees will be notified in writing what material will be permitted in the examination room when scheduled for an examination.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:693.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:

##### **§1515. Re-Examinations**

A. A person who fails an examination is eligible to apply to retake the examination. A request for re-examination must be submitted in writing on the form specified by the board prior to the deadline date for scheduling of the examination.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:693.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:113 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:

#### **Chapter 17. Rules Governing the Use of Seals**

##### **§1701. Seal Rules**

\*\*\*

E. 1. the client or any public or governmental agency requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or the registrant's employee as long as the employee works in the registrant's place(s) of business; and

2. the registrant supervises the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion; and

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:

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

**§2507. Property Boundary Survey**

\*\*\*

F. 7. All field data gathered shall satisfy the requirements of the following Subsection on plats, maps, and drawings.

\*\*\*

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), LR 19:

Interested persons may submit written comments or offer amendments to the proposed rules to the Board Office at 1055 St. Charles Avenue, Suite 415, New Orleans, LA 70130, at any time prior to November 4, 1992. The board proposes to consider and take action on the adoption of these amendments at a meeting in its office at 11 a.m. on November 10, 1992.

Paul J. Landry, P.E.  
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**Rule Title: Certification, Registration,  
Temporary Permits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated implementation costs associated with the changes to these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
These proposed rule changes will have no impact on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There will be no cost to persons or non-governmental groups from this action.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition as a result of this action.

Paul L. Landry, P.E.  
Executive Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Transportation and Development**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to adopt LAC 70:1.Chapter 2, in accordance with the provisions of R.S. 32:236(C).

**Title 70**

**TRANSPORTATION AND DEVELOPMENT**

**Part I. Office of General Counsel**

**Chapter 2. Bus Stops within Highway Right-of-Way**

**§201. General Provisions**

In accordance with Louisiana Revised Statute 48:381(A), and when not in conflict with Louisiana Revised Statute 32:236(C), DOTD may issue permits for bus shelters and benches to be located within highway right-of-way. The permit will not be in conflict with the interests of DOTD or the public, and the facility will be located in an area upon which DOTD has the right to regulate activity within the highway right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(A).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 19:

**§203. Permit Process**

- A. Each structure shall require a separate permit.
- B. New permit requests must be submitted for any structural modifications, or changes in location of the facility.
- C. Detailed drawings specifying the design and exact location of each facility shall accompany each permit request.

1. All drawings shall be stamped by an engineer licensed by the Louisiana State Board of Registration for Professional Engineers and Land Surveyors. In stamping the drawings, the engineer shall attest to the structural soundness of the facility, and to the safeness of the location of the facility.

2. The drawings shall indicate the dimensions and design of the facility.

3. The drawings shall show the exact location of the facility, highway, right-of-way, and property lines and owners of fronting property.

4. The drawings shall include a plot plan showing all structures, utilities, and hard surfaced areas located in the vicinity.

D. A letter of no objection from the adjacent property owner(s) must accompany each permit request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(A).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 19:

**§205. Permit Conditions**

A. These facilities shall not interfere with normal DOTD maintenance activities. In order to accommodate mowing equipment, a 6 feet concrete buffer zone shall be constructed around each facility.

B. Utility facilities, drainage and driveway permits shall have priority over permits for shelters and benches. The DOTD shall request the owner to remove or relocate the sign



at the owner's expense if this is necessary to accommodate drainage, maintenance, utility facilities, driveways, safety or other construction.

C. The owner shall comply with any request made by the DOTD within 30 calendar days of receiving written notice. If the owner fails to comply within 30 days, the DOTD may remove the facility, and may charge the owner for all costs associated with the facility's removal.

D. Clear zones, site angles and all other safety and engineering standards shall be maintained at all times.

E. The structure must be a minimum of 15 feet from the edge of the highway, or a minimum of 6 feet in curbed areas.

F. In order to maintain the see-through nature of the shelter, no advertising shall be allowed on the sides of the shelter.

G. All advertising shall be restricted to the seat and back of the bench, and/or to a sign placed on top of the shelter. The width of the sign shall not exceed 6 feet, and height shall not exceed 4 feet. The sign shall be placed directly on top of the shelter, and shall not overhang the shelter at any point.

H. There shall be no moving parts or electronic variable messages.

I. Back lighting may be allowed at DOTD's discretion, provided that it meets all DOTD standards. Special attention should be given to shielding the glare caused by back lighting. All cable and conduit within highway right-of-way shall be buried a minimum of 4 feet below the surface of the ground. Meters and non structural poles are prohibited.

J. No unusually large or small shelters or benches shall be permitted. The DOTD reserves the right to specify minimum and maximum dimensions of shelters and benches at the time that plans or drawings are presented for approval.

K. A small tag indicating the permit number, and the name, address, and telephone number of the permittee shall be attached to the side of each facility. The tag shall be placed in a location that is clearly visible, and shall be maintained in a legible condition by the permittee.

L. These facilities shall not be abandoned on highway right-of-way. The permittee shall remove any facility that is no longer being utilized by the permittee.

M. The permittee shall keep the facility in a good state of repair. Any facility that is in a state of disrepair shall be removed or repaired by the permittee. Should the permittee fail to remove or repair the facility within 30 calendar days of receiving written notice from DOTD, DOTD may remove the facility, and may charge the permittee for all costs associated with its removal.

N. Selection of advertisers shall be at the discretion of the permittee, and the permittee shall be fully responsible for the content of all advertisements.

O. The owner of facilities within highway right-of-way must agree to hold the DOTD harmless, and to assume full liability in all cases where the facility is alleged to be the cause of harm.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:381(A).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 19:

#### **§207. Compliance**

Issuance of permits to anyone failing to comply with DOTD permitting regulations shall be suspended until the

permittee complies, and existing permits issued to said permittee may be canceled if lack of compliance continues.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 48:381(A).

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 19:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: John Collins, Engineer Supervisor, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, (504) 379-1509.

Jude W. P. Patin  
Secretary

### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: Bus Shelters within Highway Right-of-Way**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no additional cost to DOTD.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The primary objective of this rule is to establish uniform safety standards which will decrease processing time for issuance of permits, and will only affect structures located within highway right-of-way. Therefore, there will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Advertising has never been allowed within highway right-of-way. Some additional advertising and sales revenue may be generated, but the overall effect will be negligible.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition or employment.

Jude W. P. Patin  
Secretary

David W. Hood  
Senior Fiscal Analyst

### **NOTICE OF INTENT**

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

#### **Alligator Harvest**

The Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission does hereby give notice of its intent to amend the alligator regulations which govern the wild and farm alligator harvest. The alligator industry of Louisiana represents a renewable resource, valuable to the economy providing income to approximately 125 alligator farmers and in excess of 1,900

alligator hunters. The alligator farming program and the annual harvest of surplus wild and nuisance alligators is in keeping with wise wildlife management techniques based upon scientific research conducted by the Department of Wildlife and Fisheries.

The Louisiana Wildlife and Fisheries Commission does hereby authorize and delegate to the secretary of the Department of Wildlife and Fisheries, the authority to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to filing of the Fiscal and Economic Impact Statements, the filing of the notice of intent and preparation of reports and correspondence to other agencies of government.

The proposed regulations governing the alligator harvest program and the alligator farming program may be viewed at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA (504) 342-5015 and at the Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA, phone: (504) 765-2812.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:115, 259, 261, 262, 263 and 280.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19: ( 1993).

Interested persons may submit written comments on the proposed regulations no later than Tuesday, December 8, 1992, to James H. Manning, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

James H. Jenkins, Jr.  
Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Alligator Regulations**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There will be no implementation costs or savings to any governmental units.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
There will be no effect on revenue collections of any governmental unit.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**  
There will be no cost or benefit to directly affect any persons or non-governmental group.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
There will be no effect on competition or employment opportunities.

Joe L. Herring  
Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

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

**Bait Dealers Permit**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), and R.S. 56:497(C), the Louisiana Wildlife and Fisheries Commission is hereby giving notice of its intent to modify rules and regulations for a special bait dealer's permit which will allow the taking of live bait shrimp by qualified permit holders during the closed season between the spring and fall shrimp seasons.

**Title 76**

**Wildlife and Fisheries**

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

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§329. Special Bait Dealer's Permit**

**A. Policy**

The special bait dealer's permit is intended solely for the benefit of the recreational fishing public which desires to use live shrimp as bait during the closed season between the spring and fall shrimp seasons. Its purpose is to allow the uninterrupted operation of those commercial establishments which sell live bait shrimp to the fishing public during the spring and fall shrimp season. The permit is not intended for the direct use of recreational fishermen, charter boats, commercial fishermen who sell dead shrimp, or for any other entity which may wish to catch shrimp for their own use during the closed season.

**B. Application**

1. Applications for the special bait dealer's permit will be accepted from January 1 through April 30 of each year. All applications should be mailed to the department via certified mail.

2. Applications will be accepted only from the owner of an existing business which sells or plans to sell live bait to recreational fishermen.

3. Applications must be made on forms provided by the department; all information requested must be provided before the application will be processed.

4. Applicants must show proof of having acquired all necessary licenses and permits before the permit will be issued. This includes, if relevant, boat registration, vessel license, gear license, commercial fishing licenses, and name of fisherman; wholesale/retail dealers license, state sales tax number, and a copy of the applicant's and the fisherman's valid drivers license. A background check for wildlife violations of the applicant and the fisherman will be made. Conviction of any Class II or greater wildlife violation may be grounds for denial of application.

5. Applicant must post a \$1,000 cash bond or surety bond before the permit is issued. If using a surety bond, these bonds must be issued through a bonding company or an insurance company. This bond will be forfeited if the permittee, his employee, or his contractor violates any provision of the rules and regulations concerning the special bait dealer's permit or if the permittee, his employee, or his contractor violates any commercial fishing law or regulation while operating under the permit. Property bonds are not acceptable.

6. Before the permit is issued an agent of the department must inspect the facilities of the applicant and verify that the applicant is operating a commercial establishment which sells live shrimp to the fishing public for use as bait, and that the applicant does have facilities to maintain live shrimp. Notice to the public must be posted that live bait shrimp are available for sale. The applicant must have onshore facilities, including tanks with a minimum capacity of 500 gallons, available to hold live shrimp. These tanks must have provisions for aeration and/or circulation of the water in which live shrimp are held prior to sale. In determining total tank capacity of onshore facilities, the agent shall not count any tank with a capacity of less than 50 gallons.

7. Only the applicant, his designated employee, or his contractor may operate under the permit. If the applicant has a contract with another party who will supply live bait shrimp to him, he must provide the department written evidence of the agreement. At the time of application, the applicant will specify who will be working under the permit. Should these persons change, the applicant will notify the department in the manner specified by the permit before the new vessel or persons operate under the permit. The permit is not transferrable to any other person or vessel without previous notification to the department in the manner specified by the permit. The entire original permit must be carried on the vessel while in operation.

8. Vessel operations under this permit shall be limited to areas specified by the permittee as stipulated in his application.

#### C. Operations

1. Only the vessel listed in the permit can be used with the permit. Live wells, aeration tanks, and other vessel facilities to maintain live shrimp must be carried on or built into this vessel; it must be used for both taking and transporting the live shrimp. The vessel must have a minimum of one compartment or tank with a capacity of 50 gallons. No other vessel may be used under the permit. Signs which identify the vessel as working under the special bait dealer's permit shall be posted on the vessel. These signs shall be visible from either side of the vessel and from the air; the word "BAIT" and the permit number shall be placed on these signs in letters at least 12 inches high.

2. Permitted gear is limited to one trawl not to exceed 25 feet along the cork line 33 feet along the lead line. This is the only gear which can be used or carried aboard the permitted vessel while the vessel is operating under the permit; no other commercial fishing gear may be on the vessel when it is being used under permit.

3. No dead shrimp may be aboard the vessel while it is operating under the permit. All dead shrimp and all other organisms caught while taking live bait shrimp must be immediately returned to the water. Shrimp dying in onshore holding facilities may be sold for bait use only, in lots not to exceed 16 ounces in weight.

4. Bait shrimp may be taken only from sunrise to sunset; no night fishing is allowed under this permit.

5. The entire original permit must be in the possession of the person operating the vessel while it is engaged in taking shrimp under the terms of the permit.

6. Each time the permit is used the permittee must notify the department in the manner specified by the permit. Before the vessel departs the dock under the permit, the department must be advised of the time of departure and the

general location in which trawling will take place; immediately after the permitted vessel returns to the dock the department must be notified of the time of return.

7. The permittee shall maintain an up-to-date record of the activities conducted under permit on forms provided by the department for that purpose. These forms shall be available for inspection by agents of the department upon request by said agents. In addition, any agent of the department shall be allowed to make an on site inspection of any facilities operating under the permit, at any time. Permittee will submit to the department, not later than September 1, the record of shrimp harvested under the permit.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:497(C).

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 3:210, (April 1977), amended LR 15:867 (October 1989), LR 19:

Interested persons may submit written comments of the proposed rule to Brandt Savoie, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, December 2, 1992.

James H. Jenkins, Jr.  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES Rule Title: Bait Dealer Permits

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no cost to implement this rule as it will be handled along with other duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This rule change will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
This proposed rule change will have no effect in costs, but will continue economic benefits to commercial live bait sellers.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This rule will not affect competition or employment.

Joe L. Herring  
Secretary

David W. Hood  
Senior Fiscal Analyst

# Potpourri

## POTPOURRI

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

### Ozone Attainment for New Orleans

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that a change in the "State Implementation Plan" for ozone abatement procedures has been initiated as follows.

Redesignation of the New Orleans CMSA to ozone attainment status is being proposed by Louisiana. The parishes included in this redesignation are: Jefferson, Orleans, St. Bernard, St. Charles, and St. Tammany parishes. St. John the Baptist Parish in the CMSA was previously designated to attainment and is included in this package only to demonstrate ambient monitoring compliance with the Ozone National Ambient Air Quality Standard.

Designation of Jefferson, Orleans, St. Bernard, St. Charles and St. John the Baptist parishes as non-attainment for ozone was published by EPA as a final rule September 11, 1978. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the Revised State Implementation Plan was approved by EPA. The design number for Jefferson, Orleans, and St. Bernard parishes was 0.17 ppm and for St. Charles Parish was 0.16 ppm in 1979 in the State Implementation Plan. Sufficient improvement in ozone monitoring data in these parishes has been shown in the intervening years to qualify for attainment status.

A public hearing will be held at 7 p.m. on Tuesday, November 17, 1992 in the City Council Chambers of the Hahnville City Hall, LA Hwy. 18, Hahnville, LA; and a public hearing will be held at 7 p.m. on Wednesday, November 18, 1992 in the City Council Chambers of the New Orleans City Hall, 1300 Perdido Street, New Orleans, LA to receive comments on this proposed redesignation.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP change. Such comments should be submitted no later than November 20, 1992 to Bill Hopkins, Technical Services Coordinator, at (504) 765-0190. Written comments should be mailed to: Bill Hopkins, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA, 70884-2135. A copy of the SIP changes may be viewed at the Air Quality Regulatory Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet, Second Floor, Baton Rouge, or 3945 North I-10 Service Road, Metairie, LA.

Joan Albritton  
Administrator

## POTPOURRI

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

### SIP Public Hearing

Pursuant to Sections 182 and 110(k)(4) of the Federal Clean Air Act amendments of November 15, 1990, the Department of Environmental Quality (DEQ), Air Quality Division, is holding a public hearing to present for public review a commitment to revise the State Implementation Plan (SIP). These proposed revisions will commit the DEQ to adopt measures to reduce emissions of nitrogen oxides (NOx) from major stationary sources in the Baton Rouge ozone nonattainment area if modeling work shows the need.

The public hearing will be held November 13, 1992, at 1:30 p.m. on the Third Floor of the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. All interested persons are invited to attend and submit written and oral comments on the proposed revision. Such comments should be submitted no later than November 13, 1992 at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70884-2135. A copy of this proposed SIP committal is available for public review from the address above or from 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810.

Joan Albritton  
Administrator

## POTPOURRI

**Department of Environmental Quality  
Office of Legal Affairs and Enforcement  
Enforcement and Regulatory Compliance Division**

### Semiannual Regulatory Agenda

The Department of Environmental Quality wishes to announce the availability of the semiannual Regulatory Agenda prepared by the Enforcement and Regulatory Compliance Division. The current agenda contains rules which have been proposed but have not been published as final rules and rules which are scheduled to be proposed in the fiscal year 1992 - 1993. Check or money order is required in advance. To obtain a copy contact Greta Carmouche at (504) 765-0399, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282.

Joan Albritton  
Administrator

**POTPOURRI**

**Office of the Governor  
Office of the Oil Spill Coordinator**

**Louisiana Oil Spill**

In accordance with R.S. 30:2458(A), notice is hereby given that the Oil Spill Interagency Council will meet on November 5, 1992, 10 a.m., at the Mineral Board Hearing Room, Natural Resources Building, 625 North Fourth Street, First Floor, Baton Rouge, LA. All interested persons are cordially invited to attend.

The public may submit written comments. If you should need any further information, please call (504) 922-3230.

Roland J. Guidry  
Louisiana Oil Spill Coordinator

**POTPOURRI**

**Department of Health and Hospitals  
Board of Embalmers and Funeral Directors**

**Examinations**

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, December 5, 1992 at Delgado Community College, 615 City Park Avenue, New Orleans.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, 504-838-5109.

Dawn Scardino  
Executive Director

**POTPOURRI**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Examinations**

The Louisiana Board of Veterinary Medicine will administer national and state board examinations for licensure as a practitioner of veterinary medicine on the following dates:

- National Board Examination      December 8, 1992
- Clinical Competency Test        December 9, 1992
- LA State Board Examination      December 10, 1992

The national examination for persons wishing to obtain certification as registered veterinary technicians will also be administered on December 10, 1992.

The deadline to apply for the national examinations is October 23, 1992, at 4 p.m. The deadline for the Louisiana State Board is November 10, 1992, at 4 p.m. Persons

wishing an application form or additional information may contact the board office at (504) 342-2176.

Vikki Riggle  
Executive Director

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 61 claims in the amount of \$172,619.71 were received in the month of September, 1992, 29 claims were paid in the amount of \$76,051.35 and one claim was denied.

Loran C. coordinates of reported underwater obstructions are:

26610	46979	Cameron
26626	46976	Cameron
26642	46978	Cameron
27482	46951	Iberia
27400	46935	Iberia
28546	46858	Jefferson
28348	46828	Lafourche
28316	46829	Lafourche
28743	47035	Lake Pontchartrain
28979	46882	Plaquemines
28973	46774	Plaquemines
28964	46919	Plaquemines
29034	47013	St. Bernard
28794	47011	St. Bernard
28920	46932	St. Bernard
27781	46875	Terrebonne
27735	46884	Terrebonne
27900	46858	Terrebonne
27718	46887	Terrebonne
27442	46963	Vermilion
27312	49932	Vermilion

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales  
Secretary

**POTPOURRI**

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

**Food Stamp Program**

Notice is hereby given that the U.S. Department of Agriculture (USDA), Food and Nutrition Services, because of Hurricane Andrew, has declared a disaster in the area known as the Bayou L'Ourse community of Assumption Parish. Therefore, the Department of Social Services, Office of

Family Support, in order to comply with federal regulations at 7 CFR Part 280, has implemented the Emergency Food Assistance Program for Victims of Disasters in those areas. The program is in effect from September 23, 1992 through

September 24, 1992.

The USDA Disaster Income Limits for the federal fiscal year October 1, 1991 through September 30, 1992 are provided in the following chart:

HOUSEHOLD SIZE	100%	STANDARD DEDUCTION	SHELTER DEDUCTION	100% + DEDUCTS
1	552	122	194	868
2	740	122	194	1,056
3	929	122	194	1,245
4	1,117	122	194	1,433
5	1,305	122	194	1,621
6	1,494	122	194	1,810
7	1,682	122	194	1,998
8	1,870	122	194	2,186
Each Add'l	189			189

Other eligibility criteria designated by USDA are taken from the proposed federal regulations as published in the Federal Register, Vol. 48, No. 17, January 27, 1981. USDA has established the benefit amounts. Eligible households will

be issued a full one-month allotment.

Gloria Bryant-Banks  
Secretary

## POTPOURRI

### Department of Transportation and Development Sabine River Compact Administration

#### Fall Meeting

The Fall meeting of the Sabine River Compact Administration will be held at the Holiday Inn Park Place, 325 N. Kansas (and Main) Street, El Paso, TX on Wednesday, November 4, 1992; the meeting will begin at 1:30 p.m.

The purpose of the meeting will be to conduct business as programmed in Article IV (8) of the by-laws to the Sabine River Compact.

The Spring meeting will be held in New Orleans, LA in June 1993.

The contact person in Louisiana concerning the meeting is: Max J. Forbes, Jr., Secretary, Sabine River Compact Administration, 1064 Highland Park Drive, Baton Rouge, LA 70808, (B) 504-765-0558, (H) 504-766-1698.

Max J. Forbes, Jr.  
Secretary

**CUMULATIVE INDEX**  
(Volume 18, Number 9)

**Office of State Library of Louisiana**  
Library construction, 978N  
**State Parks, Office of**  
Use/carrying capacity, 663ER

1992		
Pages		Issue
4— 126	.....	January
129— 218	.....	February
227— 327	.....	March
338— 463	.....	April
473— 544	.....	May
553— 651	.....	June
662— 794	.....	July
803— 921	.....	August
926— 1025	.....	September
1035— 1185	.....	October

**ECONOMIC DEVELOPMENT**

**Architectural Examiners, Board of**  
Continuing education, 250R  
Examinations, 87N, 88N, 599R, 599R

**Business Development Services, Office of**  
Regional Economic Development Alliance, 23R

**Commerce and Industry, Office of**  
Environmental tax exemption, 240ER, 296N, 461P, 840R  
Finance Division  
Capital companies tax credit, 251R  
Restoration tax abatement 252R

**Economic Development Corporation**  
BIDCO investment program, 89N

**Financial Institutions, Office of**  
Business/industrial development corporations, 24R  
Checks/money orders, 144R  
Licensed lenders, 26R  
Loan pools, 1138N  
Loan production officers, 1144N  
Oil/gas auction, 625N, 1115R  
Real estate exchange, 1141N  
Real estate financing, 1142N  
Stock exchange, 626N, 1116R

**Racing Commission**  
Appointment qualifications, 367R  
Association's duties, 366R  
Drugged horse, 97N, 138ER, 369R  
Failure to comply, 93N, 136ER  
Field less than nine, 92N, 135ER, 366R  
Horse under investigation, 94N, 136ER, 367R  
Other reports, 136ER, 366R  
Pari-Mutuel Tickets, 92N, 135ER  
Publication of past performances, 94N, 136ER, 366R  
Steward qualifications, 137ER  
Testing split/referee sample, 95N, 137ER, 368R  
Two races on a day, 96N, 138ER, 368R  
Whips size/approval, 97N, 139ER, 369R

**Real Estate Appraisal Subcommittee**  
Adjudicatory proceedings, 144R  
Certification education, 139ER, 599R, 600R

**Real Estate Commission**  
Agency disclosure, 7ER, 26R  
Branch offices, 769N  
Out-of-state broker, 770N

**AGRICULTURE AND FORESTRY**

**Agricultural and Environmental Sciences, Office of**  
Azinphos-methyl, 926ER  
Commercial aerial pesticide, 6ER, 477ER, 622N, 953R  
Commercial applicators, 819ER  
Cotton seed, 624N, 954R  
Landscape architect, 240ER  
Pesticides, 247R  
Pink bollworm quarantine, 124P  
Quarantine, 395N, 458P, 700R  
Varroa mite quarantine, 124P

**Animal Health Services, Office of**  
**(Livestock Sanitary Board)**  
Brucella Abortus Antigen, 513N, 838R  
Cattle, 199N, 509N, 510N, 510N, 511N, 512N, 514N, 835R, 836R, 836R, 837R, 837R, 838R, 1115R  
Poultry, 978N  
Swine, 514N, 515N, 516N, 839R, 839R, 840R

**Forestry, Office of**  
Public lands, 295N, 597R

**Horticulture Commission**  
Examination, 217P, 218P, 544P, 911P  
Retail florist, 249R  
Stumpage values, 6ER

**Secretary, Office of**  
Rule procedures, 144R

**CIVIL SERVICE**

**Civil Service Commission**  
Applications/appeals, 878N  
Adverse actions, 624N, 768N  
Elected Officials, Board of Ethics for  
Disclosure statement, 83N, 598R  
Public Employees, Commission on Ethics for  
Disclosure statement, 85N, 598R

**CULTURE, RECREATION AND TOURISM**

**Cultural Development, Office of**  
Arts program, 769N, 1115R

**CR—Committee Report**                      **EO—Executive Order**  
**ER—Emergency Rule**                      **FA—Fee Action**  
**L—Legislation**                              **N—Notice of Intent**  
**P—Potpourri**                                **PFA—Proposed Fee Action**  
**PPM—Policy and Procedure Memorandum**                      **R—Rule**

**Secretary, Office of**

Employment Opportunity Loan Program, 926ER, 980N  
Small Business Bonding, 1047ER

**Used Motor Vehicle and**

**Parts Commission**

Meeting schedule/location change fee, 771N, 1116R

**EDUCATION**

**Bureau of Continuing Education**

Professional Improvement Program (PIP), 301N,  
602R

**Elementary and Secondary Education, Board of**

8(g) Annual Program, 297N, 600R  
8(g) Policy Manual, 878N, 1147N  
ACT/SAT, 255R  
Administrators' Handbook, 663ER, 879N, 1052ER  
Adult Education Plan, 344ER, 627N, 664ER, 954R  
Algebra/Geometry curriculum, 27R  
Children First Legislation, 12ER, 28R  
Complaint management, 822ER, 1148N  
Computer literacy, 240ER, 400N, 555ER, 771N,  
1051ER, 1117R  
Disabled infants/toddlers, 98N, 241ER, 370R  
Dyslexic students, 9ER, 401N, 478ER, 826ER, 880N  
Early childhood, 665ER, 881N  
Exceptional Children's Act, 664ER, 824ER, 879N,  
1148N  
Exploratory elective, 200N, 492R  
Food and nutrition, 241ER, 370R  
High school graduation, 27R  
Holiday-presidential election, 27R  
Home study, 255R  
Louisiana Components of Effective Teaching (LCET),  
927ER, 1149N  
MCOP guide, 1065ER, 1065ER  
Migrant education, 627N, 954R  
Minimum standards, 141ER, 1066ER  
Model Career Options Program (MCOP), 146R,  
555ER, 880N  
Montessori certification, 98N, 369R  
Personnel evaluation, 1052ER  
Pupil appraisal handbook, 1052ER, 1147N  
Sign language, 297N, 601R  
Special education, 12ER, 28R, 300N, 478ER,  
602R, 820ER, 882N, 928ER  
Teacher evaluation, 929ER  
Teacher tuition exemption, 99N, 370R, 667ER, 773N  
Teaching certificate revocation, 772N, 1117R  
Temporary employment permit, 13ER, 29R, 666ER,  
883N, 1066ER  
Textbooks, 479ER, 628N  
Transportation services, 819ER  
Tuition exemption, 773N, 1117R  
Vo-tech  
Fees, 9ER, 13ER, 27R, 29R, 30R  
Flex hiring, 926ER  
Institute/Regional Management Center, 300N,  
602R  
Name change, 882N, 882N, 1065ER, 1118R  
Postsecondary curriculum, 27R  
Postsecondary salaries, 256R  
Salaries, 140ER  
Technical institutes, 566ER, 666ER, 772N

**Student Financial Assistance, Office of**

Award check stop payment, 301N, 603R  
Cancelled loan/disbursement, 146R  
Employment opportunity loan program, 829ER, 883N  
Fee refund, 146R  
GSL policy manual, 100N, 492R  
Guarantee commitment, 773N, 1118R  
Honors scholarship, 829ER, 884N  
Louisiana Opportunity Loan Program (LA-OP), 100N,  
370R, 774N, 1118R  
Mid-year scholarship, 302N, 603R  
Teacher shortage areas, 147R  
Tuition assistance, 147R, 302N, 303N, 603R,  
603R, 775N, 775N, 1119R, 1119R, 1149N

**ELECTIONS AND REGISTRATION**

**Commissioner of Elections**

Voting equipment, 1066ER  
Voting machine storage/drayage, 1066ER

**ENVIRONMENTAL QUALITY**

**Air Quality and Radiation Protection, Office of**

Asbestos (AQ58), 777N, 1121R  
Benzene emissions (AQ35), 1150N  
Biomedical waste (AQ64), 777N, 1119R  
Comprehensive Toxic Air Pollutant  
Emission Control (AQ62), 981N  
Distillation operations (AQ28), 376R  
Emission standards (AQ60), 1067ER  
Fee system (AQ59), 402N, 706R  
Hydrogen chloride emissions (AQ55), 258R  
Inspection/maintenance, 1021P  
Magnetic tape coating (AQ39), 31R  
Naturally Occurring Radioactive Material (NORM)  
(NE04), 304N, 604R  
Nonmetallic mineral processing (AQ45), 201N, 493R  
Ozone attainment, (N.O.), 1174P  
Particulate emissions (AQ43), 262R, 376R  
Permit procedures (AQ66), 1069ER  
Polychlorinated dibenzo-p-dioxins/  
dibenzofurans (AQ56), 403N, 707R  
Polymer manufacturing (AQ47), 303N, 610R  
Polymeric coating (AQ41), 150R  
Radiation fees (NE05), 404N, 718R, 955R  
Radiation protection (NE02), 34R  
Rubber tire manufacturing (AQ46), 205N, 496R  
State implementation plan (SIP), 793P, 911P, 1022P  
1174P  
Steam generating units (AQ32), 150R

**CR—Committee Report**

**ER—Emergency Rule**

**L—Legislation**

**P—Potpourri**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**FA—Fee Action**

**N—Notice of Intent**

**PFA—Proposed Fee Action**

**R—Rule**



Steel plants (AQ44), 106N, 377R  
 Sulfur dioxide (AQ57), 104N, 374R  
 Toxic air emission (AQ50A), 31R  
 Toxic air pollutants (AQ62), 792P, 1151N  
 VOC emission  
   Industrial surface coating (AQ40), 31R  
   Petroleum refinery wastewater (AQ38), 158R  
 VOC storage (AQ65), 778N, 1121R  
 Toxic emissions report, 650P  
 Vapor recovery systems (AQ61), 629N  
 Wood heaters (AQ42), 110N, 380R

**Legal Affairs and Enforcement, Office of**

Regulatory agenda, 461P, 1174P

**Secretary, Office of**

Reimbursement bonds, 461P  
 Recycling tax credit (OS11), 517N, 840R, 960R

**Solid and Hazardous Waste, Office of**

AMAX metals, 912P  
 Amends certain rules (HW31), 414N, 723R  
 Boilers, industrial furnaces (HW32), 994N  
 Fee amendment petition, 324P  
 Maintenance/monitoring fee (UT03), 415N, 726R  
 Non-HWSA Cluster IV-A (HW34), 884N  
 Permit application (SW04), 416N, 725R  
 Permit review (HW35), 418N, 723R  
 Reclaim/recycle fees (HW36), 418N, 723R  
 Registration exempt tanks (UT04), 421N, 727R  
 Solid waste revisions (SW05), 995N  
 Waste tires (SW03), 34R, 164R  
 Wood preserving (HW33), 995N

**Water Resources, Office of**

Groundwater (GW04), 1151N  
 Pollution control fees (WP11), 424N, 730R  
 Public hearing, 793P  
 Review/approval fees (GW03), 423N, 729R

**EXECUTIVE ORDERS**

BR 91-23—Allocates \$15,200,000 from the 1991 bond ceiling for the New Orleans Home Mortgage Authority, 4  
 BR 91-24—Directs the Louisiana Housing Finance Agency to administer programs and resources and to promulgate regulations regarding the state's comprehensive housing affordability strategy (CHAS), 4  
 BR 91-25—Reduces appropriations in certain state agencies to avoid a general fund deficit, 5  
 BR 91-26—Allocates excesses to various issuers for carry-forward projects, 131  
 BR 91-27—Transfers functions, duties and responsibilities of the Office of Hospitals (with exceptions) to the Louisiana Health Care Authority governing board and the local boards, 131  
 BR 92-1—Authorizes and outlines duties and responsibilities of the Public Advisory Committee (PAC) with respect to environmental issues, 132  
 EWE 92-1—Allocates \$3,546,611 from the 1992 bond ceiling for the Louisiana Public Facilities Authority State-wide Student Loan Program, 134  
 EWE 92-2—Allocates \$20,000,000 from the 1992 bond ceiling for Louisiana Power & Light Company (Waterford) in St. Charles Parish, 134

EWE 92-3—Creates the Governor's Advisory Council on Drug-Free Schools and Communities and defines certain duties, 227  
 EWE 92-4—Creates and defines certain personnel and duties of the Office of Permits, 227  
 EWE 92-5—Creates a Task Force on African Trade, Finance and Development to market the state's products, goods, services and technologies to Africa, 228  
 EWE 92-6—Creates the Louisiana Interagency Action Council for the Homeless, designating agency representation and defining certain functions, 228  
 EWE 92-7—Prohibits sex discrimination by any state agency in employment practices and policies, in providing services, in purchasing services or in awarding service contracts, 229  
 EWE 92-8—Authorizes the secretary of the Department of Transportation and Development, with approval of the State Bond Commission, to issue Series 1992 Bonds not to exceed \$46,000,000 to fund Project 1992, 230  
 EWE 92-9—Establishes a Land Acquisition Task Force and defines certain responsibilities and duties, 231  
 EWE 92-10—Authorizes a substance abuse policy and awareness program applicable to state employees, 231  
 EWE 92-11—Establishes an Office of Maritime Advisor and defines certain duties and functions of the office, 232  
 EWE 92-12—Appoints the senior advisor in the Office of Maritime Advisor, 232  
 EWE 92-13—Establishes the Occupational Information Coordinating Committee (LOICC) and assigns its responsibilities, 233  
 EWE 92-14—Authorizes inmate labor to be used to replace roofing at Hunt Correctional Center facilities, 233  
 EWE 92-15—Establishes the position of Special Assistant to the Governor for Health Care and Hospitals and defines certain duties and functions of the position, 234  
 EWE 92-16—Creates and defines certain duties and functions of the Executive Board on Aging, 234  
 EWE 92-17—Creates the Emergency Response Commission and designates certain duties, 235  
 EWE 92-18—Rescinds BR 91-25 and directs adjustments of appropriations for expenditures to achieve a balanced budget in the current fiscal year, 236  
 EWE 92-19—Allocates \$15,225,000 from the 1992 bond ceiling for various projects, 338  
 EWE 92-20—Adjusts appropriations for expenditures to ensure a balanced Transportation Trust Fund budget, 338

**CR—Committee Report**

**ER—Emergency Rule**

**L—Legislation**

**P—Potpourri**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**FA—Fee Action**

**N—Notice of Intent**

**PFA—Proposed Fee Action**

**R—Rule**

- EWE 92-21—Creates the Governor's Military Advisory Commission and designates certain duties, 339
- EWE 92-22—Creates and defines certain functions and goals of the Governor's Task Force on Shrimp Management, 340
- EWE 92-23—Establishes the Governor's Task Force on Maritime Industry and designates certain duties, 340
- EWE 92-24—Establishes the Office of Minority Affairs and assigns certain responsibilities and functions, 341
- EWE 92-25—Directs that the POW/MIA flag be flown throughout the remainder of the governor's term, 342
- EWE 92-26—Continues the operations of the Governor's Community Development Advisory Committee, 342
- EWE 92-27—Establishes individual Joint Committees between Louisiana and Quebec, Maritime Provinces and Belgium for cultural and commercial exchanges, 343
- EWE 92-28—Directs the Department of Transportation and Development to promulgate emergency rules requiring set-aside or preference programs for Blacks and women on all construction programs, 473
- EWE 92-29—Provides for preferred purchase of products and services from state supported workshops for persons with severe disabilities in conjunction with the Louisiana State Use Program, 474
- EWE 92-30—Establishes an Advisory Task Force on Environmental Quality and designates certain responsibilities, 474
- EWE 92-31—Expands the Land Acquisition Task Force to include the State Forester, 475
- EWE 92-32—Amends and supplements Executive Orders EWE 92-9 and EWE 92-31 regarding a Land Acquisition Task Force, 475
- EWE 92-33—Amends Executive Order EWE 92-6 to add four members-at-large to the Louisiana Interagency Action Council, 476
- EWE 92-34—Allocates \$10,000,000 from the 1992 bond ceiling for Calcasieu Parish's Public Trust Authority for the Mortgage Credit Certificate Program, 476
- EWE 92-35—Amends Executive Order EWE 92-30 to add three members-at-large to the Advisory Task Force on Environmental Quality, 477
- EWE 92-36—Amends EWE 92-5 to add members to the Task Force on African Trade, 553
- EWE 92-37—Establishes Governor's Advisory Council on Disability Affairs and defines membership and certain duties, 553
- EWE 92-38—Establishes the Inter-Agency Transportation Coordination Committee and defines membership and certain duties, 554
- EWE 92-39—Authorizes the Cash Management Review Board to prepare an interim agreement pertaining to exchange of federal and state funds, 554
- EWE 92-40—Higher Education Grants Coordinating Committee Duties, 662
- EWE 92-41—Directs the National Guard to provide manpower and equipment assistance to the Department of Public Safety and Corrections in medical crises, 662
- EWE 92-42—Allocates \$25,000,000 from the 1992 bond ceiling for Louisiana Public Facilities Authority for the Baton Rouge Water Company, 806
- EWE 92-43—Allocates \$1,850,000 from the 1992 bond ceiling for the Town of Vivian for Vivian Industries, Inc., 806
- EWE 92-44—Allocates \$3,000,000 from 1992 bond ceiling for Louisiana Public Facilities Authority for Pellerin Milnor Corporation, 807
- EWE 92-45—Establishes Governor's Advisory Board on Indian Gaming and describes duties and functions, 807
- EWE 92-46—Louisiana Tourism Development Commission designated as responsible for Scenic By-Way Program grant funds, 808
- EWE 92-47—Continues methods established by the Legislature regarding bond allocation and record keeping systems, 808
- EWE 92-48—Gives the Governor's Advisory Council on Drug Free Schools and Communities (Executive Order EWE 92-3) six additional members, 811
- EWE 92-49—Establishes the Calcasieu Estuary Environmental Task Force and defines certain duties, 811
- EWE 92-50—Charges the Department of Economic Development with responsibility of promoting high technology development and other economic development programs within the state, 813
- EWE 92-51—Establishes and defines certain duties of Louisiana Commission of Human Rights, 813
- EWE 92-52—Establishes and defines certain duties of the Governor's Task Force on Navigability and Public Access, 815
- EWE 92-53—Prescribes procedures for the procurement of small purchases within the Louisiana Procurement Code, 816
- EWE 92-54—Establishes the Natural Gas Marketing Board and defines certain duties and functions, 817
- EWE 92-55—Allocates \$27,140,000 from the 1992 bond ceiling for the parish of St. James for Freeport McMoran Resource Partners, Limited Partnership, 817
- EWE 92-56—Allocates \$3,625,000 from the 1992 bond ceiling for Louisiana Housing Finance Agency for Emerald Point Apartments, 818
- EWE 92-57—Transfers Louisiana Imports and Exports Authority and its Functions to the Louisiana Public Facilities Authority, 1038
- EWE 92-58—Leave Policies for Unclassified State Employees, 1038
- EWE 92-59—Inspector General's Authority and Responsibilities, 1042

**CR—Committee Report**

**ER—Emergency Rule**

**L—Legislation**

**P—Potpourri**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**FA—Fee Action**

**N—Notice of Intent**

**PFA—Proposed Fee Action**

**R—Rule**

EWE 92-60—Insurance Department Office Space, 1043  
 EWE 92-61—Louisiana Emergency Response Commission Membership, 1043  
 EWE 92-62—Hurricane Andrew JTPA Cleanup in St. Mary Parish, 1043  
 EWE 92-63—Governor's Task Force on Navigability and Public Access, 1044  
 EWE 92-64—Governor's Task Force on Multiple-Drug Resistant Tuberculosis, 1044  
 EWE 92-65—Land Acquisition Task Force Additional Members, 1045  
 EWE 92-66—Hurricane Andrew JTPA Cleanup in Iberia Parish, 1045  
 EWE 92-67—Hurricane Andrew JTPA Cleanup in St. Martin Parish, 1046  
 EWE 92-68—Hurricane Andrew Cleanup by Parish Employees in St. Mary, St. Martin and Iberia Parishes, 1046  
 EWE 92-69—Creates a State Hazard Mitigation Team, 1047

### GOVERNOR'S OFFICE

#### Division of Administration

Commissioner's Office  
 Medical Review Panel  
 Change of address, 51R  
 Facility Planning and Control  
 Historic Restoration, 1077ER, 1154N  
 Louisiana Property Assistance Agency  
 Inventory property, 430N, 632N  
 Office of Telecommunications Management  
 Non-state entity, 610R, 996N

#### Elderly Affairs, Office of

Area, agency on aging, 305N, 610R  
 Corporate eldercare, 997N  
 Long-term care, 670ER, 885N, 1078ER  
 Long-term care ombudsman, 267R  
 Multipurpose senior center, 431N, 735R  
 State ombudsman, 265R

#### Law Enforcement and Administration of

##### Criminal Justice

Felony sentencing, 44R, 164R, 480ER, 566ER, 631N, 669ER, 960R

#### Oil Spill Coordinator, Office of

Oil Spill, 1175P

#### Patient's Compensation Fund Oversight Board

Enrollment, 167R  
 Self-insurance, 433N, 737R

#### Spill Coordinator, Office of

Hearing, 1022P

#### Veterans Affairs, Department of

War veterans' home, 269R

#### Women's Services, Office of

Marriage license fees, 462P

### HEALTH AND HOSPITALS

#### Alcohol and Drug Abuse, Office of

Substance abuse group homes, 519N, 845R

#### Chiropractic Examiners, Board of

Continuing Ed/General practice, 888N

#### Dentistry, Board of

Dental hygienists, 307N, 737R  
 Dental specialist, 308N, 738R

Display of license, 310N, 740R  
 Fees/costs, 311N, 741R  
 Hepatitis B Virus/HIV, 312N, 741R, 843R

#### Dietetics and Nutrition, Board of Examiners in

Licensure, 633N

#### Embalmers and Funeral Directors, Board of

Examination, 462P, 1022P, 1175P

#### Health Care Authority

Annual service agreement, 671ER, 1157N  
 Board nominations, 793P

#### Hospitals, Office of

LHCA service agreement, 14ER, 111N

#### Human Services, Office of

Case management certification, 434N  
 Community Care, 1078ER

#### Management and Finance, Office of

HIV health care, 125P, 520N, 529N, 569ER, 672ER, 846R, 847R  
 Nursing facility, 673ER  
 Rural hospital, 54R, 181R  
 Rural emergency services, 1022P

#### Medical Examiners, Board of

Hepatitis/HIV procedures, 207N, 325P, 1123R  
 Obesity medication, 205N, 325P, 744R, 843R

#### Nursing, Board of

Disciplinary proceedings, 999N  
 Disease transmission, 1000N

#### Nursing Home Administrators, Board of Examiners of

Administrator license, 181R, 507R

#### Pharmacy, Board of

Continuing education, 273R  
 Drug review, 893N  
 Out-of-state requirements, 889N  
 Patient counseling, 890N  
 Support staff, 891N

#### Physical Therapy Examiners, Board of

Licensure, fees, 634N, 962R

#### Practical Nurse Examiners

Education/licensure, 635N, 893N, 1126R

#### Professional Counselors, Board of Examiners of

License/practice, 51R  
 Mental health counseling, 269R

#### Psychologists, Board of Examiners of

Continuing education, 1155N  
 Testing, evaluation, assessment, 633N

#### Public Health, Office of

Children born outside of hospital, 896N  
 HIV/AIDS, 182R  
 Neonatal screening, 779N, 1130R

*CR—Committee Report*

*ER—Emergency Rule*

*L—Legislation*

*P—Potpourri*

*PPM—Policy and Procedure Memorandum*

*EO—Executive Order*

*FA—Fee Action*

*N—Notice of Intent*

*PFA—Proposed Fee Action*

*R—Rule*

Nutrition, 912P  
Sanitary Code  
Day care/residential facilities, 897N  
General provisions, 114N, 386R, 901N  
Mechanical wastewater, 115N, 442N, 674ER, 746R,  
1159N  
Plumbing, 314N, 618R  
Public hearing, 1023P  
Sewage disposal, 115N, 387R  
Sewage installation, 902N  
Water supplies, 116N, 387R, 618R  
Tanning facilities, 274R  
Yellow fever, 896N

**Secretary, Office of**

ADMS Block Grant, 531N, 848R  
AFDC/SSI eligibles, 18ER, 572ER, 638N, 963R  
Alimony/child support income, 54R  
Anesthesia services, 19ER, 636N, 963R  
Case management, 570ER, 636N, 964R  
Chiropractor, 1003N  
Community/family support system, 185R, 1001N  
Computer matching programs, 391R  
Concurrent care, 54R  
Controlled dangerous substances, 1132R  
Disproportionate share, 16ER, 363ER  
Excess income eligibility, 674ER  
Federally-qualified health center, 16ER, 571ER, 780N,  
1132R  
Home health agencies, 57R  
Infant, developmentally delayed, 210N, 849R  
Infant inpatient, 572ER, 782N, 1132R  
Informed consent, 1002N  
LHCA service agreement, 14ER, 111N  
LaSalle Parish nursing facility, 218P  
Long-term care, 832ER, 936ER  
Maternal and Child Health Block Grant, 531N, 848R  
Medicaid eligibility, 832ER  
Medicaid interim payment, 912P  
Medical transportation, 640N, 963R  
Mental health, 937ER  
Non-ambulance reimbursement, 243ER, 965R  
Non-emergency ambulance, 571ER, 640N, 641N, 964R  
Non-emergency transportation, 573ER  
Nursing facility, 189R  
Nursing home, 18ER, 573ER, 642N  
OBRA (1990), 19ER  
Outpatient pharmacy, 364ER, 364ER  
Personal care attendant, 675ER  
Pharmacy service, 57R, 639N, 964R  
Prescription limitation, 17ER  
Preventive Health and Health Services  
Block Grant, 531N, 848R  
Psychiatric facility, 781N, 1132R  
Rural care/hospital, 20ER  
Traumatic brain injury, 21ER  
Urine drug screening, 188R  
Utilization review, 643N, 675ER, 794P, 913P  
Vendor payments, 391R

**Veterinary Medicine, Board of**

Examinations, 1175P  
Fees, 111N, 380R  
License, 482ER  
Temporary permits, 1156N

**Wholesale Drug Distributors, Board of**  
Operating rules, 381R

**INSURANCE**

**Commissioner of Insurance**

Accelerated benefits (Reg 44), 1010N  
Defense costs within limit (Reg 38), 746R  
Group self-insurance (Reg 42), 1005N  
Hazardous financial condition (Reg 43), 1004N  
Holding company (Reg 31), 274R  
Information transmittal (Rule 12), 316N, 620R  
Insolvency disclaimer (Reg 40), 215N, 620R  
Insolvency protection (Reg 39), 213N, 619R  
LLHIGA (Reg 40), 913P, 1013N  
Medicare supplement insurance (Reg 33B), 682ER,  
902N

**LABOR**

**Employment Security, Office of**

Itinerant services, 372R  
Magnetic media reports, 372R  
Wage, average, 911P

**Labor, Office of**

JTPA, 102N, 372R, 493R

**Plumbing Board**

Master plumber, 30R

**Worker's Compensation, Office of**

Employee rehabilitation, 147R  
Medical fee schedule, 776N  
Medical reimbursement schedule, 1079ER, 1163N  
Utilization review, 257R

**LOUISIANA ADMINISTRATIVE CODE UPDATE**

**Administrative Code Update**

Cumulative, January 1991 - December, 1991, 121  
Cumulative, January 1992 - March, 1992, 458  
Cumulative, January 1992 - June, 1992, 791  
Cumulative, July 1992 - September, 1992, 1137

**NATURAL RESOURCES**

**Conservation, Office of**

Compressed natural gas, 60R  
Drug testing, 442N, 852R  
Emergency Natural Gas Allocation Plan, 64R  
Hazardous liquids transport, 444N, 861R  
Pipeline safety, 443N, 852R  
Underwater obstructions, 643N

**Mineral Resources, Office of**

Geophysical/geological surveys, 70R

*CR—Committee Report*

*ER—Emergency Rule*

*L—Legislation*

*P—Potpourri*

*PPM—Policy and Procedure Memorandum*

*EO—Executive Order*

*FA—Fee Action*

*N—Notice of Intent*

*PFA—Proposed Fee Action*

*R—Rule*

**Secretary, Office of**

Coastal restoration, 281R  
Fishermen's Gear  
Claims, 125P, 218P, 325P, 463P, 544P, 650P, 794P,  
913P, 1023P, 1175P  
Fees, 117N, 391R

**PORT COMMISSIONS**

**Port of New Orleans**

Associated Branch Pilots, Board of Examiners of  
Conduct/safety, 72R  
Associated Branch Pilots, Board of Review of  
Complaint procedures, 76R

**PUBLIC SAFETY AND CORRECTIONS**

**Corrections Services**

Death penalty, 77R  
Medical parole, 903N

**Fire Marshal, Office of**

Uniform construction code, 21ER

**Liquified Petroleum Gas Commission**

Gas conversion, 486ER, 532N, 866R

**Pardons, Board of**

Clemency, 483ER

**Private Security Examiners, Board of**

Contract security, 189R  
Training, 449N

**Public Safety Services**

Riverboat gaming, 1080ER

**State Police, Office of**

Bingo, Keno, raffle, 283R  
Breath/blood alcohol test, 682ER, 904N  
Hazardous materials transport, 78R, 450N, 746R  
Video draw poker, 196R

**PUBLIC SERVICE**

**Public Service Commission**

Classified employees, 216N

**REVENUE AND TAXATION**

**Sales Tax Division**

Pollution control, 532N, 1014N  
Sales/use tax, 287R

**Severance Tax Division**

Natural gas, 463P

**Tax Commission**

Ad valorem, 197R  
Orleans Parish appraisal/assessment, 125P  
Stumpage values, 6ER

**SOCIAL SERVICES**

**Community Services, Office of**

Adoption, 141ER, 198R, 451N, 487ER, 747R  
Adoption subsidy, 574ER, 646N, 965R  
Block Grant Program, 451N, 747R  
Child abuse/neglect, 79R  
Child protection, 198R, 316N, 683ER, 913P  
Emergency shelter, 326P  
Energy assistance, 794P  
Repeal of rules, 79R

Social Services Block Grant (SSBG), 463P  
State Voluntary Registry, 22ER  
Vendor day care, 364ER, 534N, 685ER, 868R  
Weatherization Assistance Program, 126P

**Family Support, Office of**

AFDC program, 244ER, 536N, 687ER, 869R, 913P  
Flood insurance, 939ER  
Food stamps, 22ER, 142ER, 245ER, 394R, 686ER,  
687ER, 783N, 905N, 906N, 907N, 914P,  
939ER, 1024P, 1091ER, 1092ER, 1133R,  
1164N, 1175P

Individual/family grant, 1165N

**JOBS**

Participation requirements, 80R  
Project Independence, 244ER, 453N, 537N, 646N,  
748R, 870R, 967R, 1092ER

Lottery winnings, 118N, 507R  
Paternity blood tests, 538N, 870R  
Refugee assistance, 22ER, 394R  
Transitional child care, 908N

**Rehabilitation Services, Office of**

Examination, 218P  
Hearing, 1025P  
Sign language, 488ER, 647N, 968R

**Secretary, Office of**

Child Care and Development Block Grant, 288R, 783N,  
1133R

Child care assistance, 909N, 1016N  
Child care providers, 650P  
Community/family support system, 185R, 1001N  
Daycare centers, 538N, 970R  
Title IV-A At-Risk Child Care, 288R

**STATE**

**Uniform Commercial Code, Office of**

Secured transactions, 118N, 392R

**TRANSPORTATION AND DEVELOPMENT**

**Crescent City Connection Division**

Firemen, equipment, 940ER  
Student vehicle, 940ER

**Flood Control and Water Management Division**

Port construction, 749R, 870R

**General Counsel, Office of**

Bus stops, 1170N

**Highways, Office of**

Logo signs, 784N  
Recycling highway material, 648N, 973R  
Utility relocation, 1017N

*CR—Committee Report*

*ER—Emergency Rule*

*L—Legislation*

*P—Potpourri*

*PPM—Policy and Procedure Memorandum*

*EO—Executive Order*

*FA—Fee Action*

*N—Notice of Intent*

*PFA—Proposed Fee Action*

*R—Rule*

**Professional Engineers and Land Surveyors,  
Board of Registration for**

Bylaws, 1166N  
Certification, registrations, permits, 1168N

**Public Transportation, Office of**

Railroad traffic, 319N, 761R

**Sabine River Compact Administration**

Meeting, 544P, 1176P

**Secretary, Office of**

Oversize permit, 216N, 508R

**TREASURY**

**Bond Commission**

Issuer, reporting, 649N

**Deferred Compensation Commission**

Restated plan, 323N, 762R

**State Employees Group Benefits Program,**

**Board of Trustees of the**

Fee schedule, 1093ER  
Participant employer, 246ER  
Plan document, 575ER, 1093ER  
Retirees/dependents surcharge, 454N

**State Employees' Retirement System, Board  
of Trustees of the**

Actuarial calculation, 977R  
Deferred Retirement Option Plan (DROP), 81R  
Emergency refunds, 974R  
Handicapped/mentally retarded children, 977R  
Judicial retirement, 974R  
Military, 975R, 975R  
Multiple positions service, 977R  
Reinstated employees, 977R  
Trustees, 81R

**Teachers' Retirement System, Board of  
Trustees of the**

Deferred Retirement Option Plan (DROP), 321N, 621R,  
833ER, 1019N  
Participant member, 1019N

**WILDLIFE AND FISHERIES**

**Fisheries, Office of**

King Mackerel, 596ER  
Red Snapper, 596ER

**Wildlife, Office of**

Threatened/endangered species, 455N, 877R

**Wildlife and Fisheries Commission**

Alligator, 491ER, 689ER, 689ER, 910N, 941ER, 941ER,  
1171N  
Bait dealers, 1172N  
Black Bass, 1114ER  
Commercial fisherman  
Sales card, 81R  
Sales report, 82R, 198R  
Crab trap, 199R  
Fish/wildlife values, 290R  
Furbearer trapping, 952ER  
Game Breeder's license, 455N, 1134R  
Gill/trammel net, 294R  
King Mackerel, 143ER  
Lake Bruin, 294R  
Mayhaw fruit, 290R  
Menhaden, 833ER, 1020N

Migratory game birds, 834ER  
Mullet, 143ER, 596ER, 699ER, 910N, 1114ER  
Oyster season, 366ER  
Oyster seed grounds, 834ER  
Paddlefish, 543N, 978R  
Records confidentiality, 82R  
Resident game, 323N, 767R  
Seed oysters, 23ER  
Seismic exploration, 508R  
Shrimp season  
Chandeleur Sound, 246ER  
Spring inshore, 491ER, 700ER, 700ER, 835ER  
Fall inshore, 835ER  
Spotted Seatrout, 199R, 217CR  
Waterfowl, 952ER  
Wild birds, 542N, 1136R

**CR—Committee Report**  
**ER—Emergency Rule**  
**L—Legislation**  
**P—Potpourri**  
**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**  
**FA—Fee Action**  
**N—Notice of Intent**  
**PFA—Proposed Fee Action**  
**R—Rule**



**Statement of Ownership,  
Management and  
Circulation**  
*(Required by 39 U.S.C. 3685)*

1A. Title of Publication <b>LOUISIANA REGISTER</b>		1B. PUBLICATION NO. 0 0 0 7 5 4 5 0				2. Date of Filing 9/24/92
3. Frequency of Issue <b>MONTHLY</b>		3A. No. of Issues Published Annually <b>12</b>			3B. Annual Subscription Price <b>\$110</b>	
4. Complete Mailing Address of Known Office of Publication (Street, City, County, State and ZIP+4 Code) (Not printers) <b>P. O. BOX 94095 BATON ROUGE LA 70804-9095</b>						
5. Complete Mailing Address of the Headquarters of General Business Offices of the Publisher (Not printer) <b>SAME AS ABOVE</b>						
6. Full Names and Complete Mailing Address of Publisher, Editor, and Managing Editor (This item MUST NOT be blank) Publisher (Name and Complete Mailing Address) <b>OFFICE OF THE STATE REGISTER, P. O. BOX 94095, BATON ROUGE LA 70804-9095</b> Editor (Name and Complete Mailing Address) <b>SUZANNE MCANDREW, OFFICE OF THE STATE REGISTER, P.O. BOX 94095 BATON ROUGE LA 70804-9095</b> Managing Editor (Name and Complete Mailing Address)						

7. Owner (If owned by a corporation, its name and address must be stated and also immediately thereunder the names and addresses of stockholders owning or holding 1 percent or more of total amount of stock. If not owned by a corporation, the names and addresses of the individual owners must be given. If owned by a partnership or other unincorporated firm, its name and address, as well as that of each individual must be given. If the publication is published by a nonprofit organization, its name and address must be stated.) (Item must be completed.)

Full Name	Complete Mailing Address
<b>OFFICE OF THE STATE REGISTER</b>	<b>P. O. BOX 94095 BATON ROUGE LA 70804-9095</b>

8. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages or Other Securities (If there are none, so state)

Full Name	Complete Mailing Address

9. For Completion by Nonprofit Organizations Authorized to Mail at Special Rates (DMM Section 424.12 only)  
The purpose, function, and nonprofit status of this organization and the exempt status for Federal income tax purposes (Check one)

(1)  Has Not Changed During Preceding 12 Months      (2)  Has Changed During Preceding 12 Months  
*(If changed, publisher must submit explanation of change with this statement.)*

10. Extent and Nature of Circulation (See instructions on reverse side)	Average No. Copies Each Issue During Preceding 12 Months	Actual No. Copies of Single Issue Published Nearest to Filing Date
A. Total No. Copies (Net Press Run)	1350	1306
B. Paid and/or Requested Circulation		
1. Sales through dealers and carriers, street vendors and counter sales	0	0
2. Mail Subscription (Paid and/or requested)	1100	1155
C. Total Paid and/or Requested Circulation (Sum of 10B1 and 10B2)	1100	1155
D. Free Distribution by Mail, Carrier or Other Means (Samples, Complimentary, and Other Free Copies)	60	60
E. Total Distribution (Sum of C and D)	1160	1215
F. Copies Not Distributed		
1. Office use, left over, unaccounted, spoiled after printing	190	91
2. Return from News Agents	0	0
G. TOTAL (Sum of E, F1 and 2—should equal net press run shown in A)	1350	1306

11. I certify that the statements made by me above are correct and complete

Signature and Title of Editor, Publisher, Business Manager, or Owner  
*Nancy Middiff, Director*

