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**V. POTPOURRI**

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# Executive Orders

## EXECUTIVE ORDER MJF 97-10

### Child Care and Development Block Grant Advisory Council

WHEREAS: Executive Order MJF 96-59, signed on October 17, 1996, established the Advisory Council on the Child Care and Development Block Grant Program (hereafter "Advisory Council"); and

WHEREAS: it is necessary to expand the voting membership of that Advisory Council to include four at-large members;

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

SECTION 1: Section 1 of Executive Order MJF 96-59, is amended to add Subsection L to the voting membership, which shall provide as follows:

L. Four at-large members.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-59 shall remain in full force and effect.

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of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 14th day of February, 1997.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9703#004

## EXECUTIVE ORDER MJF 97-11

### School Based Health Clinics Investigation

WHEREAS: Executive Order MJF 96-73, signed on December 16, 1996, ordered and directed that the secretary of the Department of Health and Hospitals (hereafter "secretary") head an investigation regarding allegations of violations of R.S. 40:31.3(c) by a few of the personnel employed by school based health clinics, and to issue a report on the findings of the investigation by February 15, 1997; and

WHEREAS: it is necessary to extend the period for investigation and amend the date on which the secretary shall issue his report on the findings of the investigation;

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

SECTION 1: Section 4 of Executive Order MJF 96-73, is amended to provide as follows:

The secretary shall issue a report on the findings of the investigation to the governor, the House and Senate Committees on Health and Welfare, and the School Based Health Clinic Task Force, no later than March 31, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-73 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 14th day of February, 1997.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9703#012

## EXECUTIVE ORDER MJF 97-12

### International Trade Commission

WHEREAS: the State of Louisiana is the premier agricultural product embarkation state in the United States;

WHEREAS: the abundance of the agriculture products, natural resources, and manufactured products in the State of Louisiana makes those products and resources desirable for direct sale and value added processing in international markets; and

WHEREAS: the location of the State of Louisiana, at the mouth of the Mississippi River, is geographically advantageous for the dissemination of goods and services from the United States and Canada to the vast global markets of the world;

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

SECTION 1: The Louisiana International Trade Commission (hereafter "commission") is created and established within the Executive Branch, Department of Economic Development.

SECTION 2: The duties and functions of the commission shall include, but are not limited to, advising the secretary of the Department of Economic Development on policies, programs, and activities that have the following objectives:

A. stimulating growth in international trade and investment;

B. coordinating international trade and investment programs and activities;

C. insuring Louisiana products are competitive in international markets;

D. attracting foreign trade and investments;

E. creating international transportation routes between Louisiana and other states and counties; and

F. promoting mutually beneficial cultural, educational, medical, and/or environmental exchanges between Louisiana and other counties.

SECTION 3: The advice and recommendations of the commission shall be consistent with the goals and objectives of the Louisiana Economic Development Council.

SECTION 4: The commission shall be comprised of 19 members who shall be appointed by and serve at the pleasure of the governor. The membership of the commission shall be selected as follows:

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

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

C. a member of the Louisiana Economic Development Council;

D. two at-large members; and

E. fourteen Louisiana residents who have at least seven years of experience in international trade, finance, relations, business improvement, or economics, selected from nomination lists submitted by each of the following organizations:

1. the Alexandria Chamber of Commerce;
2. the Baton Rouge Chamber of Commerce;
3. the Lake Charles Chamber of Commerce;
4. the METROVISION, the Greater New Orleans Region

Chamber of Commerce;

5. the Monroe Chamber of Commerce;

6. the Freight Forwarders Association;

7. the International Trade Council - Red River Region;

8. the Lafayette International Trade Development Group;

9. the Louisiana Bankers Association for international bankers employed in Louisiana;

10. the Louisiana District Export Council;

11. the Port Association of Louisiana;

12. the South Louisiana Economic Council;

13. the World Trade Center of New Orleans Board of Directors; and

14. the Southern United States Trade Association.

SECTION 5: The secretary of the Department of Economic Development, or the secretary's designee, shall chair the commission. The membership of the commission shall elect its other officers.

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

SECTION 7: Support staff for the commission and facilities for their meetings shall be provided by the Department of Economic Development.

SECTION 8: Commission members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, commission members who are not employed by the state may receive reimbursement for actual travel expenses, in accordance with state guidelines and procedures, upon the approval of the commissioner of Administration.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the commission in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 21st day of February 1997.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9703#011

#### EXECUTIVE ORDER MJF 97-13

##### School Based Health Clinic Task Force

WHEREAS: Executive Order MJF 96-74, signed on December 16, 1996, created and established within the Executive Department, Office of the Governor, the School Based Health Clinic Task Force (hereafter "Task Force"), and ordered it to submit two reports to the governor by specified dates; and

WHEREAS: it is necessary to change the dates on which the Task Force shall submit its reports to the governor on the progress and/or fulfillment of its primary and secondary objectives and duties;

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

SECTION 1: Section 4 of Executive Order MJF 96-74, is amended to provide as follows:

The Task Force shall prepare and submit a report to the governor on the progress and/or fulfillment of its primary objectives and duties, no later than May 15, 1997, and on the progress and/or fulfillment of its secondary objectives and duties, no later than June 30, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-74 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature and shall remain in effect until amended,

modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of February, 1997.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9703#010

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

#### Wood Destroying Insects (LAC 7.XXV. Chapter 141)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is amending the following Rules for the implementation of Regulations governing wood destroying insects.

This emergency adoption is necessary in order that the department may immediately put into place more stringent Regulations governing the qualifications required for pest control licensees and their technicians making wood destroying inspections, and to implement new Regulations for inspecting structures and completing the wood destroying insect report.

The department has further deemed these Regulations necessary to help ensure the citizens of the state have a more accurate inspection for wood destroying insects used in property transfer.

The effective date of these Emergency Rules is February 19, 1997 and shall remain in effect for 120 days or until these Rules take effect through the normal promulgation process, whichever occurs first.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

#### Chapter 141. Structural Pest Control Commission

#### §14101. Definitions

\* \* \*

*License*—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows:

1. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits. Residential rodent control will be limited to the use of anti-coagulants rodenticide and traps.

2. *Commercial Vertebrate Control*—the application of remedial or preventive measures to control, prevent or eradicate vertebrates, including baits, chemicals, barriers, gases and traps, in nonresidential establishments, but not including tarpaulin fumigation.

3. *Termite Control*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects.

4. *Fumigation*—the use of lethal gases and/or rodenticide in a gaseous form for the control, prevention or eradication of insect pests, rodents, or other pests in a sealed enclosure with or without a tarpaulin.

5. *Wood Destroying Insect Report (WDIR) Inspector*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects.

\* \* \*

*Registered Wood Destroying Insect Report (WDIR) Technician*—an employee qualified to conduct wood destroying insect report inspections.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 954 (November 1989), LR 17:251 (March 1991), LR 23:

**§14107. License to Engage in Structural Pest Control; Work Required; Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License**

A. - G. ...

H. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in §14109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. General Pest Control
2. Commercial Vertebrate Control
3. Termite Control
4. Structural Fumigation
5. Ship Fumigation
6. Commodity Fumigation
7. Wood Destroying Insect Report (WDIR) Inspector

I. - P. ...

Q. Persons licensed in Termite Control on or before September 30, 1997 shall attend a wood destroying insect report training session prior to being qualified to become a licensed WDIR inspector. Said training session must have prior approval by LDAF. Persons licensed on or after October 1, 1997 and persons licensed in Termite Control on or before September 30, 1997 that do not attend a wood destroying insect report training session, shall complete the requirements set forth in §14107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 955 (November 1989), LR 19:1009 (August 1993), LR 23:

**§14112. Registered Wood Destroying Insect Report Technician Requirements**

A. Persons, prior to registering as WDIR technicians, shall attend a wood destroying insect report training session and have conducted with licensed or registered WDIR inspector/technician, 40 WDIR inspections, approved by licensee, or shall have a wood destroying insect report training session and a minimum of one year of experience as a registered employee in the termite phase of pest control work under a termite phase licensee; and shall pass the appropriate test with a grade of 70 percent or better. Licensee shall verify in writing of technicians' work experience.

B. The fee for the examination for the WDIR technician shall be \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:

**§14113. Obligations of the Licensee**

A. - E. ...

F.1. The licensee must maintain his commercial applicator certification in current status by:

- a. attending a continuing educational program for recertification approved by the Louisiana Department of Agriculture and Forestry;
- b. recertification at least once every three years;
- c. a minimum of six hours of technical training which shall include but not limited to the categories of general pest control, termite control, wood destroying insect report (WDIR) inspector and commercial vertebrate control;
- d. a minimum of six hours of technical training for the category of fumigation;

2. A licensee attending an approved recertification seminar must attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar;

3. Time and location for each licensee certification can be obtained by calling or writing to the Louisiana Department of Agriculture and Forestry.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 956 (November 1989), LR 21:930 (September 1995), LR 23:

**§14116. Wood Infestation Report**

A. A wood infestation report approved by the Structural Pest Control Commission shall be issued when any inspection is made to determine the presence of wood destroying insects, specifically for acts of sale of structures, but not limited for this purpose.

B. Any wood infestation report or written instrument issued for the transfer of real property, shall be issued by a person who is licensed by the Structural Pest Control

Commission as a wood destroying insect report (WDIR) inspector or a registered wood destroying insect technician and is working under the supervision of a person who is licensed by the Structural Pest Control Commission as a WDIR inspector. This instrument shall carry a guarantee that the property will be treated without charge should live wood destroying insects with the exception, the presence of frass will be acceptable as evidence of a live infestation of Power Post Beetles; however, frass must be exuding or streaming from the holes on the outside of the wood, covered by this report, and be found within 90 days from date of inspection.

1. A contract approved by the Structural Pest Control Commission shall be issued on date of treatment.

2. This contract shall be reported to the commission and a fee paid as required by the Structural Pest Control Commission Law.

C. Regulations for completing wood destroying insect reports (LPCA-142). The following numbered sections correspond to the numbered sections on WDIR form LPCA - 142. LPCA - 142, and shall be completed as follows:

1. Enter HUD/FHA/VA Case number (if available).
2. Enter date of structure(s) inspection.
- 3A. Enter name of inspection company.
- 3B. Enter address (including street, city, state, and zip code) of inspection company.
- 3C. Enter telephone number (include area code) of inspection company.
4. Enter pest control inspector license number.
- 5A. Enter name and address of property owner/seller at the time of inspection.
- 5B. Enter address of property inspected (including street, city, state, and zip code).
- 5C. List only structures located at address in 5B that are part of this report.
- 5D. Information only. This area shall NOT be checked, circled or marked in any way.
6. If any areas of the property were obstructed or inaccessible mark box YES. If no, mark box NO.
7. Check the appropriate block as to the construction of the structure(s) inspected. More than one block can be checked.
8. This area shall NOT be checked, circled or marked in anyway.
- 9A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects. When this block is checked, no other block in Section 9 shall be checked.
- 9B. Check this block if evidence of wood destroying insects is observed. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or evidence of damage due to wood destroying insects. If live wood destroying insects are observed, identify and list the insect(s) observed and the location(s) in this Section.
- 9C. Check this box if visible evidence of damage due to wood destroying insects was observed. Evidence of damage is defined as obvious feeding or removal of wood by wood destroying insects including "etching" or "scabbing" marks on the wood surface(s). Identify the wood destroying insect and list the location(s) of evidence of damage caused by wood destroying insects in this Section.
- 9D. Treatment was or will be performed by inspection company? YES or Number If YES, explain as follows:
  12. Property disclosure statement provided to pest control company prior to or at the time of the inspection. Check "yes" if provided, Check "no" if not.
  13. Make no marks in this Section.
    - a. If any of the conditions listed in this Paragraph on the WDIR (LPCA-142) are present on or adjacent to the inspected structure(s), list them in Section Number 10 of this report.
  14. Signature and registration/licensee number of inspector conducting the inspection.
  15. Enter date of inspector signature.

16. Enter name of person requesting the WDIR (if available).
17. Signature of person WDIR received by (if available).
18. Title of person in Number 17 (if available).
19. Date of signature of Number 17 (if available).

**D. Minimum Specifications for conducting a Wood Destroying Insect Report**

1. No person shall conduct a WDIR inspection unless that person is properly licensed with the Louisiana Structural Pest Control Commission to conduct WDIR inspections or is working under the supervision of a licensed WDIR inspector and is properly registered to conduct WDIR inspections.

2. WDIR inspector/technician shall inspect all unobstructed or accessible areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:

Bob Odom  
Commissioner

9703#006

**DECLARATION OF EMERGENCY**

**Department of Agriculture and Forestry  
Office of the Commissioner**

**Emergency Airstrip for  
Agricultural Purposes (LAC 7:I.107)**

In accordance with Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:18, the commissioner of Agriculture and Forestry finds that this Emergency Rule setting forth a program to designate certain roads for use as emergency airstrips for agricultural purposes is necessary for the health, safety and welfare of the citizens of Louisiana. The department published a Notice of Intent in the February 20, 1997 edition of the *Louisiana Register* of its intent to promulgate regulations setting forth a program to designate certain roads for use as emergency airstrips pursuant to the authority of R.S. 3:18; however, the earliest the department can adopt these regulations is 90 days from the publication date in the *Louisiana Register*. Weather conditions during the past several weeks have rendered unusable the agricultural turf airstrips normally employed by agricultural interests at this time of the year in preparing the planting fields. The inability of the agricultural interests to use agricultural turf airstrips creates an extreme hardship on the agricultural interests in that the cost of planting crops rises. The rise in costs has a direct adverse impact on the agricultural economy of the state.

For the reasons set forth above, the commissioner has determined that this Emergency Rule is necessary in order to implement the emergency airstrip program during the current growing season.

The Rule is effective March 3, 1997 and will remain in effect 120 days or until the final Rule becomes effective, whichever occurs first.

**Title 7  
AGRICULTURE AND ANIMALS**

**Part I. Administration**

**Chapter 1. Administrative Procedure**

**§107. Emergency Airstrip for Agricultural Purposes Program**

A. Creation. There is hereby established within the Department of Agriculture and Forestry a program to designate certain roads as emergency airstrips to aid in the use of aircraft for agricultural purposes to be known as the "Emergency Airstrip for Agricultural Purposes Program."

**B. Declaration of Emergency**

1. The department may declare an agricultural emergency to exist which requires the use of portions of designated roads as airstrips for agricultural purposes when conditions are such that agricultural turf airstrips are rendered unavailable for safe use.

2. Each declaration of agricultural emergency shall be in writing and contain a declaration number, the date, and a list of the portions of designated roads which may be utilized as airstrips during the agricultural emergency.

3. The department shall provide a copy of the declaration to the sheriff and police jury for the parish in which each of the designated roads is located, and the Aviation Division of the State Department of Transportation and Development (hereinafter referred to as "DOTD") prior to utilization of the emergency airstrip. If the designated road is a state road, a copy of the declaration should also be provided to the communications center at State Police Headquarters and to the secretary of DOTD. If a designated road is located on the parish line, a copy of the declaration must be provided to the sheriff and police jury for both parishes.

4. The appropriate law enforcement entity as set forth in Subsection B.3 of this Section shall be responsible for implementing security and safety requirements for road traffic during periods when a road designated for use as an emergency airstrip to aid in the use of aircraft for agricultural purposes is actually utilized for that purpose. At a minimum, the appropriate law enforcement entity shall have at least one officer at the site and signs shall be placed at each end and at all approach ramps of a designated road to notify persons that the road is designated for use as an emergency airstrip to aid in the use of aircraft for agricultural purposes. The officer will insure that whenever aircraft are in the process of landing, taking off, or taxiing, there shall be no movement of vehicles on the emergency airstrip or within 500 feet of each landing threshold of the emergency airstrip. The enforcement entity providing said officer shall have the option of cost recovery for services from the party requesting use of the emergency airstrip.

**C. Designation of Roads**

1. Upon declaration by the department that an agricultural emergency exists, certain roads, including but not limited to dead-end roads and strategically placed parish roads, may be designated by the department for use as airstrips to aid in the use of aircraft for agricultural purposes.

2. Whenever possible, the department shall pre-designate a portion of a road for use as an emergency agricultural airstrip for use in the event a declaration of an agricultural emergency is made by the department. The request for pre-designation must be made by mail or facsimile to the department and include the following information:

- a. location of the road marked on a topography map;
- b. reason for designation; and
- c. a statement that the road meets all the criteria set forth in Subsection C.3 or a statement setting forth the reasons why a waiver under Subsection C.4 should be issue.

3. Predesignated emergency agricultural airstrips shall be inspected and registered by DOTD Aviation using similar criteria as utilized by DOTD in the registration of an agricultural use permanent airstrip. The registration certificate shall be issued to and held by the department. The registered and designated airstrip shall be marked and signed as such. Persons seeking predesignation must contact the Aviation Division of DOTD for specifications regarding the appropriate marking and signage required for the registered and designated emergency airstrip.

4. The department may authorize use of airstrips which have not been pre-designated and registered with the Aviation Division of DOTD, on a case by case basis, when safety and aircraft performance would not be compromised by such waiver and the use of said road as an emergency agricultural airstrip is deemed necessary by the department. Any such airstrip authorized shall, at a minimum, meet all of the following:

- a. the surface must be flat and straight for a minimum distance to 2,000 feet;
- b. the width shall be a minimum of 20 feet for the full length of the landing area. Sufficient wing tip clearance shall be provided as required for the aircraft utilizing the emergency agricultural airstrip;
- c. there shall be no potholes or depressions greater than 3 inches in depth over the entire landing surface;
- d. there shall be no vertical obstructions such as utility poles, trees, buildings, road signs, mail boxes, etc., on more than one longitudinal side of the landing surface;
- e. there shall be no overhead obstructions such as utility lines, overpasses, bridges, etc., for the full length of the landing area and within 500 feet of each landing area threshold;
- f. each landing area threshold shall be marked in such a way as to be readily identified from an aircraft in flight (e.g., white or orange cones, buckets, or painted tires); and
- g. threshold markers shall be placed on either side of the landing area at the thresholds and shall be no taller than 24 inches.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:18.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

Bob Odom  
Commissioner

9703#015

## DECLARATION OF EMERGENCY

### Department of Economic Development Racing Commission

Qualifications for Jockey/Apprentice Jockey and  
Applicant for License (LAC 46:XLI.701 and 703)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., amends the following Emergency Rule effective March 7, 1997, and it shall remain in effect for 120 days or until this Emergency Rule takes effect through the normal promulgation process, whichever occurs first.

The Racing Commission finds it necessary to amend this Rule to eliminate probationary rides/mounts. This will prevent any jockey or apprentice jockey from riding while unlicensed.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLI. Horseracing Occupations

#### Chapter 7. Jockeys and Apprentice Jockeys

#### §701. Qualifications for Jockey/Apprentice Jockey

Any person desiring to participate in this state as a jockey and has never ridden in a race may be issued a jockey or apprentice jockey license upon the recommendation of the stewards granting permission to such person for the purpose of riding in two races to establish the qualifications and ability of such person for the license, provided, however:

1. such person has the qualifications of a permittee and has at least one year of experience with racing stables;
2. a licensed trainer certifies in writing to the stewards that such person has demonstrated sufficient horsemanship to be granted a jockey or apprentice jockey license;
3. the starter has schooled such person breaking from the starting gate with other horses and approves such person as capable of starting a horse properly from the starting gate in a race;
4. the stewards in their sole discretion are satisfied such person intends to become a licensed jockey, possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other riders in the race.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:169.

**HISTORICAL NOTE:** Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:26 (January 1977), repromulgated LR 4:275 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 23:

#### §703. Applicant for a License

A. In addition to Rules applicable to permittees, an applicant for a license as a jockey or apprentice jockey:

1. must have served at least one year with racing stables;
2. must provide an annual medical affidavit certifying such person is physically and mentally capable of performing the activities and duties of a licensed jockey or exercise person.

B. The stewards may require that any jockey or exercise person provide blood or urine samples for analysis after consultation with the track physician. Should a jockey or exercise person fail to comply with this requirement this person shall be suspended and referred to the commission to show cause for refusing to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150, R.S. 4:151 and R.S. 4:169.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:27 (January 1977), repromulgated LR 4:275 (August 1978), amended LR 10:593 (August 1984), amended by the Department of Economic Development, Racing Commission, LR 23:

Paul D. Burgess  
Executive Director

9703#039

## DECLARATION OF EMERGENCY

### Department of Environmental Quality Office of Water Resources

#### Produced Water Discharge Extension [Adoption of Emergency Rule] (WP023E-B)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality (department) to use emergency procedures to establish Rules, and of R.S. 30:2011 and R.S. 30:2074, which allow the department to establish standards, guidelines, and criteria, to promulgate Rules and Regulations, and to issue compliance schedules, the secretary of the department hereby finds that imminent peril to the public welfare exists. The department adopts the Emergency Rule published below (LAC 33:IX.708.C)(WP023E-B) effective February 26, 1997, for 120 days, or until promulgation of the final Rule, whichever occurs first.

This Emergency Rule replaces WP023E and WP023E-A, published in the *Louisiana Register* on January 20, 1997. Accordingly, Emergency Rules WP023E and WP023E-A are repealed by the adoption of Emergency Rule WP023E-B. Adopted this 26th day of February, 1997.

J. Dale Givens  
Secretary

9703#009

## DECLARATION OF EMERGENCY

### Department of Environmental Quality Office of Water Resources

#### Produced Water Discharge Extension [Declaration of Emergency] (LAC 33:IX.708) (WP023E-B)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality (department) to use emergency procedures to establish Rules, and of R.S. 30:2011 and R.S. 30:2074, which allow the department to establish standards, guidelines, and criteria, to promulgate Rules and Regulations, and to issue compliance schedules, the secretary of the department made a finding that imminent peril to the public welfare exists. The department adopted Emergency Rule WP023E-B effective February 26, 1997, for 120 days, or until promulgation of the final Rule, whichever occurs first.

Adoption of Emergency Rule WP023E-B repealed and replaced Emergency Rules WP023E and WP023E-A, published in the *Louisiana Register* on January 20, 1997.

This Declaration of Emergency provides the reasons for the secretary's finding and includes specific reasons why the failure to adopt the Rule on an emergency basis would result in imminent peril to the public welfare.

#### Regulatory History of Produced Water

The secretary hereby finds the following to be the history of produced water and its regulation in the State of Louisiana:

1. Discharges of produced water have existed since the 1940's.
2. A 1953 Rule allowed produced water discharges to any stream not used for drinking water purposes.
3. By 1968, discharge to most freshwater areas was banned.
4. Many LWDPs permits have prohibited discharges of produced water beginning in 1988.
5. In March of 1991, state regulations were promulgated concerning produced water. DEQ's 1991 regulations required a phase-out of coastal produced water discharges by 1997.
  - a. Continued produced water discharges to major deltaic passes of the Mississippi and Atchafalaya Rivers could be authorized in a valid LWDPs permit.
  - b. DEQ Regulations provided for extensions of time to discharge produced water in coastal regions up to January 1, 1997.
  - c. All discharges of produced water (except for those to Mississippi and Atchafalaya River areas) had to cease by January 1, 1997.
6. EPA Region 6 issued NPDES general permits effective February 1995.
  - a. The general permits prohibit discharge of produced water to Louisiana and Texas coastal waters.
  - b. Although the general permits absolutely prohibit any discharge of produced water of coastal origin, exceptions to that prohibition are found in an EPA administrative order, effective February 1995. That order allowed extensions of time to comply with the prohibition until January 1997.

c. The general permit effective in Louisiana did not cover discharges of produced water from the offshore subcategory to the Mississippi River and the Atchafalaya River (below Morgan City).

7. EPA guidelines and standards for coastal waters were promulgated in December 1996 and effective on January 14, 1997 (the guidelines).

a. The guidelines banned *all* discharges to the coastal area.

b. The guidelines required all remaining Mississippi and Atchafalaya River discharges to cease.

c. The federal guidelines note at page 66122-23 the following:

"EPA received numerous comments from operators in the Gulf of Mexico coastal region claiming that they would need additional time to comply with the Rule's zero discharge requirement for produced water. EPA recognizes that it may take some time for operators to determine the best and most cost effective mechanism of compliance and to implement that mechanism. EPA also recognizes that the NPDES permit issuing authority has discretion to use administrative orders to provide the requisite additional time to meet zero discharge."

d. The Department's Office of Water Resources became the NPDES permit issuing authority for the State of Louisiana on August 27, 1996.

e. Consistent with the guidelines, EPA has recognized the need to allow additional time for facilities to come into compliance with the ban.

f. EPA issued administrative orders in the State of Texas that document continued produced water discharges after the January 14, 1997 deadline and which set forth compliance schedules for the termination of such discharges over a period of two years.

8. On December 30, 1996, the department issued Emergency Rule WP023E to prevent imminent peril to the public welfare, specifically to prevent the loss of employment, taxes, and royalties that would result if all remaining produced water discharges were eliminated on January 1, 1997.

a. The Emergency Rule allowed additional time for a limited number of facilities to cease produced water discharges.

b. Emergency Rule WP023E-A was issued on January 6, 1997, to correct an omission in the original Emergency Rule.

c. Emergency Rule WP023E-B repealed and replaced Emergency Rules WP023E and WP023E-A.

#### **Additional Findings**

The secretary also finds the following:

1. Facilities were still discharging produced water on January 1, 1997.

2. Facilities still discharging produced water after January 1, 1997 are subject to enforcement action by both DEQ and EPA.

3. Produced water is a commonly produced byproduct of oil and gas production.

4. To continue operating, an oil and gas production facility for which produced water is a natural byproduct must either discharge the produced water or inject it into an injection well approved by the Department of Natural Resources.

5. For various reasons, certain facilities would not be able to cease all discharges by January 1, 1997:

a. The Department of Natural Resources experienced a personnel shortage, which prevented it from processing before January 1, 1997, all of the applications for injection wells on file in December 1996.

b. Some Mississippi and Atchafalaya River dischargers had valid state permits allowing continued discharge (in conflict with the December 1996 federal guidelines and standards).

c. Some bay dischargers had relied on Department of Energy study results to allow continued discharge by state permit.

6. The federal guidelines at page 66087 note the reliance of bay dischargers on the DOE study:

"The United States Department of Energy (DOE) has provided the State of Louisiana with comments and analyses suggesting a change to the Louisiana state law requiring zero discharge of produced waters to open bays by January 1997. Promulgation of [these December 16, 1996 federal guidelines] would generally preclude issuance of permits allowing discharges."

7. The department accepted information that was part of the DOE study referenced in LAC 33:IX.708.C.2.b.iv.(e), as documented at 61 Federal Regulation 66087.

8. The DOE study results focus on minimal water quality impact to urge discharges be allowed.

9. The EPA guidelines use Best Available Technology (BAT) to require all discharges to cease.

#### **Findings and Considerations Regarding Environmental and Economic Costs and Benefits**

The secretary is the primary public trustee of the environment. He has a duty to provide environmental protection insofar as possible and consistent with the health, safety, and welfare of the people of the State of Louisiana. In fulfillment of that duty, the secretary finds that the adverse environmental impacts resulting from issuance of Emergency Rule WP023E-B have been minimized or avoided as much as possible consistent with the public welfare, as detailed below.

#### **Environmental Costs and Benefits**

Environmental costs and benefits were considered. During the 1953 to 1997 time frame, produced water discharges to areas of greatest environmental impact were limited or eliminated. Of the coastal area discharges which now remain, the majority of discharges are to major passes of the Mississippi River or to bay areas. These areas have less potential for environmental damage than locations such as dead end canals, due to greater water circulation.

As part of the development and consideration for the March 1991 regulations that prohibited produced water discharges, DEQ, in cooperation with the Louisiana State University Institute for Environmental Studies, performed a

**DECLARATION OF EMERGENCY**

**Office of the Governor  
Crime Victims Reparations Board**

**Definitions  
(LAC 22:XIII.103)**

The following amendments are published in accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 46:1801 et seq., the Crime Victims Reparations Act, which allows the Crime Victims Reparations Board to promulgate Rules necessary to carry out its business or the provisions of the Chapter. The board hereby finds that an emergency exists whereby victims, or the claimants in the case of deceased victims, will suffer an immediate, detrimental financial loss in federal grants estimated at \$6,724,000 over the next year if these amendments are not immediately implemented. This Emergency Rule provides for a broader definition of a victim to include those Louisiana residents who are victims of an act of terrorism whether the terrorism occurs in the United States or in another country. Furthermore, the changes remove any restrictions that would prohibit a victim from receiving compensation solely because another state or country had a compensation program, and will ensure compliance with federal grant requirements. In order to prevent additional harm to victims and their families, the board adopts this Emergency Rule effective April 1, 1997. It shall remain in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever comes first.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part XIII. Crime Victims Reparations Board**

**Chapter 1. Authority and Definitions**

**§103. Definitions**

\* \* \*

*Victim*—

\* \* \*

b. a resident of Louisiana who is a victim of an act of terrorism(as defined in Section 2331 of Title 18, *United States Code*) occurring outside the U.S., or

c. a Louisiana resident who suffers personal injury or death as a result of a crime described in R.S. 46:1805 except that the criminal act occurred outside of this state. The resident shall have the same rights under this Chapter as if the Act had occurred in this state upon a showing that the state in which the act occurred does not have an eligible crime victims reparations program and the crime would have been compensable had it occurred in Louisiana. In this Subparagraph, *Louisiana Resident* means a person maintained a place of permanent abode in this state at the time the crime was committed for which reparations are sought.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 20:709 (August 1996), LR 23:

Lamarr Davis  
Chairman

9703#008

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Animal Euthanasia Technicians  
Suspension of Rule (LAC 46:LXXXV.1201)**

The Board of Veterinary Medicine has adopted the following Emergency Rule, effective March 10, 1997, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and it shall be in effect for 120 days.

It has come to the attention of the Board of Veterinary Medicine that persons have completed the board's approved certified animal euthanasia technician course, but, acting in good faith, did not complete the certification process. Further, these persons have been performing the functions of certified animal euthanasia technicians. Upon learning of this violation of the Rules for certification, these persons have reported themselves to the board and requested certification. Under its current Rule LAC 46:LXXXV.1201.E, the board may not accept the application for certification from these persons for a two-year period. The rejection of these applications has the great potential of leaving some animal shelters in the state without a certified animal euthanasia technician, thereby hindering these shelters' ability to control the animal population in their communities, including the ability to euthanize diseased or otherwise dangerous animals.

Therefore, to protect the public health and safety, the board has suspended LAC 46:LXXXV.1201.E for a period of 120 days, to allow persons who have already completed the board's approved course for certified animal euthanasia technicians to receive temporary certificates in accordance with LAC 46:LXXXV.1207.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 12. Certified Animal Euthanasia Technicians**

**§1201. Applications for Certificates of Approval**

A. - D. ...

E. *Suspended for 120 days, effective March 10, 1977.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:

Charles B. Mann  
Executive Director



**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Professional Conduct— Specialty  
List (LAC 46:LXXXV.1063)

The Board of Veterinary Medicine has adopted the following Emergency Rule, effective March 10, 1997, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

This Emergency Rule is necessary to promote the public health, safety, and welfare by safeguarding the people of this state from veterinarians who may state or imply that they are certified or recognized specialists without appropriate board certification in such specialty, thereby protecting the public from the actions of persons who could otherwise claim to be specialists.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 10. Rules of Professional Conduct**

**§1063. Specialty List**

A. ...

B. A veterinarian may not use the term *specialist* for an area of practice for which there is not AVMA recognized certification.

C. A diplomate of the American Board of Veterinary Practitioners can claim only a specialty for the class of animals in which he specializes, not for medical specialties unless he is board-certified in those medical specialties.

D. The term *specialty* or *specialists* is not permitted to be used in the name of a veterinary hospital unless all veterinary staff are board-certified specialists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), LR 23:

Charles B. Mann  
Executive Director

9703#055

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of Public Health**

Orleans Parish Individual Sewage

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 36:258(B) and 40:5(9), the secretary of the Department of Health and Hospitals is adopting the following Emergency Rule governing installation of individual sewage systems in certain

areas of Orleans Parish. Concurrently, a Notice of Intent to establish a permanent Rule is being published in accordance with the Administrative Procedure Act, R.S. 49:953(B).

The present Rule inadvertently prohibits those individuals with failing and/or inadequate sewage treatment systems from upgrading or replacing their systems thereby exposing their families to disease and pollution of the state's waterways.

The effective date of this Emergency Rule is February 17, 1997, and shall remain in effect for 120 days or until the Rule takes effect through the normal promulgation process, whichever occurs first.

**Emergency Rule**

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

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

This does not preclude the installation of approved individual sewage disposal systems on individually owned lots of record, i.e., those legally established and duly recorded with the parish prior to July 28, 1967, or those lots legally established and duly recorded with the parish that meet the minimum lot size prescribed in the State Sanitary Code.

Bobby P. Jindal  
Secretary

9703#013

**DECLARATION OF EMERGENCY**

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

Case Management Services Reimbursement  
Infants and Toddlers with Special Needs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:953(B) et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for optional targeted case management services to infants and toddlers who are categorized as developmentally disabled under the ChildNet Program.

An Emergency Rule was adopted on September 24, 1996, limiting case management services to those infants and toddlers who either receive services under the MR/DD waiver or who receive two or more specified Medicaid services

(Louisiana Register, Volume 22, Number 9). The department subsequently repealed the September 24, 1996 Emergency Rule and reduced the reimbursement rate for these services, effective December 1, 1996, in a subsequent Emergency Rule (Louisiana Register, Volume 22, Number 11).

After consultation with the Department of Education regarding ChildNet Services, the bureau has now determined it is necessary to increase the reimbursement for case management services for infants and toddlers. This action is necessary to maintain the health and welfare of these children by assuring continued access to case management services to assist their families in obtaining necessary medical, social and educational services.

It is anticipated that implementation of this Emergency Rule will increase expenditures by approximately \$88,400 for the remainder of fiscal year 1996-1997.

#### **Emergency Rule**

Effective for dates of service on or after March 13, 1997, the Department of Health and Hospitals, Bureau of Health Services Financing increases reimbursement for case management services for infants and toddlers with special needs to \$115.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquires regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal  
Secretary

9703#044

### **DECLARATION OF EMERGENCY**

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

#### **Disproportionate Share Hospital Payment Methodology**

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act. This Emergency Rule is in accordance with the Administrative Procedure Act R.S. 49:953(B) et seq. and shall be in effect for the maximum allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

Hospital disproportionate share (DSH) payment limits were established by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) which amended Section 1923 of the Social Security Act. In order to comply with the budgetary limitations imposed by that federal regulation and to avoid a

budget deficit in the medical assistance programs, the bureau amended the payment methodologies for public state-operated hospitals, private hospitals, and public nonstate hospitals effective July 1, 1995. Under that methodology, public state-operated hospitals receive DSH payments equal to 100 percent of the hospital's net uncompensated costs, and private hospitals and public nonstate hospitals received DSH payments according to a formula based on an eight-pool methodology.

In order to assure continued fiscal viability of community hospitals, Act Number 17 (House Bill Number 1) of the 1996 Louisiana Legislature provides for separate treatment of disproportionate share funds for uncompensated costs in small (60 beds or less) nonstate-operated local government hospitals and small (60 beds or less) private rural hospitals. To accommodate this proviso, this Emergency Rule provides that all hospitals other than public state-operated hospitals are separated into two groups: the first is composed of small (60 beds or less) nonstate-operated local government hospitals and small (60 beds or less) private rural hospitals, and the second contains all other hospitals. The latter group is composed of two pools, acute care hospitals and psychiatric hospitals. Previous provisions concerning DSH methodology for public state-operated hospitals continues unchanged. There is no increase or decrease in DSH funds as the result of this Emergency Rule, therefore there is no fiscal impact to the state or federal government.

Failure to adopt this Emergency Rule on an emergency basis could result in unavailability of local hospital services for Medicaid recipients in areas served by these hospitals, and would cause imminent peril to the public health, safety, or welfare of affected Medicaid recipients.

#### **Emergency Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing replaces prior regulations governing disproportionate share hospital payment methodologies excluding disproportionate share qualification criteria and establishes the following regulations to govern the disproportionate share hospital payment methodologies for public state-operated, private hospitals and public nonstate hospitals.

##### **I. General Provisions**

A. Reimbursement will no longer be provided for indigent care as a separate payment in hospitals qualifying for disproportionate share payments.

B. Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospitals' disproportionate share payments to remain within the federal disproportionate share allotment or the state disproportionate share appropriated amount.

C. Appropriate action shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's

uncompensated cost for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest year end cost report for the year ended during the period July 1 through June 30 of the previous year. Only hospitals that return DSH qualification documentation timely will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

G. Net Uncompensated Cost—cost of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payor payments, and all other inpatient and outpatient payments received from patients. It is mandatory that qualifying hospitals seek all third-party payments including Medicare, Medicaid, and other third-party carriers. Hospitals not in compliance with free care criteria will be subject to recoupment.

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

## II. Reimbursement Methodologies

### A. Public State-Operated Hospitals

#### 1. Definitions:

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

2. Payment Methodology. DSH payments to individual public state-owned or operated hospitals are equal to 100 percent of the hospital's net uncompensated costs subject to the adjustment provision in II.A.3 below. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

3. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment each year or the state DSH appropriated amount, the department shall calculate a pro rata decrease for each public (state) hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH appropriated amount.

### B. Small Nonstate-Operated Local Government Hospitals and Small Private Rural Hospitals

1. Criteria for hospitals to be included in this group are as follows:

Qualifying hospitals must be 1) small and 2) either a nonstate public-owned and operated or a private rural hospital as defined below. Hospitals/beds located outside the service district area or rural area may not be included in this pool, but will be included in the all other hospitals pools. Beds located outside the service district will be used by DHH to determine

qualification, but costs associated with these beds will not be used to determine reimbursement. Freestanding psychiatric hospitals are not included.

#### 2. Definitions

*Public Local Government Acute Hospitals*—local government-owned acute care general, rehabilitation, and long term care hospitals including distinct part psychiatric units are qualified for this designation. Only uncompensated costs attributable to beds/units located within the service district area qualify for inclusion.

*Private Rural Hospitals*—privately owned acute care general, rehabilitation and long-term care hospitals designated as rural hospitals by Medicare, including distinct part psychiatric units are qualified for this designation. Only uncompensated cost attributable to beds/units located within the rural area qualify for inclusion.

*Small*—having 60 or less licensed beds as of July 1 of the state fiscal year to which the payment is applicable. The number of beds includes distinct part psychiatric beds, and excludes nursery and skilled nursing beds.

*Rural*—rural area as it applies to small private rural hospitals is considered rural areas of the parish in which the facility is domiciled.

3. Payment is based on each qualifying hospital's pro rata share of uncompensated cost for the previous state fiscal year for all hospitals meeting these criteria multiplied by the amount set for these facilities.

4. A pro rata decrease necessitated by conditions specified in I.B above for nonstate hospitals described in this Section will be calculated based on the ratio determined by dividing the hospitals' uncompensated costs by the uncompensated costs for all qualifying nonstate hospitals in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH apportioned amount.

### C. All Other Hospitals (Private Rural Hospitals over 60 Beds, All Private Urban Hospitals, Public Nonstate Hospitals over 60 Beds, and All Free-standing Psychiatric Hospitals Exclusive of State Hospitals)

1. Annualization of days for the purposes of the Medicaid days pools is not permitted. Payment is based on actual paid Medicaid days for a six-month period ending on the last day of the latest month at least 30 days preceding the date of payment which will be obtained by DHH from a report of paid Medicaid days by service date.

2. Payment is based on Medicaid days provided by hospitals in the following two pools:

a. *Acute Care Hospital*—acute care, rehabilitation, and long-term care hospitals not described in II above (excluding distinct part psychiatric units) are qualified for this designation. Acute care, rehabilitation, and long-term care hospitals/beds of small nonstate-operated local government hospitals (defined in II above) located outside the service district area are included in this pool. Acute care, rehabilitation, and long-term care hospitals/beds of small private rural hospitals (defined in II above) located outside the rural area are included in this pool.

b. *Psychiatric Hospital*—Freestanding psychiatric hospitals and distinct part psychiatric units not included in II

above are qualified for this designation. Psychiatric hospitals/beds of small nonstate-operated local government hospitals (defined in II above) located outside the service district area are included in this pool. Psychiatric hospitals/beds of small private rural hospitals (defined in II above) located outside the rural area are included in this pool.

3. Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) total Medicaid inpatient days obtained from the same report of all qualified hospitals in the pool, and multiplying by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days. Pool amounts shall be allocated based on the consideration of the volume of days in each pool or the average cost per day for hospitals in each pool.

4. No additional payments shall be made if an increase in days is determined after audit. Recoupment of overpayment from reductions in pool days originally reported shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the state for the year in which the recoupment is applicable.

5. A pro rata decrease necessitated by conditions specified in I.B above for hospitals described in this Section will be calculated based on the ratio determined by dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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

Bobby P. Jindal  
Secretary

9703#043

## **DECLARATION OF EMERGENCY**

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

Home Care for the Elderly Waiver

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

accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers four Home and Community Based Services Waiver Programs. Participation in each home and community based services waiver is limited to a specific number of participants based on the approval of the waiver application by the Health Care Financing Administration. Home and community based services waiver programs are based on federal criteria which allows services to be provided in a home or community based setting for a recipient who would otherwise require institutional care. Costs for participants of the program must not exceed the costs for recipients of institutional care. Currently, daily costs in the Home Care for the Elderly waiver are exceeding the costs of comparable residents of nursing homes, thus jeopardizing the program. Therefore, in order to be able to continue this program the bureau is making changes in admissions criteria, the target population, management of services, and types of services available.

The following Emergency Rule is necessary to maintain federal financial participation for the Home Care for the Elderly waiver program and to preserve the health and welfare of individuals participating in that program. It is anticipated that implementation of this Emergency Rule will decrease expenditures by approximately \$210,000 for state fiscal year 1996-1997.

### **Emergency Rule**

Effective April 1, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations governing the Home Care for the Elderly waiver program to:

- 1) redefine the target population served by the waiver and rename the waiver;
- 2) establish an average cost per day limit each participant of the waiver;
- 3) establish and define new services;
- 4) establish methodology for the assignment of slots; and
- 5) clarify admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care.

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

### **Definition of Targeted Population for the Waiver**

This home and community based services waiver is targeted at persons who qualify for admission to a nursing facility and are over age 65 or adults, age 21 or over, who are disabled according to Medicaid standards. It shall be called the Elderly and Disabled Adult waiver.

### **Guarantee of Waiver Costs**

In order to assure the cost effectiveness of this entire home and community based services waiver each participant shall be limited to an array of services whose average cost per day shall not exceed a limit set by the bureau. This figure shall be set annually at a percentage of the average costs borne by the Medicaid program for the equivalent population receiving nursing facility services, with an allowance for temporary, brief periods of excess costs in order to maintain a participant in the community. Case managers shall complete a budget analysis form as part of each care plan which shall list the types and number of services necessary to maintain the waiver participant safely in the community, the cost of those services and the average cost per day covered by the care plan.

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

The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. Each waiver slot may be filled only once during each waiver year. When funding becomes available for a new waiver slot or a slot that has been vacated in the previous waiver year, staff of the Intake Offices at the local Councils on Aging shall notify the next individual in order of application on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the Health Standards Section of BHSF. A case manager assists in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the Council on Aging office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified.

### **Waiver Admission Criteria**

Admission to this Waiver Program shall be determined in accordance with the following criteria.

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

### **Waiver Discharge Criteria**

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

1. loss of Medicaid eligibility as determined by the parish BHSF Office;
2. loss of eligibility for a nursing facility level of care as determined by the Health Standards Section of BHSF;

3. incarceration or placement under the jurisdiction of penal authorities, or courts;

4. change of residence to another state with the intent to become a resident of that state;

5. admission to a nursing facility or any other long term care institutional setting;

6. the health and welfare of the waiver participant cannot be assured in the community through the provision of amounts of waiver services within the cost cap as determined by the Health Standards Section of BHSF, i.e., the waiver participant presents a danger to himself or others;

7. failure to cooperate in either the eligibility determination process or the performance of the care plan; or

8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 14 or more consecutive days. This does not include interruptions in services because of hospitalization.

### **Mandatory Reporting Requirements**

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

### **Definition of Services**

The following services will be made available to participants in this waiver by employees of Personal Attendant Provider agencies in half hour increments:

1. *Personal Care Attendant*—assistance with eating, bathing, dressing, personal hygiene, or activities of daily living.

2. *Household Supports*—services consisting of general household activities (meal preparation and routine household care) provided by a trained homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him or herself or others in the home.

3. *Personal Supervision (day)*—non-medical care, supervision and socialization, provided to a functionally impaired adult. Personal supervisors may assist or supervise the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services as the household support worker does. The provision of this service does not entail hands-on nursing care.

4. *Personal Supervision (night)*—this type of supervision is to provide for the safety of individuals living alone who are limited in mobility or cognitive function to such an extent that they may not be able to preserve their own safety in dangerous situations.

### **Reimbursement of Waiver Services**

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

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services

Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at parish Medicaid offices for review by interested parties.

Bobby P. Jindal  
Secretary

9703#045

## DECLARATION OF EMERGENCY

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

### Hospital Program—Outpatient Laboratory Services

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

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses hospitals for outpatient laboratory services. The bureau has differentiated in the reimbursement rate for outpatient hospital laboratory services from laboratory services performed in a nonhospital setting. Effective July 7, 1995, the bureau reduced the reimbursement for laboratory services except for those services performed in an outpatient hospital setting (*Louisiana Register*, Volume 21 Number 7, page 649). The bureau adopted two Emergency Rules effective August 1, 1996 and November 20, 1996 which reduced the reimbursement for outpatient hospital laboratory services subject to the Medicare fee schedule in order to achieve a uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule regardless of the setting in which the services are performed (*Louisiana Register*, Volume 22, Numbers 7 and 11, pages 573 and 1082). The following Emergency Rule is necessary to maintain the cost savings initiated by the August 1, 1996 and November 20, 1996 Emergency Rulemaking, thereby avoiding a budget deficit in the Medical Assistance Program.

#### Emergency Rule

Effective March 20, 1996, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses hospitals for outpatient laboratory services as described below:

A uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule is established regardless of the setting in which the services are performed. The reimbursement rate for outpatient hospital laboratory services subject to the Medicare fee schedule are reimbursed at the same reimbursement rate for laboratory services provided in a nonhospital setting.

Bobby P. Jindal  
Secretary

9703#046

## DECLARATION OF EMERGENCY

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

### Targeted Case Management Services and Reimbursement

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

The Bureau of Health Services Financing currently funds case management services to the following specific population groups:

1. developmentally delayed infants and toddlers (termed infants and toddlers with special needs under this Emergency Rule);
2. pregnant women in need of extra perinatal care (termed high-risk pregnant women under this Emergency Rule) (limited to the metropolitan New Orleans area);
3. HIV disabled individuals (termed persons infected with HIV under this Emergency Rule);
4. participants in Home- and Community-Based Services Waiver Program who receive case management as a separate service;

The following groups have previously received case management services: seriously mentally ill, MR/DD persons who were not participants of the MR/DD Waiver Program; and ventilator-assisted children.

Previously, these services have been implemented and governed under specific program regulations. The department seeks to enhance all these services to the optimal level while streamlining their administration and establishes enhanced regulations governing consumer eligibility, provider enrollment, provider standards for participation and reimbursement methodology and requirements, and general provisions. The department adopted Emergency Rules to ensure uniform standards for the quality of the services delivered to these persons with special physical and/or health

needs and conditions effective July 22, 1994 and August 13, 1994 (*Louisiana Register*, Volume 20, Numbers 6 and 7). Subsequent Emergency Rules continued this initiative in force as published in the *Louisiana Register* (November 20, 1994, Volume 20, Number 11; April 20, 1995, Volume 21, Number 4; August 20, 1995, Volume 21, Number 8; November 20, 1995, Volume 21, Number 11; March 20, 1996, Volume 22, Number 3; and July 20, 1996, Volume 22, Number 7). In addition the Bureau adopted emergency rulemaking to revise the reimbursement methodology based on the 15-minute unit of service for the on-going services component to adoption of the flat rate. This revised reimbursement methodology was implemented effective October 1, 1995 (*Louisiana Register* Volume 21 Number 10) which included a monthly reimbursement rate for both components of case management services, the initial assessment/service plan development and the ongoing services. Monthly reimbursement rates were assigned for each population group based upon minimum standards for service delivery for each of these groups. Effective March 1, 1996 the department adopted an Emergency Rule (*Louisiana Register*, Volume 22, Number 3) which provided for the payment of a one-hour minimum of service delivery and additional 15-minute incremental units up to a cap of the monthly rate once the initial one-hour service minimum is met. The June 11, 1996 Emergency Rule (*Louisiana Register*, Volume 22, Number 6) continued the flat rate methodology and the subsequent modification of this methodology as cited above. These provisions were continued with the adoption of the October 9, 1996 Emergency Rule (*Louisiana Register*, Volume 22, Number 10) which also continued the program reductions implemented this state fiscal year (*Louisiana Register*, Volume 22, Number 6, pages 556 and 574). In addition the department also adopted emergency rulemaking effective September 24, 1996 (*Louisiana Register*, Volume 22, Number 9) limiting case management services to infants and toddlers who either receive services under the MR/DD waiver or who receive two or more specified Medicaid services. The department repealed the limitations on Infants and Toddler Case Management Services in the September 24, 1996 Emergency Rule and reduced the reimbursement rate for these services (*Louisiana Register*, Volume 22, Number 11). The department has now determined it is necessary to amend the December 1, 1996 Emergency Rule to remove the reimbursement rates, but maintain the reimbursement methodology as part of the Rule. In addition, we are reinstating those components of the standards for participation and payment that were inadvertently omitted from the December 1, 1996 Emergency Rule. This action is necessary to continue the provisions of this initiative in force until a final Rule is adopted.

#### **Emergency Rule**

Effective for dates of service March 31, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions to govern case management services including consumer eligibility requirements, provider enrollment, provider standards for participation and reimbursement methodology and general provisions. These provisions apply

to case management services provided either to targeted population groups or to waiver participants who receive case management services as a separate service. These include the following groups of individuals:

1. infants and toddlers with special needs;
2. high-risk pregnant women;
3. persons infected with HIV;
4. persons in Waiver Program(s) who receive case management as a separate service.

All case management providers must follow the policies and procedures included in this notice as well as in the Department of Health and Hospitals *Case Management Provider Manual*. Under this Rule the term *Case Management* has the same meaning as the term *Family Service Coordination*. Case management services must be delivered in accordance with all applicable federal and state laws and regulations.

The department amends the December 1, 1996 Emergency Rule to remove the reimbursement rates, but continues the reimbursement methodology set forth in the Emergency Rule for the Targeted Case Management Services Program. In addition, we are reinstating those components of the standards for participation and payment that were inadvertently omitted from the December 1, 1996 Emergency Rule.

#### **I. Standards of Participation**

In order to be reimbursed by the Medicaid Program, a provider of targeted or waiver case management service must comply with all of the requirements listed below. Exceptions may be granted by the secretary on a case-by-case basis as determined by an assessment of available services in the community.

A. **Provider Enrollment Requirements.** Case management agencies who wish to provide Medicaid-funded targeted or waiver case management services must contact the department to request an enrollment packet and copy of the DHH *Case Management Provider Manual*. Applicants must indicate the population(s) and the geographical areas they wish to serve. The provider must meet all applicable licensure, general standards for participation in the Medicaid Program and specific provider enrollment and participation requirements for the population(s) to be served. Each enrolling agency must also submit a separate provider agreement (Form PE-50) and Disclosure of Ownership form to DHH for each targeted or waiver population and geographical area (DHH region) the agency plans to serve. Each office site of a case management agency must be enrolled separately. Approval by DHH entitles the agency to provide services in the parishes of that DHH region only. This requirement is applicable to both new providers and existing providers already enrolled. When an agency wishes to provide case management services in a parish in another region and that parish is not contiguous to the parish in which an enrolled office site is located, the agency must establish an office in the other region, submit a separate enrollment packet, and receive DHH approval to provide services in that DHH region regardless of the number of case managers providing services in the new region. When there are less than three case managers providing services in a parish in another region and that parish is contiguous to the parish in which an enrolled office site is located, the agency is not required to establish an office in the other region.

In accordance with Section 4118(i) of the Omnibus Budget Reconciliation Act (OBRA) of 1987, Public Law 100-203, the department may restrict enrollment and service areas of agencies that are enrolled in the Medicaid Program to provide case management services to developmentally disabled consumers including infants and toddlers with special needs in order to ensure that the case management providers available to these targeted groups and any subgroups are capable of ensuring that the targeted consumers receive the full range of needed services. Case management agencies must meet the enrollment requirements listed below to be approved for enrollment.

All applicant case management agencies must meet the requirements listed in 1-16 below to participate as a case management provider in the Medicaid Program, regardless of the targeted or waiver group served:

1. have demonstrated direct experience in successfully serving the target population and demonstrated knowledge of available community services and methods for accessing them including all of the following:

a. have established linkages with the resources available in the consumer's community;

b. maintain a current resource file of medical, mental health, social, financial assistance, vocational, educational, housing and other support services available to the target population;

c. demonstrate knowledge of the eligibility requirements and application procedures of federal, state, and local government assistance programs which are applicable to consumers served;

d. employ a sufficient number of qualified case manager and supervisory staff who meet the skills, knowledge, abilities, education, training, supervision, staff coverage and maximum caseload size requirements described in this document;

2. possess a current license to provide case management/service coordination in Louisiana or written proof of application for licensure;

3. demonstrate administrative capacity to provide all core elements of case management and insure effective case management services to the target population in accordance with licensing and DHH requirements by DHH review of the following:

a. current detailed budget for case management;

b. report of annual outside audit by a certified public accountant performed in accordance with generally accepted accounting principles;

c. cost report by September 30 of each year following 12 months of operation;

d. provider policies and procedures;

e. functional organization chart depicting lines of authority; and

f. program philosophy, goals, services provided, and eligibility criteria that define the target population or waiver group to be served;

4. assure that all case manager staff is employed by the agency in accordance with Internal Revenue Service (IRS) Regulations (including submission of a W-2 Form on each case manager). Contracting case manager staff is prohibited.

Contracting of supervisors must comply with IRS Regulations. Each case manager must be employed 20 hours per week;

5. assure that all new staff satisfactorily complete an orientation and training program in the first 90 days of employment and possess adequate case management abilities, skills and knowledge before assuming sole responsibility for their caseload and each case manager and supervisor satisfactorily complete case management related training on an annual basis to meet at least minimum training requirements described below. The provision and/or arranging of such training is the responsibility of the provider;

6. have a written plan to determine the effectiveness of the program and agrees to implement a continuous quality improvement plan approved by the department;

7. document and maintain an individual record on each consumer which includes all of the elements described in licensing standards for case management and in this document;

8. agree to safeguard the confidentiality of the consumer's records in accordance with federal and state laws and regulations governing confidentiality;

9. assure a consumer's right to elect to receive case management as an optional service and the consumer's right to terminate such services;

10. assure that no restriction will be placed on the consumer's right to elect to choose a case management agency, a qualified case manager, and other service providers and change the case management agency, case manager and service providers consistent with Section 1902(a)(23) of the Social Security Act;

11. if enrolled as a Medicaid case management provider after July 20, 1994, assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same consumer(s);

12. have financial resources and a financial management system capable of:

a. adequately funding required qualified staff and services;

b. providing documentation of services and costs;

c. complying with state and federal financial reporting requirements; and

d. submitting reports in the manner specified by Medicaid;

13. maintain a written policy for intake screening, including referral criteria;

14. maintain a written policy for transition and closure;

15. with the consumer's permission, agree to maintain regular contact with, share relevant information and coordinate medical services with the consumer's primary care or attending physician or clinic;

16. fully comply with the *Code of Governmental Ethics*.

Applicants must meet the following additional enrollment requirements for specific target groups:

17. demonstrate the capacity to participate and agree to participate in the Case Management Information System (CAMIS) and provide up-to-date data to the Regional Office and/or Program Office on a weekly basis via electronic mail applicable to infants and toddlers with special needs. CAMIS

and electronic mail software will be provided without charge to the provider;

18. have demonstrated successful experience with delivery and/or coordination of services for pregnant women; have a working relationship with a local obstetrical provider/acute care hospital providing deliveries for 24-hour medical consultation; have a multidisciplinary team consisting, at a minimum, of: a physician; primary nurse associate or certified nurse manager; registered nurse; social worker; and nutritionist. All team members must meet DHH licensure and perinatal experience requirements (applicable to high-risk pregnant women only);

19. satisfactorily complete a one-day training as approved by the Department of Health and Hospitals HIV Program Office.

An enrolled case management provider must re-enroll requesting a separate Medicaid provider number and is subject to the above-described enrollment requirements and procedures in order to provide case management services to an additional target population. Applicants will be subject to review by DHH to determine ability and capacity to serve the target population and a site visit to verify compliance with all provider enrollment requirements prior to a decision by the Medicaid Program on enrollment as a case management provider or at any time subsequent to enrollment. Enrolled case management providers will be subject to review by the DHH and the U.S. Department of Health and Human Services to verify compliance with all provider enrollment requirements at any time subsequent to enrollment.

If the applicant agency is determined to be eligible for enrollment, the agency will be notified in writing by the Medicaid Program of the effective date of enrollment and the unique Medicaid case management provider number for each office site and targeted or waiver group. If the department determines that the applicant case management agency does not meet the general or specific enrollment requirements listed above, the applicant agency will be notified in writing of the deficiencies needing correction. The applicant agency must submit appropriate documentation of corrective action taken. If the applicant agency fails to submit the required documentation of corrective action taken within 30 days of the notice, the application will be rejected. If the case management agency does not meet all of the requirements above, the applicant agency will be ineligible to provide case management services to any targeted or waiver group.

## II. Standards of Payment

In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service must comply with all of the requirements listed below. Exceptions may be granted by the secretary on a case-by-case basis as determined by an assessment of available services in the community.

A. **Staff Coverage.** All case managers must be employed by the case management agency a minimum of 20 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Contracting of case manager staff is prohibited. Case

management supervisors must be employed a minimum of eight hours per week for each full-time case manager (four hours a week for each part-time case manager) they supervise and maintain on-site office hours at least 50 percent of the time. A supervisor must be continuously available to case managers by telephone or beeper at all other times when not on site when case management services are provided. The provider agency must ensure that case management services are available 24 hours a day, seven days a week.

B. **Staff Qualifications.** Each Medicaid-enrolled provider must ensure that all staff providing targeted case management services have the skills, qualifications, training and supervision in accordance with licensing standards and the department requirements listed below. In addition, the provider must maintain sufficient staff to serve consumers within mandated caseload sizes described below.

1. **Education and Experience for Case Managers.** All case managers hired or promoted on or after July 22, 1994, must meet all of the following minimum qualifications for education and experience:

a. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; and one year of paid experience in a human-service-related field providing direct consumer services or case management; or

b. a licensed registered nurse; and one year of paid experience as a registered nurse in public health or a human-service-related field providing direct consumer services or case management in the human-service-related field; or

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education.

The above general minimum qualifications for case managers are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in the human-service-related field may be substituted for the year of required paid experience.

d. additional qualifications are required for service provision to High-Risk Pregnant Women and MR/DD waiver participants:

1. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; and one year of paid experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; and demonstrated knowledge about perinatal care; or

2. a licensed registered nurse; and one year of paid experience as a registered nurse in public health or a human-service-related field providing direct consumer services or case management in the human-service-related field; and demonstrated knowledge about perinatal care; or

3. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education; and demonstrated knowledge about perinatal care; or

4. a registered dietician; and one year of paid experience in providing nutrition services to pregnant women;

5. case managers who provide services to MR/DD waiver participants must have a minimum of one-year paid post-degree experience working directly with persons with mental retardation or developmental disabilities.

2. Education and Experience for Case Management Supervisors. A case management supervisor hired or promoted on or after July 22, 1994, or any other individual supervising case managers must meet all of the education and experience requirements listed below. Staff supervising case management for high risk pregnant women must meet the same qualifications as the case managers for these populations:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited institution; and two years of paid post-master's degree experience in a human-service-related field providing direct consumer services or case management. One year of this experience must be in providing direct services to the target population to be served; or

b. a bachelor's degree in social work from a social work program accredited by the Council on Social Work Education; and three years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management. One year of this experience must be in providing direct services to the target population to be served; or

c. a licensed registered nurse and three years of paid post-licensure experience as a registered nurse in public health or a human service field providing direct consumer services or case management. Two years of this experience must be in providing direct services to the target population to be served; or

d. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; AND four years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; Two years of this experience must be in providing direct services to the target population to be served;

The above general minimum qualifications for case management supervisors are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in the human-service-related field may be substituted for one year of required paid experience. Additional qualifications for specific targeted or waiver groups are delineated below:

e. each Medicaid-enrolled provider must ensure that all case management supervisory staff for high-risk pregnant women have demonstrated knowledge about perinatal care and meet the following qualifications:

(1) a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; and four years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case

management; two years of this experience must be in providing direct services to the target population to be served;

(2) a licensed registered nurse; and three years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; two years of this experience must be in providing direct services to the target population to be served; or

(3) a bachelor's or master's degree in social work from a social work program accredited by the council on Social Work Education; and two years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; one year of this experience must be in providing direct services to the target population to be served; or

(4) a registered dietician; and three years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; two years of this experience must be in providing direct services to pregnant women.

3. Requisite Knowledge, Skills and Abilities. Each Medicaid-enrolled provider must look for the following knowledge, skills and abilities in hiring case management staff and must ensure that all staff providing targeted or waiver case management services possess the following basic knowledge, skills, and abilities prior to assuming full caseload responsibilities:

a. Knowledge

- (1) community resources;
- (2) medical terminology;
- (3) case management principles and practices;
- (4) consumer rights;
- (5) state and federal laws for public assistance.

b. Skills

- (1) time management;
- (2) assessment;
- (3) interviewing;
- (4) listening.

c. Abilities

- (1) preparing service plans;
- (2) coordinating delivery of services;
- (3) advocating for the consumer;
- (4) communicating both orally and in writing;
- (5) establishing and maintaining cooperative working relationships;
- (6) maintaining accurate and concise records;
- (7) assessing medical and social aspects of each case and formulating service plans accordingly;
- (8) problem solving;
- (9) remaining objective while accepting the consumer's lifestyle.

4. Training. Case manager and supervisor training must be provided by or arranged by the case manager's employer at the employer's expense.

a. Training for New Case Managers. Orientation of at least 16 hours must be provided to all staff, volunteers, and students within one week of employment. A minimum of

eight hours of the orientation training must cover orientation on the target population including but not limited to specific service needs and resources. Other topics covered by the orientation must include, at a minimum:

- (1) provider policies and procedures;
- (2) Medicaid/Program Office policies and procedures;
- (3) confidentiality;
- (4) documentation in case records;
- (5) consumer rights protection and reporting of violations;
- (6) consumer abuse and neglect policies and procedures;
- (7) professional ethics;
- (8) emergency and safety procedures;
- (9) data management and record keeping;
- (10) infection control and universal precautions.

b. In addition to the required 16 hours of orientation, all new employees with no documented required experience and training must receive a minimum of 16 hours of training during the first 90 calendar days of employment which is related to the target population served and specific knowledge, skills, and techniques necessary to provide case management to the target population. This training must be provided by an individual with demonstrated knowledge of the training topics and the target population. This training must include the following at a minimum:

- (1) assessment techniques;
- (2) service planning;
- (3) resource identification;
- (4) interviewing and interpersonal skills;
- (5) data management and record keeping;
- (6) communication skills.

c. Annual Training. A case manager must satisfactorily complete 40 hours of case-management related training annually which may include training updates on subjects covered in orientation and initial training. For new employees, the 16 hours of orientation training are not included in the 40-hour minimum annual training requirement. The 16 hours of training for new staff required in the first 90 days of employment may be part of this 40-hour minimum annual training requirement. Appropriate updates of topics covered in orientation and training for a new case manager must be included in the required 40 hours of annual training. The Department of Health and Hospitals *Case Management Provider Manual* contains a list of suggested additional training topics.

Each case management supervisor must complete 40 hours of training a year, at a minimum. In addition to the required and topics for case managers, the following are required topics for supervisory training:

- (1) professional identification/ethics;
- (2) process for interviewing, screening, and hiring of staff;
- (3) orientation/in-service training of staff;
- (4) evaluating staff;
- (5) approaches to supervision;
- (6) managing caseload size;

- (7) conflict resolution;
- (8) documentation;
- (9) time management.

The required orientation and training for case managers and supervisors described above must be documented in the employee's personnel record including: dates and hours of specific training, trainer or presenter's name, title, agency affiliation or qualification, other sources of training and orientation/training agenda.

d. Training—Infants and Toddlers with Special Needs

(1) A minimum of eight hours of orientation for new family service coordination staff must be ChildNet specific training as defined by the Department of Education. A minimum of 24 additional hours of training must be provided to new family service coordinators hired in the first 90 days of employment. This training must cover advanced subjects as defined by the Department of Education in addition to the subjects listed above. Initial training specific to ChildNet must be arranged and/or coordinated by the Regional Infant/Toddler Coordinator. Advanced training in specific subjects must be satisfactorily completed prior to the case manager/family service coordinator assuming those duties. Ongoing annual training is the responsibility of the family service coordination agency.

(2) Case management does not consist of the provision of other needed services, but is to be used as a vehicle to help an eligible consumer gain access to them. If there is no interaction in person, by telephone or in correspondence on behalf of the consumer, it is most likely not a billable case management activity without sufficient justification. New family service coordination supervisors must satisfactorily complete a minimum of 40 hours of family service coordination training before assuming supervisory duties for this target population. Experienced supervisors must also complete a minimum of 40 hours per calendar year on advanced ChildNet specific subjects defined by the Department of Education.

e. Mandatory Medicaid Training. Enrolled case management agencies must ensure that all case management staff satisfactorily complete DHH provider required training on case management policies and procedures when provided.

C. Supervision. Each case management agency must have and implement a written plan for supervision of all case management staff. Face-to-face supervision must occur at least one time per week per case manager for a minimum of one hour per week. Supervisors must review at least 10 percent of each case manager's case records each month for completeness, compliance with these standards, and quality of service delivery. Case managers must be evaluated at least annually by their supervisor according to written provider policy on evaluating their performance. Supervision of individual staff must include the following:

1. direct review, assessment, problem solving, and feedback regarding the delivery of case management services;
2. teaching and monitoring of the application of consumer centered principles and practices;
3. assuring quality delivery of services;
4. managing assignment of caseloads; and

5. arranging for training as appropriate.

The case manager supervisor must assess staff performance, review individual cases, provide feedback and help staff develop problem solving skills using two or more of the following methods:

- a. individual, face-to-face sessions with staff;
- b. group face-to-face sessions with all case management staff; or
- c. sessions in which the supervisor accompanies a case manager to meet with consumers.

Documentation: Each supervisor must maintain a file on each case manager supervised and document supervisory sessions on at least a weekly basis. The file on the case manager must include, at a minimum:

- (1) date and content of the supervisory sessions; and
- (2) results of the supervisory case review which shall address, at a minimum: completeness and adequacy of records; compliance with standards; and effectiveness of services.

Each case management supervisor must not supervise more than five full-time case managers or a combination of full-time case managers and other human service staff. A supervisor may carry one-fifth of a caseload for each case manager supervised less than five supervisees. If the supervisor carries a caseload, he or she must be supervised by an individual who meets the supervisor qualifications.

D. Caseload Size Standards. Each full-time case manager is subject to a maximum caseload of consumers as indicated below:

GROUP	CASES
MR/DD Waiver	4.5
Infants and toddlers with special needs	35
High-risk pregnant women	60
HIV infected	45
Fragile elderly	40

Mixed caseloads are those where a case manager serves at least five consumers from a second target population or five waiver participants. For caseloads containing consumers who are MR/DD waiver participants in addition to those who are infants and toddlers with special needs, the maximum caseload is 35. For other "mixed" caseloads, the number of cases must be prorated.

E. Consumer Eligibility Requirements for Targeted Populations. Case management providers must ensure that consumers of Medicaid-funded targeted case management services are Medicaid-eligible and meet the additional eligibility requirements specific to the targeted or waiver population group. The eligibility requirements for each targeted and waiver group are listed below. With respect to infants and toddlers with special needs, this determination is made through the Multidisciplinary Evaluation (MDE) process and is not the responsibility of the case management/family service coordination agency. Also, the service plan for case management services provided to mentally retarded/developmentally disabled individuals and infants and toddlers

with special needs is subject to prior authorization by the Medicaid agency or its designee. Providers are required to participate in provider training and technical assistance as required by the Medicaid agency or its designee.

1. Infants and Toddlers with Special Needs. The infant/toddler must meet the following criteria:

- a. have a medical condition established and documented by a licensed medical doctor. In the case of a hearing impairment, a licensed audiologist or licensed medical doctor must make the determination; or
- b. be developmentally delayed in one or more of the following areas:
  - (1) cognitive development;
  - (2) physical development, including vision and hearing; eligibility must be based on a documented diagnosis made by a licensed medical doctor (vision); or a licensed medical doctor or licensed audiologist (hearing);
  - (3) communication development;
  - (4) social or emotional development;
  - (5) adaptive development.

The determination of a developmental delay must be made in accordance with applicable federal regulations and ChildNet policies and procedures.

2. High-Risk Pregnant Women

- a. pregnancy must be verified by a licensed physician, licensed primary nurse associate, or certified nurse midwife;
- b. reside in the metropolitan New Orleans area including Orleans, Jefferson, St. Charles, St. John and St. Tammany parishes;
- c. be determined high risk based on a standardized medical risk assessment. A medical risk assessment (screening) must be performed by a licensed physician, a licensed primary nurse associate, or a certified nurse-midwife to determine if the patient is high risk. A pregnant woman is considered high risk if one or more risk factors are indicated on the form used for risk screening. Providers of medical risk assessment must use the standardized Risk Screening Form approved by DHH;

d. must require services from multiple health, social, informal and formal service providers and is unable to access the necessary services.

3. HIV Infected Persons

- a. Written verification of HIV infection by a licensed physician or laboratory test result is required.
- b. The adult consumer must have reached, as documented by a physician, a level 70 on the Karnofsky scale (or cares for self but is unable to carry on normal activity or do active work) at some time during the course of HIV infection.
- c. The pediatric consumer must display symptoms of illness related to HIV infection. All consumers must require services from multiple health, social, informal and formal service providers and be unable to access the necessary services.

4. Frail Elderly. The consumer must be a participant in the Home Care for the Elderly waiver.

5. MR/DD Waiver. The consumer must be participant in the MR/DD Waiver.

F. Description of Case Management Services/Provider Responsibilities. The definition of *Case Management* adopted by the department is "services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services." Targeted and waiver case management services consist of intake, assessment, service planning, linkage/service coordination, monitoring/follow-up, re-assessment, and transition/closure. The department utilizes a broker model of case management in which consumers are referred to other agencies for specific services they need. These services are determined by professional assessment of the consumer's needs and provided according to a comprehensive individualized written service plan. All case management services must be provided by qualified staff as defined in Section A above. The provider must ensure that there is no duplication of payment, that there is only one case manager for each eligible consumer and that the consumer is not receiving other targeted case management services from any other provider.

The required core elements of targeted or waiver case management services and provider responsibilities which all Medicaid enrolled case management agencies must comply with are described below.

1. Case Management Intake. *Intake* is defined as the determination of eligibility and need for targeted case management services. Intake is the entry point into case management. The purpose of intake is to gather baseline information to determine the consumer's need, appropriateness, eligibility and desire for case management. The case management provider must have written eligibility criteria for case management services provided by the agency. The required procedures of intake screening are:

- a. interview the consumer within three working days of receipt of a referral, preferably face-to-face;
- b. determine if the consumer is currently Medicaid-eligible;
- c. determine if the consumer is eligible for services by virtue of the eligibility requirements of the target population described in Section B above;
- d. determine if the consumer's needs require case management services;
- e. inform the family of procedural safeguards, rights and grievance/appeal procedure and which include the following:

(1) determine if the consumer freely accepts case management as optional;

(2) provide the consumer freedom of choice of available targeted case management providers as well as case managers. Advise the consumer of his right to change case management providers and case managers;

(3) provide the consumer freedom of choice of available service providers. The consumer must sign a standardized intake form to verify the above procedural safeguards;

f. obtain signed release form(s) from the consumer/guardian;

Intake activities performed solely to determine eligibility and need for targeted case management are not billable to Medicaid.

The above general case management intake procedures are applicable for all targeted and waiver groups. Additional or other procedures for specific targeted or waiver groups are delineated below.

g. *Intake for Infants and Toddlers with Special Needs* is defined as a comprehensive interagency multidisciplinary, ongoing process which ensures that eligible children are appropriately identified, located, referred and evaluated for early intervention services. The child search coordinator in the local education agency is the single point of entry into ChildNet. The child search coordinator is responsible for completion of the following intake procedures:

1. Upon receipt of a referral, the child search coordinator must assist the family in identifying and choosing an enrolled family service coordinator provider to assist in the MDE process. Referrals received directly by a family service coordination provider must be immediately referred to the appropriate child search coordinator;

2. The child search coordinator must provide the family freedom of choice to select an enrolled family service coordination provider, and advise the family of the right to change family service coordinator provider agencies, family service coordinators and other service providers;

3. The child search coordinator must advise the family of their procedural safeguards and provide them with a copy of their rights under ChildNet;

h. Intake for High-Risk Pregnant Women must include a standardized medical risk assessment. A medical risk assessment (screening) must be performed by a licensed physician, a licensed primary nurse associate, or a certified nurse-midwife to determine if the patient is high risk. A pregnant woman is considered high risk if one or more risk factors are indicated on the form used for risk screening. Providers of medical risk assessment must use the standardized Risk Screening Form approved by DHH.

2. Case Management Assessment. *Assessment* is defined as the process of gathering and integrating formal/professional and informal information concerning a consumer's goals, strengths, and needs to assist in the development of a comprehensive, individualized service plan. The purpose of assessment is to establish a service plan and contract between the case manager and consumer. The following areas must be addressed in the assessment when relevant:

- a. identifying information;
- b. medical/physical;
- c. psychosocial/behavioral;
- d. developmental/intellectual;
- e. socialization/recreational;
- f. financial;
- g. educational/vocational;
- h. family functioning;
- i. personal and community support systems;
- j. housing/physical environment; and

k. status of other functional areas or domains.

Providers may be required to use standardized assessment instruments for certain targeted populations. The assessment must identify the consumer's strengths, needs and priorities. The assessment must be conducted by the case manager through in-person contact, individualized observations and questions with the consumer and, where appropriate, in consultation with the consumer's family and support network, other professionals, and service providers. The assessment must identify areas where a professional evaluation is necessary to determine appropriate services or interventions. The case manager must arrange for any necessary professional/clinical evaluations needed to clearly define the consumer's specific problem areas. Authorization must be obtained from the consumer/guardian to secure appropriate services.

The assessment must be initiated as soon as possible, preferably within seven calendar days of receipt of the referral, and must be completed no later than 30 days after the referral for case management services. A face-to-face interview with the consumer is required as part of the assessment process. The initial assessment interview with the consumer must be conducted in the consumer's home to accurately assess the actual living conditions and health and mental status of the consumer unless this is not the consumer's preference or there are genuine concerns regarding safety. If the interview cannot be conducted in the consumer's home, an alternative setting in the consumer's community must be chosen jointly with the consumer and documented in the case record. All assessments must be written, signed, dated, and documented in the case record.

Assessments performed on children in the custody of the Office of Community Services (OCS) or Office of Youth Development (OYD) must actively involve the assigned foster care worker or probation officer and must be approved by the agency with legal custody of the child. Assessments performed on consumers in the custody of the Office of Developmental Disabilities (OCDD) must actively involve the assigned Regional Office OCDD staff and must be approved by OCDD.

The above general case management assessment procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

(1) Assessment for Infants and Toddlers with Special Needs. The child search coordinator is responsible for ensuring all the components of the assessment/multidisciplinary evaluation (MDE) are fulfilled within the required timeliness. In addition, the child search coordinator must coordinate with the family service coordinator to ensure the development of the initial Individualized Family Service Plan within the required 45-day time lines. The case manager/family service coordinator is responsible for assisting the family through the multidisciplinary evaluation process including the following:

(a). informing the family of the steps involved in the MDE process, explaining their rights and procedural safeguards and securing their participation;

(b). reviewing relevant medical information and prior evaluations;

(c). coordinating the performance of identified or necessary evaluations and KIDMED screenings and immunizations, and an examination by a licensed physician to ensure timely completion of the MDE and IFSP;

(d). identifying or coordinating the identification of the family's concerns, priorities and resources;

(e). the MDE must include the following:

1) a review of pertinent records related to the child's current health status and medical history;

2) results of a KIDMED screening or documented referral for KIDMED screening;

3) an evaluation of the child's level of functioning in each of the following developmental areas: cognitive development; physical development, including vision and hearing (by a licensed physician or hearing by a licensed audiologist); communication development; social or emotional development; and adaptive development;

4) an assessment of the child's strengths and needs and the identification of appropriate early intervention services to meet those needs; and

5) with family consent, the family's identification of their concerns, priorities and resources related to enhancing the development of their child;

6) be signed and dated by multidisciplinary team participants.

(2) *Assessment for High-Risk Pregnant Women*—a multidisciplinary evaluation of the high-risk patient to identify factors that may adversely affect health status. Professionals from nursing, nutrition and social work disciplines working as a team must each evaluate the consumer and family needs through interactions and interviews.

(a). Each professional assessment must reflect the identified areas for counseling, intervention and follow up services.

(b). The nursing, nutritional, and psychosocial assessments must be documented on standardized forms approved by the department.

(c). Assessments must be completed within 14 calendar days after the risk assessment is completed or receipt of the referral. There may be extenuating circumstances with certain patients that may hinder compliance with this time frame for assessment.

(d). The case manager is responsible for assisting the family through the multidisciplinary evaluation process including the following:

1) coordinating the performance of identified or necessary evaluations to ensure timely completion in preparation for the multidisciplinary team staffing;

2) identifying or coordinating the identification of the consumer's concerns, priorities and resources.

(e). A home assessment must be completed by the case manager as part of the initial assessment. If a home visit is refused by the consumer/guardian or there are genuine concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer and documented in the case record.

(3) Assessment for MR/DD Waiver Participants

(a). Comprehensive Strengths Assessment. The case manager must complete this standardized strength assessment form in a face-to-face interview with the consumer. The assessment must identify current status in identified areas of community living, the desired outcomes, as well as strategies which have worked in the past to meet the needs or desired outcomes. The strengths assessment must also include a summary paragraph of the need for case management services, identifying current needs and factors by history which emphasize the need for services;

(b). CAMIS Initial Assessment.

3. Case Management Service Planning. *Service Planning* is defined as the development of a written agreement based upon assessment data (which may be multidisciplinary), observations and other sources of information which reflect the consumer's needs, capacities and priorities, and specifies the services and resources required to meet these needs.

a. The service plan must be developed through a collaborative process involving the consumer, family, case manager, other support systems and appropriate professionals and service providers. It should be developed in the presence of the consumer and, therefore, cannot be completed prior to a meeting with the consumer. The consumer, case manager, support system and appropriate professional personnel must be directly involved and have agreed to assume specific functions and responsibilities.

b. The service plan must be completed within 45 calendar days of the referral for case management services.

(1) The consumer must be informed of his or her right to refuse a service plan after carefully reviewing it.

(2) The service plan must be signed and dated by the consumer and the case manager.

c. Although service plans may have different formats, all plans must incorporate all of the following required components:

(1) statement of prioritized long-range goals (problems or needs) which have been identified in the assessment;

(2) one or more short-term objectives or expected outcomes linked to each goal that is to be addressed in order of priority;

(3) specification of action steps, services or interventions planned, and payment mechanism, if applicable;

(4) assignment of individual responsibility for goal accomplishment; and

(5) time frames for completion or review.

d. The service plan must document frequency and/or intensity of contacts between the consumer and case manager, service providers and others, the persons to be contacted and whether the visits must be to the consumer's place of residence or to another location, such as a service delivery site. Each service plan must be kept in the consumer's record. The assessment and service plan must be completed prior to providing ongoing case management services.

The above general case management service planning procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

e. Service Planning for Infants and Toddlers with Special Needs. The family service coordinator's responsibilities in the Individual Family Service Plan (IFSP) must include all of the following;

(1) convening a meeting to develop the IFSP within 45 calendar days of referral;

(2) attending the IFSP meeting;

(3) ensuring that the IFSP meeting is conducted in settings and at times that are convenient to families; in the native language of the family or other mode of communication used by documentation to the regional office within prescribed time lines in accordance with Office of Mental Health procedures.

f. Service Planning for MR/DD Waiver Participants. A standardized service plan form must be completed with the consumer/guardian, signed by the consumer/guardian and case manager, and approved by the case manager's supervisor.

g. Service Planning/Multidisciplinary Team Staffing for High-Risk Pregnant Women

(1) Following completion of the medical risk assessment, home visit, professional and case management assessments, a multidisciplinary team staffing and completion of the service plan must take place within 30 days of the intake screening of each high-risk pregnant woman.

(2) The consumer may be restaffed one time during the pregnancy or post-partum period as necessary to maintain a viable comprehensive service plan.

4. Case Management Linkage. *Linkage* is defined as the implementation of the service plan involving the arranging for a continuum of both informal and formal services. After obtaining authorization from the consumer, the case manager must contract with the direct service providers or direct the consumer to contact the service providers, as appropriate. The case manager must contract with the consumer for formal and informal services and supports to be arranged. Attempts must be made to meet service needs with informal service providers as much as possible. The responsibilities of the case manager in service coordination are:

a. translating assessment findings into services;

b. determining which services and connections are needed;

c. being aware of community resources (Food Stamps, SSI, Medicaid, etc.);

d. exploration of both formal and informal services for consumers;

e. communicating and negotiating with service providers;

f. training and support of the consumer in the use of personal and community resources identified in the service plan;

g. linking consumers through referrals to services that meet their needs as identified in the service plan; and

h. advocacy on behalf of the consumer to assist them in accessing appropriate benefits or services.

5. *Case Management Follow-Up/Monitoring*—defined as the follow-up mechanism to assure applicability of the service plan.

a. The purpose of monitoring/follow-up contacts made by the case manager is to determine if the services are

being delivered as planned, and/or services adequately meet consumer needs and to determine effectiveness of the services and the consumer's satisfaction with them.

b. The consumer must be contacted within the first 10 working days after the initial service plan is completed to assure appropriateness and adequacy of service delivery.

c. Thereafter, face-to-face follow-up visits must be made with the consumer/guardian at least monthly as part of the linkage and monitoring follow-up process, or more frequently as dictated by the service plan or determined by the needs of the consumer/guardian. In addition, visits must be made to consumer's home on a quarterly basis, at a minimum. If the consumer refuses home visits or there are genuine concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer.

d. The case manager must communicate regularly by telephone, in writing and in face-to-face meetings and home visits with the consumer/guardian, professionals and service providers involved in the implementation of the service plan. The nature of these follow-up contacts (e.g., telephone, home visit) and the individuals contacted is determined by the status and needs of the consumer, as identified in the service plan and determined by the case manager.

Through follow-up/monitoring activity, the case manager must determine whether or not the service plan is effective in meeting the consumer's needs and identify when changes in the consumer's status occur, necessitating a revision in the service plan. Reassessment is required when a major change in status of the consumer/guardian occurs.

e. Monitoring of services provided includes the following:

(1) following up to assure that the consumer actually received the services as scheduled;

(2) assuring that consumer/consumer's family is able and willing to comply with recommendations of service providers;

(3) measuring progress of consumer in meeting service plan goals and objectives and determining whether the services adequately address the consumer's needs.

Monitoring information must be obtained by the case manager through direct observation and direct feedback. The case manager must gather information from direct service providers for monitoring purposes. The case manager must obtain verbal or written service reports from direct service providers.

The above general case management service planning procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

f. Follow-Up/Monitoring for High-Risk Pregnant Women. The case manager must maintain at least weekly face-to-face or telephone contact with the consumer/guardian, family, informal and/or formal providers to implement the service plan and follow up/monitoring service provision and the consumer's progress in accordance with the service plan.

6. Case Management Reassessment. *Reassessment* is defined as the process by which the baseline assessment is

reviewed. It provides the opportunity to gather information for evaluating and revising the overall service plan.

a. After the initial assessment is completed and initial service plan is implemented, the consumer's needs and progress toward accomplishing the goals listed in the service plan goals must be re-evaluated on a routine basis or when a significant change in status or needs occurs. If indicated, the identified needs, short-term goals or objectives, services, and/or service providers must be revised.

b. Reassessment is accomplished through interviews and periodic observations.

c. A schedule for re-assessing and modifying the initial goals and service plans must be part of the initial workup. Reassessment and review and/or updating of the service plan must be done at intervals of no less than 90 calendar days. If there is a minor change in the service plan, the case manager must revise the plan and initial and date the change. More frequent re-assessments may be required, depending upon the consumer's situation.

d. At least every six months, a complete review of the service plan must be done to assure that goals and services are appropriate to the consumer's needs identified in the assessment/re-assessment process.

(1) A home-based re-assessment must be done on at least an annual basis unless this is not the consumer's preference or there are genuine concerns regarding safety.

(2) If the re-assessment cannot be conducted in the consumer's home, an alternative setting in the consumer's community must be chosen jointly with the consumer and documented in the case record.

The above general case management re-assessment procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

e. Reassessment for Infants and Toddlers with Special Needs. Ongoing assessment is a component of the IFSP process.

(1) A review of the IFSP must be conducted at least every six months, or more often if conditions warrant, or if the family requests a review to determine the following:

(a). the degree to which progress is being made toward achieving the outcomes; and

(b). whether modifications or revisions of the outcomes or services are necessary.

(2) The review may be carried out by a meeting or by other means that are acceptable to the families and other participants.

(3) An annual meeting must be conducted to evaluate the IFSP and, as appropriate, revise the IFSP. The results of any ongoing assessments of the child and family, and any other pertinent information must be used in determining what early intervention services are needed and will be provided.

7. Case Management Transition/Closure. Discharge from case management must occur when the consumer no longer needs or desires the services, or becomes ineligible for them. The closure process must ease the transition to other services or care systems.

a. When closure is deemed appropriate, the consumer must be notified immediately so that appropriate arrangements can be made.

b. The case manager must complete a final re-assessment identifying any unresolved problems or needs and discussing with the consumer methods of arranging for their own services.

c. Criteria for closure include but are not limited to the following:

- (1) resolution of the consumer's service needs with low probability of recurrence;
- (2) consumer requests termination of services;
- (3) death;
- (4) permanent relocation out of the service area;
- (5) long-term admission to a hospital, institution or nursing facility;
- (6) does not meet the criteria for the case management established by the funding source (e.g., Medicaid or the Program Office);
- (7) the consumer requires a level of care beyond that which can safely be provided through case management;
- (8) the safety of the case manager is in question; or
- (9) noncompliance.

All cases which do not have an active service plan and necessary linkage or monitoring activities must be closed. Infants and toddlers eligible under ChildNet are no longer eligible for Medicaid-funded case management services if they do not require and receive two or more of the required Medicaid services.

8. Procedures for Changing Providers. A consumer may freely change case management providers or case managers or terminate services at any time. DHH maintains a listing of enrolled and approved case management providers for each target and waiver population which consumers and service providers may access for referral purposes.

a. Once the consumer has chosen a new case management provider, the new provider must complete the standardized "Provider Change Notification" form, obtain the consumer's written consent and forward the original change form to the previous case management provider. Upon receipt of the completed form, the previous provider must send copies of the following information as required by licensing standards within 10 working days:

- (1) most current service plan;
- (2) current assessments on which service plan is based;
- (3) number of services used in the calendar year;
- (4) current and previous quarter's progress notes.

b. The new provider must bear the cost of copying which cannot exceed the community's competitive copying rate. The previous provider may not provide case management services after the date the notification is received.

The above general procedures for changing case management providers are applicable for all targeted and waiver groups except as otherwise specified for particular groups delineated below.

c. Procedures for Changing Family Service Coordination Providers-Infants and Toddlers with Special

Needs. If a family chooses to change family service coordination agencies or a change is necessary for any reason, the following procedures will be followed:

(1) The family will be referred back to the child search coordinator. This referral can be made by the family, the current family service coordinator, or other service providers.

(2) The child search coordinator will provide the family with the official list of family service coordination providers and the freedom of choice form.

(3) The child search coordinator will review the family's rights under ChildNet with the family including the right to change family service coordinators or agencies.

(4) The child search coordinator or the family, if the family chooses, will notify the newly selected agency.

(5) The child search coordinator will notify the old agency at termination.

(6) After receiving written informed paternal consent, the new agency will request records from the previous agency. The previous agency will make these records available within 10 working days of receipt of the request.

### III. General Provisions

A. Components of the Case Record. The provider must keep sufficient records to document compliance with licensing and Medicaid case management requirements for the target population served and provision of case management services. Separate case management records must be maintained on each consumer which fully document services for which Medicaid payments have been made. The provider must maintain sufficient documentation to enable the Medicaid Program to verify that each charge is due and proper prior to payment. The provider must make available all records which the Medicaid Program finds necessary to determine compliance with any federal or state law, rule, or regulation promulgated by the Medicaid Program, DHH or DHHS or other applicable state agency.

The consumer's case record must consist of the following information, at a minimum:

1. Medicaid eligibility information;
2. documentation verifying that the consumer meets the requirements of the targeted population;
3. a copy of the standardized procedural safeguard form signed by the consumer;
4. copies of any professional evaluations and other reports used to formulate the service plan;
5. case management assessment;
6. progress notes;
7. service logs;
8. copies of correspondence;
9. at least six months of current pertinent information relating to services provided (Records older than six months may be kept in storage files or folders, but must be available for review.).

10. if the provider is aware that a consumer has been interdicted, a statement to this effect must be noted.

B. Service Logs. Service logs are the means for recording units of billable time. There must be case notes corresponding to each recorded time of case management activity. The notes

should not be a narrative with every detail of the circumstances. Service logs must reflect service delivered, the "paper trail" for each service billed. Logs must clearly demonstrate allowable services billed.

1. Services billed must clearly be related to the current service plan.

2. Billable activities must be of reasonable duration and must agree with the billing claim.

3. All case notes must be clear as to who was contacted and what allowable case management activity took place. Use of general terms such as "assisted consumer to" and "supported consumer" do not constitute adequate documentation.

4. Logs must be reviewed by the supervisor to insure that all billable activities are appropriate in terms of the nature and time and documentation is sufficient. Federal requirements for documenting case management claims require the following information must be entered on the service log to provide a clear audit trail:

- a. name of consumer;
- b. name of provider and person providing the service;
- c. names and telephone numbers of persons contacted;
- d. start and stop time of service contact and date of service contact;
- e. place of service contact;
- f. purpose of service contact;
- g. content and outcome of service contact.

C. *Progress Notes.* *Progress Notes* are the means of summarizing billable activities, observations and progress toward meeting service goals in the case management record. Progress notes must:

1. be clear as to who was contacted and what case management activity took place for each recorded time of case management. It must be clear why that time period was billed;

2. record activities and actions taken, by whom, and progress made; and indicate how goals in the service plan are progressing;

3. document delivery of each service identified on the service plan;

4. record any changes in the consumer's medical condition, behavior or home situation which may indicate a need for a re-assessment and service plan change;

5. be legible, as well as legibly signed, including functional title, and fully dated;

6. be complete, entered in the record preferably weekly but at least monthly and signed by the primary case manager;

7. be recorded more frequently (weekly) when there is frequent activity or significant changes occur in the consumer's service needs and progress;

8. quarterly progress notes are required in addition to the minimum monthly recording;

9. a summary must also be entered in the consumer's record when a case is transferred or closed.

D. *Case Record Organization.* The organization of individual case management records on consumers and location of documents within the record must conform with state licensing standards and be consistent among records. All

entries made by staff in consumer records must be legible, fully dated, legibly signed and include the functional title of the individual. Any error made by the staff in a consumer's record must be corrected using the legal method which is to draw a line through the erroneous information, write "error" by it and initial the correction. Correction fluid cannot be used in consumer records.

E. *Availability of Case Records.* Providers must make all necessary consumer records available to appropriate state and federal personnel at all reasonable times. Providers must always safeguard the confidentiality of consumer information. Under no circumstances should providers allow case management staff to take records home. The case management agency can release confidential information only under the following conditions:

1. by court order; or
2. by the consumer's written informed consent for release of the information. In cases where the consumer has been declared legally incompetent, the individual to whom the consumer's rights have devolved must provide informed written consent.

F. *Storage of Case Records.* Providers must provide reasonable protection of consumer records against loss, damage, destruction, and unauthorized use. Administrative, personnel and consumer records must be retained until records are audited and all audit questions are answered or three years from the date of the last payment, whichever is longer.

#### **IV. Reimbursement**

A. All reimbursement for optional targeted and waiver case management services shall be made in accordance with all applicable federal and state regulations. Providers shall not bill for failed attempts to make contact with either consumers or collateral.

B. The reimbursement rate for optional targeted and waiver case management services is a monthly rate for the provision of mandated monthly minimum services. It is not a capitated rate. Interim billing of one hour and additional 15-minute increments is permitted up the monthly rate. Interim billing for case management services for Elderly Waiver, MR/DD Waiver and Infants and Toddlers must meet the following criteria for billing and cannot occur prior to providing at least one 15-minute continuous face-to-face encounter in the 30-day cycle and:

1. completion of at least 60 minutes of case management services;

2. additional 15-minute periods of services provided in a 30-day cycle can be billed only after the first hour and the face-to-face encounter has been provided.

C. Hour- or 15-minute codes cannot be accumulated across 30-day cycles and must count anew for each cycle or authorized period if less.

D. Billed case management services shall be monitored through the use of provider record review, consumer survey for verification of services provision and quality of service, and verification with collateral of contacts made on behalf of the recipient. Any situation involving fraud and/or abuse in the provision of case management services will be referred to the SURS Unit for investigation. A subsequent referral will be made to the State Attorney General's Medicaid Fraud

Control Unit by the SURS Unit if a criminal investigation is warranted.

E. The following Minimum Program Standards are required for the reimbursement of Case Management Services.

1. Mentally Retarded/Developmentally Disabled Individuals in the MR/DD Waiver Program.

a. A minimum of three hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The three hours must include one continuous 15-minute face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. Two home visits are required in a six-month period. Service provider records for MR/DD waiver participants must be monitored by the case management agency every 60 days.

b. Services shall be authorized for a maximum three-month time period. All services must be documented on the MRCAMIS service log and be entered into MRCAMIS. Weekly submission of MRCAMIS data is required.

c. The procedure codes applicable to case management services for the MR/DD population are Z0192 (hourly code) and Z1192 (15-minute code) for waiver participants.

2. Infants and Toddlers with Special Needs

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The two hours must include one continuous 15-minute face-to-face contact with the recipient in addition to case management activities such as assessment/service plan development/update, linkage to services and follow-up/monitoring. Two home visits are required in a six-month period. Service provider records for MR/DD waiver participants must be monitored by the case management agency every 60 days.

b. Services shall be authorized for a maximum three-month time period. All services must be documented on the MRCAMIS service log and be entered into MRCAMIS. Weekly submissions of MRCAMIS data are required.

c. The procedure codes applicable to case management services for the infants and toddler population are Z0194 (hourly code) and Z1194 (15-minute code) for MR/DD waiver participants and Z0193 (hourly code) and Z1193 (15-minute code) for nonwaiver participants.

3. Persons Infected with HIV

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The two hours must include one face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. A home assessment is a required component of the initial assessment for HIV case management services. A home visit must be made with the recipient on a quarterly basis.

b. The procedure code applicable to case management services for this population is Z0095.

4. High Risk Pregnant Women of the Metropolitan New Orleans Area

a. A minimum of one hour of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. This must include one face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up monitoring. A home assessment is a required component of the initial assessment for high risk pregnant women case management services.

b. In addition, the following contacts are required:

(1) a minimum of monthly verbal contact with the recipient's obstetrician or his staff;

(2) weekly verbal contact with the recipient beginning with her 37th week of pregnancy until the delivery;

(3) quarterly home visits with the recipient;

(4) weekly contact with other service providers and/or informal supports; and

(5) a postpartal home visit to be made within 10 to 14 calendar days after delivery focusing on postpartal concerns and infant care.

c. The procedure codes continue to be X0057 for assessment and X0058 for ongoing services.

d. Only one assessment service shall be reimbursed for each pregnancy.

5. Home Care for the Elderly Waiver Program Participants

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The two hours must include one face-to-face contact with the consumer in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. A home visit must be made with the recipient on a quarterly basis.

b. Service provider records must be monitored by the case management agency every 60 days.

c. The procedures code for this population are Z0188 (hourly code) and Z1188 (15-minute).

F. General Requirements. Payment for targeted or waiver case management services is dictated by the nature of the activity and the purpose for which the activity is performed. All case management services billed must be provided by qualified case managers and meet the definition of *Case Management*, "services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services." Case management does not consist of the provision of other needed services, but is to be used as a vehicle to help an eligible consumer gain access to them. If there is no interaction in person, but telephone or in correspondence on behalf of the consumer, it is most likely not a billable case management activity without sufficient justification. This definition encompasses assisting eligible consumers in gaining access to needed services including:

1. identifying services needed;

2. linking consumer with the most appropriate providers of services; and

3. monitoring to ensure needed services are received.

Case management does not consist of the provision of other needed services, but is to be used as a vehicle to help an eligible consumer gain access to them. If there is no interaction in person, by telephone or in correspondence on behalf of the consumer, it is most likely not a billable case management activity without sufficient justification.

4. Reimbursement Requirements for Infants and Toddlers with Special Needs

a. Candidates for case management services must be Medicaid-eligible;

b. Medicaid eligibles must be certified as a member of the targeted populations by the Medicaid agency or its designee;

c. The case management service plan is subject to prior authorization by the Medicaid agency or its designee;

d. Providers of case management services are required to participate in provider training and technical assistance as required by the Medicaid agency or its designee.

G. Nonbillable Activities. Federal regulations require that the Medicaid Program ensure that payments made to providers do not duplicate payments for the same or similar services furnished by other providers or under other authority as an administrative function or as an integral part of a covered service.

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid's longstanding position as the payer of last resort. With the statutory exceptions of case management services included in Individualized Education Programs (IEPs) or Individualized Family Service Plans (IFSPs) and services furnished through Title V public health agencies, payment for case management services cannot be made when another third-party payer is liable, nor may payments be made for services for which no payment liability is incurred.

Time spent in activities which are not a direct part of a contact are not Medicaid reimbursable. Activities that, while they may be necessary, do not result in a service identified in the service plan being provided to the consumer are not reimbursed. The following examples of activities are not considered targeted case management services for Medicaid purposes and are not reimbursable by the Medicaid Program as case management:

1. outreach, case finding or marketing;
2. counseling or any form of therapeutic intervention;
3. developing general community or placement resources or a community resource directory;
4. legislative or general advocacy;
5. professional evaluations;
6. training;
7. providing transportation;
8. telephone calls to a busy number, leaving messages, faxing or mailing information;

9. travel to a consumer's home for a home visit, and the consumer is not at home so that the visit cannot be held but a note is left;

10. "housekeeping" activities in connection with record keeping (Recording a contact in the case record at the time service is provided is billable.);

11. in-service training, supervision;

12. discharge planning;

Exception: 10 days (30 days for developmentally disabled waiver participant) before discharge from an inpatient facility to assist the consumer in the transition from inpatient to outpatient status, and in arranging appropriate services and 10 days after institutionalization or hospitalization to arrange for closure of community services.

13. intake screening which takes place prior to and is separate from assessment;

14. general administrative, supervisory or clerical activities;

15. record keeping;

16. general interagency coordination;

17. program planning;

18. Medicaid billing or communications with Medicaid Program;

19. running errands for family (shopping, picking up medication, etc.);

20. accompanying family to appointments or recreational activities, waiting for appointments with family;

21. lengthy interaction to "get acquainted", "provide support", or "hand holding";

22. activities performed by agency staff other than the primary case manager;

23. accompanying another case manager for safety reasons.

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

Bobby P. Jindal  
Secretary

9703#052

## DECLARATION OF EMERGENCY

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

#### Record Preparation Fees and Quarterly Submissions (LAC 42)

In accordance with the provisions of R.S. 49:953(B), the Gaming Control Board hereby determines that adoption of Emergency Rules relative to record preparation fees and quarterly submissions by riverboat gaming operator licensees is necessary and that for the following reasons failure to adopt Rules on an emergency basis will result in imminent peril to the public health, safety, and welfare.

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

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

It is essential in order to provide efficient regulation of the gaming industry that persons involved in the administrative hearing process be assessed and pay fees for the cost of preparation of the administrative record.

It is essential to the purposes of Act 7 that riverboat gaming operator licensees submit on a quarterly basis to the Gaming Control Board a statement of compliance which shall include a certification under oath that the licensee is continuing to make a good faith effort to meet all voluntary procurement and employment conditions.

For the foregoing reasons, the Gaming Control Board has determined adoption of Emergency Rules is necessary and hereby adopts these Emergency Rules, effective February 20, 1997 through March 20, 1997, in accordance with R.S. 49:953(B).

The text of this Emergency Rule is identical to the text being published in the final Rule, effective March 20, 1997, found in this issue of the *Louisiana Register*.

Hillary J. Crain  
Chairman

9703#003

## DECLARATION OF EMERGENCY

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

Riverboat Gaming: Transfers of Interest in Licensees and Permitees; Loans and Restrictions (LAC 42:XIII.Chapter 25); and Repeal of Riverboat Gaming Patron Disputes (LAC 42:XIII.3501-3513)

In accordance with the provisions of R.S. 49:953(B), the Gaming Control Board hereby determines that adoption of Emergency Rules relative to record preparation fees and

quarterly submissions by riverboat gaming operator licensees is necessary and that for the following reasons failure to adopt Rules on an emergency basis will result in imminent peril to the public health, safety, and welfare.

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

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

Rules relative to loans and lines of credit promulgated by the Riverboat Gaming Enforcement Division must be amended and a new Rule adopted in order to effectuate a more efficient process of investigating such transactions and related transactions involving licensees.

Rules relative to patron disputes necessitated an administrative hearing of all patron disputes when no such action was required by statutory provision. This provision is changed to require notification only.

For the foregoing reasons, the Gaming Control Board has determined adoption of Emergency Rules is necessary and hereby adopts LAC 42:XIII.2524; amends LAC 42:XIII.2523 and LAC 42:XIII.3501; and repeals LAC 42:XIII.3503, 3505, 3506, 3507, 3509, 3511, and 3513, effective February 20, 1997, in accordance with R.S. 49:953(B), to be effective for a period of 120 days or until the final Rule is promulgated, whichever occurs first.

## Title 42

### LOUISIANA GAMING

#### Part XIII. Riverboat Gaming

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

#### Chapter 25. Transfers of Interest in Licensees and Permitees; Loans and Restrictions

##### §2523. Board Actions Concerning Loans and Lines of Credit

A. Whenever any licensee or person acting on behalf of a licensee ("borrower" herein), applies for, receives, accepts, or modifies the terms of any loan, line of credit, third-party financing agreement, sale with buy-back or lease-back provisions or similar financing transaction, or makes use of any cash, property, credit, loan or line of credit, or guarantees, or grants other form of security for a loan, such borrower shall notify the board in writing no less than 60 days prior to such

transaction, unless more stringent conditions are imposed by the board. Such notice shall include the following:

1. the names and addresses of all the parties to the transaction;
2. the amounts and sources of funds;
3. the property or credit received or applied;
4. the nature and the amount of security provided by or on behalf of the borrower or person required to meet the applicable qualification requirements and suitability requirements of R.S. 27:1 et seq.;
5. the specific nature and purpose of the transaction; and
6. such other information and documentation the board or division may require.

B. The report described in Subsection A of this Section shall be signed under oath by the borrower, an authorized representative of the borrower, or person required to meet the applicable qualification requirements and suitability requirements of R.S. 27:1 et seq.

C. All transactions described in Subsection A of this Section require prior written approval by the board unless:

1. the amount of the transaction does not exceed \$2,500,000 and all of the lending institutions involved therein are federally regulated financial institutions;
2. the loan amount of the transaction does not exceed \$1,000,000 and all of the lending entities are qualified parties;
3. the transaction is exempted from the prior written approval requirement pursuant to the provisions of §2524 of this Chapter;
4. the loan amount does not exceed \$500,000 and the transaction is one other than those described in Subsection C.1, 2, or 3 of this Section;
5. the transaction modifies the terms of an existing loan or line of credit which has been previously approved pursuant to this Section, and after preliminary investigation pursuant to Subsection D of this Section, the board determines that the modification does not substantially alter such terms.

D. The board, after preliminary review, shall determine whether the transaction is exempt from the requirement of prior written approval, and shall notify the borrower of the determination.

E. In the event the transaction is not determined exempt pursuant to Subsection C, the board shall render a decision approving or disapproving the transaction.

F. If the transaction is disapproved, the decision of the Board shall be in writing and shall set forth detailed reasons for such disapproval.

G. The board may require that the transaction be subject to conditions which must be accepted by all parties prior to approval. The acceptance of such conditions shall be in a manner approved by the board.

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

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

#### **§2524. Publicly Registered Debt and Securities**

If the transaction described in §2523.A of this Chapter involves publicly registered debt and securities registered with

the Securities and Exchange Commission (SEC), and sold pursuant to a firm underwriting understanding agreement, no board approval is required; however, in addition to filing the notice required in §2523.A and B, the borrower shall:

1. file with the board, within one business day after filing with the SEC, copies of all registration statements and all final prospectus with respect to such debt securities and

will give notice to the division within one business day of the effectiveness of such registration statement; and

2. file a report with the board within 45 days after the completion of sales under such registration, setting forth the amount of securities sold and the identities of the purchasers thereof from the underwriters.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:

### **Chapter 35. Patron Disputes**

#### **§3501. Licensee Duty to Notify Division of Patron Dispute**

Whenever a licensee refuses to pay winnings claimed by a patron and the patron and the licensee are unable to resolve the dispute, the licensee shall notify the division in writing of the dispute within seven days of the licensee being notified of the dispute. Such notice shall identify the parties involved in the dispute, and shall state all known relevant facts regarding the dispute.

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

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

#### **§3503. Division Investigation**

Repealed.

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

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

#### **§3505. Division's Decision**

Repealed.

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

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

#### **§3506. Hearings**

Repealed.

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

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

#### **§3507. Division's Order**

Repealed.

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

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

**§3509. Appeal to Commission**

Repealed.

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

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

**§3511. Unauthorized Claims**

Repealed.

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

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

**§3513. Payment of Winnings after Final Order**

Repealed.

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

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

Hillary J. Crain  
Chairman

9703#007

**DECLARATION OF EMERGENCY**

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

**Child Support Collection and  
Distribution (LAC 67:III.2514)**

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following Emergency Rule in LAC 67:III.Subpart 4, Support Enforcement Services, effective March 1, 1997. It is necessary to extend emergency rulemaking since the Emergency Rule of November 1, 1996 was effective for a maximum of 120 days and expires before the final Rule takes effect on April 1, 1997.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, revisions have been made to the method in which Support Enforcement Services distributes child support collections. Prior federal law totally mandated the manner of distribution. Federal law now requires that reimbursement of the federal portion of the AFDC/FITAP benefits be made first; and then the state may retain or distribute the remainder as it

chooses. Therefore, the state must now establish a procedure in order to distribute funds, and an Emergency Rule is necessary to prevent payments from being delayed to the applicant/recipient which could result in undue financial hardship.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 4. Support Enforcement Services**

**Chapter 25. Support Enforcement**

**Subchapter D. Collection and Distribution of Support  
Payments**

**§2514. Distribution of Child Support Collections**

A. Effective November 1, 1996, the agency will distribute child support collections in the following manner:

1. In cases in which the applicant/recipient (AR) currently receives AFDC/Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will be retained by the state to reimburse previous and current assistance amounts, with the following exceptions:

a. In cases in which the collection amount and the court-ordered monthly obligation exceed the AFDC/FITAP amount, the AR will be refunded an amount that, added to the AFDC/FITAP amount, will bring the AR up to the court-ordered monthly obligation amount.

b. In cases in which the collection amount exceeds the amount of unreimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received in a month will be distributed as follows:

a. The AR will be refunded an amount equal to the court-ordered monthly obligation.

b. Any excess amount will be applied to amounts owed to the state.

c. Any remaining amounts will be paid to the AR.

3. In cases in which the AR never received assistance, or the AR previously received AFDC or FITAP and no amount is owed to the state, all collections will be refunded to the AR.

4. In IV-E Foster Care cases, all amounts collected are sent to the IV-E Agency for appropriate distribution.

B. There are general exceptions to distribution. Any collections received through intercept programs or income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations. Amounts collected through IRS and/or state tax intercepts will be applied to arrears in this order:

1. amounts owed to the state; and

2. amounts owed to the AR.

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

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

Madlyn B. Bagneris  
Secretary

9703#016

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Rehabilitation Services

#### Vocational Rehabilitation Policy Manual (LAC 67:VII.101)

The Department of Social Services, Rehabilitation Services has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to amend the following Rule in the Vocational Rehabilitation Services Policy Manual, Sections: Eligibility and Conditions for Case Closure.

The Rule governing Louisiana Rehabilitation Services' policy relative to the timeframe for determining eligibility ensures that individuals will receive a timely decision regarding their eligibility for Vocational Rehabilitation Services.

The Rule governing Louisiana Rehabilitation Services' policy relative to closure of an individual's case record after a successful employment outcome is achieved ensures that the individual's employment is stable, compatible with the individual's abilities and capabilities, and the individual is satisfied with the job placement.

Because of federal guidelines, this Emergency Rule will become effective March 10, 1997, and it shall remain in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever occurs first.

The LRS policy manuals are referenced in LAC 67:VII. Specific amendments to the Vocational Rehabilitation Policy Manual are as follows:

#### XI. CONDITIONS FOR CASE CLOSURE

##### A. Options for Closure

\* \* \*

B. Closure as Successfully Rehabilitated - An individual is determined to have achieved an employment outcome if the following requirements are met:

1. the provision of services under the individual's IWRP has contributed to the achievement of the employment outcome.

2. the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

3. the employment outcome is in the most integrated setting possible, consistent with the individual's informed choice.

4. the individual has maintained the employment outcome for a period of at least 90 days.

5. the individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

#### V. ELIGIBILITY AND INELIGIBILITY DECISIONS

\* \* \*

D. Compliance Provisions Relating to Eligibility, Extended Evaluations, and/or Ineligibility Decisions

\* \* \*

5. Timeframe for Determining Eligibility - Eligibility must be determined within a reasonable period of time, not to exceed 60 days after the individual has signed an application for vocational rehabilitation services. Exceptions to this 60 day timeframe can occur if:

(1) the determination is made that an extended evaluation is necessary to determine the individual's eligibility for vocational rehabilitation services and the nature and scope of services needed; or

(2) the client agrees to an extension of time because exceptional and unforeseen circumstances beyond the agency's control have made it impossible for the rehabilitation counselor to make an eligibility determination within this time frame.

#### Title 67

#### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

#### Chapter 1. General Provisions

#### §101. Vocational Rehabilitation Policy Manual

A. LRS Vocational Rehabilitation Policy Manual provides opportunities for employment outcomes through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), LR 21:191 (February 1995), LR 21:473 (May 1995), LR 21:837 (August 1995), LR 22:993 (October 1996), LR 23:

Madlyn B. Bagneris  
Secretary

9703#032

# Rules

## RULE

### Department of Agriculture and Forestry Office of Marketing Market Commission

#### Egg Grading and Marketing (LAC 7:V.Chapter 15)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Market Commission, hereby amends LAC 7:V.Chapter 15, Subchapter B regarding egg grading and marketing. The Rules require all egg handlers (processors or wholesalers selling egg products) to be licensed. The Rules also clarify existing Regulations with regard to store repackaging of eggs and temperature requirements.

The department published its Notice of Intent to amend this Rule in the November 20, 1996 edition of the *Louisiana Register* (Volume 22, Page 1147). The amended Rule has an effective date of March 20, 1997.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part V. Advertising, Marketing and Processing

#### Chapter 15. Market Commission-Poultry and Eggs

#### Subchapter B. Egg Grading and Marketing

#### §1515. Definitions

For the purpose of these regulations the following words, terms and phrases shall be construed to mean:

\*\*\*

*Egg Products*—any other products made from whole eggs, egg whites, egg yolks or any combination thereof that is not included in the above definitions.

\*\*\*

*Producer*—any person engaged in the business of producing eggs in Louisiana, either as an owner or as an officer or stockholder of a business engaged in producing eggs in Louisiana, or any person deriving a profit from such business or a person who further processes boiled, frozen or other egg products derived from fresh shell eggs.

\*\*\*

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended and promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1121 (September 1993), amended LR 23:293 (March 1997).

#### §1516. Temperature Requirements

A. The temperature of shell eggs shall be held at an ambient temperature of 45° F or below at all times when being transported, stored, or displayed for sale except for brief periods of loading or unloading.

\*\*\*

2. Every person, firm, or corporation selling shell eggs for the purpose of resale to the consumer must store and transport shell eggs under refrigeration at an ambient temperature no greater than 45° F, and all containers of eggs must be labeled "Keep refrigerated at or below 45° F." The requirements of this Section include, but are not limited to, retailers, institutional users, restaurants, nursing homes, dealer-wholesalers, food handlers, transportation firms, or any person who delivers to the retail or consuming trade. Eggs found which do not meet refrigeration requirements, either in transit, storage, or display, can be seized and destroyed by Department of Agriculture and Forestry inspectors.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:293 (March 1997).

#### §1517. Sale or Offering for Sale of Eggs/Egg Products within Louisiana

A. No person, firm, or corporation shall sell, traffic in, or deliver to the retail or consuming trade, any eggs unfit for human consumption or any eggs that do not meet Grade B requirements. A store may repackage eggs located in the store as long as the following requirements are met:

1. All boxes have the necessary labeling requirements which will include:

- a. grade and size (repackaged eggs must be labeled as Grade B);
- b. date when repackaged;
- c. statement saying that the eggs have been repackaged by the store where the eggs are located;
- d. contains the phrase "Keep refrigerated at or below 45° F."

2. Eggs must meet B Grade requirements.
3. Eggs cannot be repackaged more than once.
4. Eggs older than 10 days from the date of repackaging cannot be sold and must be destroyed on premises.
5. Any store found postdating repackaged eggs will lose the right to repackage eggs.

6. Stores may lose the right to repackage eggs if the repackaged eggs do not meet Grade B standards.

B. All shell eggs and egg products offered for sale in Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture before being placed in retail outlets. If a particular lot of eggs does not meet the Louisiana grade standards the said lot may be seized or be retained for shipment back to the producer. All packer/producers and retailers must maintain records showing the disposition of all eggs retained and returned to the packer/producer.

C. This Chapter shall be applicable to all retailers of eggs, except that retailers shall be permitted to sell eggs, identified

as unclassified, when such eggs are purchased directly from producers who own less than 500 hens; however, eggs sold as unclassified must meet Grade B standards.

#### D. Invoices

1. Every person, firm, or corporation selling eggs or egg products to a retailer or manufacturer shall furnish an invoice showing the size, quality, and date of transaction of such eggs according to the standards prescribed by this Section together with the name and address of the person by whom the eggs were sold. This invoice shall be retained for two years.

2. ...

#### E. Containers

1. ...

2. Any and all shell eggs offered for sale at retail shall be prepackaged, and shall be plainly marked as to grade and size with letters not less than 3/8 inch in height.

3. Containers must contain the phrase "Keep refrigerated at or below 45° F."

#### F. Licenses

1. Every person, firm, or corporation engaged in selling shell eggs, frozen eggs, liquid eggs, or any egg product to a retailer or manufacturer shall secure a license. The license shall be issued by the commissioner, after application made to and approval granted by the Louisiana Egg Commission.

2. All packers/producers/processors are subject to yearly plant inspections by the department. Travel expenses incurred in conducting such inspections shall be reimbursed to the Department of Agriculture and Forestry by the licensee.

3. Application forms for license shall be furnished by the Department of Agriculture and Forestry. Each license application shall be accompanied by a fee of \$10 payable to the Louisiana Egg Commission. Upon approval of the application, a license will be issued to the applicant. A license will be valid for a period of one year—September 1 through August 31.

4. Any packer/producer/processor/dealer-wholesaler/broker that does not apply for a license, after being informed that such business requires a license or having received the necessary applications from the department, shall have all eggs sold by such business put off-sale until such time as the business obtains a license.

#### G. Inspection Requirements for Packing Plants and Egg Products/Boiling Plants

1. Packing plants and egg products/boiling plants shall meet minimum requirements of state health regulations, USDA regulations, and Food and Drug Administration regulations and practice good sanitation practices. If minimum sanitation requirements for food handling are not met, the department has the right to stop operation until such time as the plant is in compliance.

2. All eggs used in boiling operations must meet Grade B requirements. Boiling operations will provide the Department of Agriculture and Forestry with a schedule stating the hours of operation. Boiling operations will be checked for sanitation and egg quality on a regular basis. Eggs boiled which do not meet minimum Grade B requirements will be destroyed by the licensee upon request of and in the presence of department personnel.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended and promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:293 (March 1997).

#### §1520. Inspections; Fees; Failure to Meet Standards

A. All eggs and egg products offered for sale in Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture and Forestry.

\* \* \*

D. Producers/brokers selling nest run eggs in Louisiana will not be responsible for the \$.02 assessment nor the \$.16 inspection fee. The assessment or fee shall be paid by the packer packaging the eggs.

E. All egg products will be inspected for condition only. All egg products plants shall be responsible for the fees and assessments due on all products entering Louisiana. Additionally, at the discretion of the department, a dealer/wholesaler selling egg products in Louisiana could be held liable for fees due in lieu of an egg product plant based on the following formula:

1. - 5. ...

F. Packers/producers, processors, and wholesalers shall be required to report and pay assessments and inspection fees on reported volume on a monthly basis. Reports are due on a monthly basis from all egg handlers regardless of who is responsible for paying the assessments and fees. The assessments and fees shall be paid/reported no later than the fifteenth of the following month. If a report is not received by the due date, a letter shall be sent to the egg handler reminding them of the past due report. If the handler does not report within 10 days from date of the past due notice, the egg handler's license may be suspended and all eggs or egg products found sold, packaged, or processed shall be put off sale and the packer/producer's eggs shall not be sold in Louisiana until such time when all assessments and fees are paid in full.

\* \* \*

H. Dealers-wholesalers shall be required to furnish evidence of origin by invoice on eggs which they handle. Dealers/wholesalers shall report volume of sales monthly on forms furnished by the department. On sale of eggs and egg products produced out-of-state, the last dealer/wholesaler/processor that handles the eggs or egg products before they enter the retail market shall be responsible for paying all fees, if the out-of-state producer/packer/processor has not paid such fees. Any fees collected from the out-of-state producer/packer that have been paid by the dealer/wholesaler shall be refunded to said dealer/wholesaler. The packer/producer/processor is ultimately responsible for paying all assessments and fees. In-state producers/packers/processors are responsible for all fees of eggs or egg products they have sold in this state. Fees shall be paid not later than the fifteenth of the following month.

I. Brokers shall be required to furnish evidence of origin by invoice on eggs and egg products which they handle and sell in Louisiana. If shell eggs are nest run, then the packer buying such eggs shall be responsible for fees. If the eggs have been graded, then the packer who graded the eggs shall

be responsible. However, if the state is not able to collect the fees from the out-of-state packer then the in-state packer shall be responsible for all fees. No fees shall be charged to place of origin on nest-run eggs; the packer buying the eggs shall be responsible for all fees.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:294 (March 1997).

**§1522. Destination Tolerances; Additional Inspection Fees**

A. No eggs shall be sold for resale to the consumers below U.S. Grade B, nor shall any eggs be sold as fresh eggs if the eggs are over 30 days of age. Eggs 30-45 days of age after package date may be returned to the processor or sent to a breaker. Eggs older than 45 days from date of package will be destroyed on the premises in the presence of the inspector/grader.

\* \* \*

E. Any egg handler that fails to pay the additional inspection fee shall have a stop sale placed on this product and any other egg or egg product found in the state until such time as all fees are paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1123 (September 1993), amended LR 23:295 (March 1997).

**§1528. Audits**

A. All license holders are subject to yearly audits and must be audited at least once every two years to insure proper reporting of egg and egg product inspection fees and egg assessments to the Louisiana Egg Commission. Audits shall be performed by employees of the Louisiana Department of Agriculture and Forestry. Travel expenses and per diem incurred in conducting out-of-state audits are to be reimbursed to the Department of Agriculture and Forestry by out-of-state license holders. Failure or refusal to pay travel expenses and/or per diem will result in immediate suspension of license and all products found in the state shall have a "STOP SALE" placed on the product and no further sales will be allowed in the state until such time as all expenses are paid.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1124 (September 1993), amended LR 23:295 (March 1997).

The Rules comply with and are enabled by R.S. 3:405 et seq.

Bob Odom  
Commissioner

9703#019

**RULE**

**Department of Economic Development  
Office of Commerce and Industry  
Business Incentives Division**

Enterprise Zone—Advance Notification;  
Timely Filing (LAC 13:I.Chapter 9)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., the Department of Economic Development, Office of Commerce and Industry, Business Incentives Division amends the Board of Commerce and Industry Rules.

As a result of the provisions of Act 194 of 1995, the Board of Commerce and Industry, at its October 23, 1996, meeting voted to adopt a Rule affecting all businesses which do not file timely in applying for financial incentives under the Enterprise Zone Program, under the authority of R.S. 51:1786(5).

**Title 13**

**ECONOMIC DEVELOPMENT**

**Part I. Commerce and Industry**

**Subpart 1. Finance**

**Chapter 9. Enterprise Zone Program**

**§905. Endorsement Resolution**

Applicants who intend to recover local sales/use taxes must submit a resolution, stating that fact, from the taxing body(s) which intends to refund sales/use taxes for the project, with their application for state benefits. If the local governmental subdivision wishes to participate by rebating their applicable sales taxes, this resolution shall be passed by the local governmental subdivision prior to the applicant receiving approval of that application from the Board of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:252 (March 1991), LR 22:445 (June 1996), amended by the Business Incentives Division, LR 23:295 (March 1997).

**§918. Advance Notification, Timely Filing**

A. An advance notification received by the Office of Commerce and Industry after the beginning of the project's construction, will obligate the company to file written reason(s) for the late filing. Lack of knowledge of the existence of the Enterprise Zone Program or its benefits will not be accepted as a valid reason for waiving the timely filing requirement and will result in the return of the filing fee. However, the board will accept reasons that fall within the following two categories in determining if it will consider waiving the late filing:

1. events beyond control of the applicant caused the late filing, or

2. there was some documented fault or error on the part of the Business Incentives Division that caused the applicant's late filing.

B. A waiver of late filing of an advanced notice will allow the applicant to proceed as if the filing was timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Incentives Division, LR 23:295 (March 1997).

### **§919. Filing of Applications**

A. - G. ...

H. Applications must be submitted to the Office of Commerce and Industry, Business Incentives Division at least 60 days prior to the Board of Commerce and Industry meeting where it is intended to be heard.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5)

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:252 (March 1991), LR 22:445 (June 1996), amended by the Business Incentives Division, LR 23:296 (March 1997).

### **§923. Application Shall be Presented to the Board of Commerce and Industry**

The Office of Commerce and Industry, Business Incentives Division shall present an agenda of applications to the Board of Commerce and Industry with the written recommendations of the secretaries of Economic Development and Revenue and Taxation and, if applicable, the endorsement resolutions outlined in §905 and shall make recommendations to the Board based upon its findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:252 (March 1991), LR 22:445 (June 1996), amended by the Business Incentives Division, LR 23:296 (March 1997).

### **§935. Job Creation Requirements - Five New Jobs Must be Created**

For a business to qualify for the benefits of this Chapter, there must be an expansion in the total number of employees. A minimum of five new jobs credits must be generated within the first two years of the contract period. The "base number" from which the number of new jobs will be determined shall meet one of the following:

1. the number of employees that an applicant has on the day before the effective date of the contract. (The effective date will be either the day that the advance notice was received by the Business Incentives Division or the date that construction begins on the project shown on the advance

notice but not earlier than the date received unless a waiver of timely filing has been approved by the board); or

2. the highest number of employees that was certified under an Enterprise Zone contract that was still valid the day before the effective date on the anticipated new Enterprise Zone contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:544 (August 1983), amended LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:252 (March 1991), LR 22:445 (June 1996), amended by the Business Incentives Division, LR 23:296 (March 1997).

### **§943. Appeals and Petition Procedure**

A. Applicants who wish to appeal an action of the Board of Commerce and Industry must submit their appeals along with any necessary documentation to the Office of Commerce and Industry, Business Incentives Division at least one month prior to the meeting of the Board of Commerce and Industry or any of its committees during which their appeal will be heard.

B. Petitions, and all documentation, on matters not yet presented to or ruled on, by the board, must be submitted to the Office of Commerce and Industry, Business Incentives Division at least one month prior to the meeting of the board or any of its committees in which the petition will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:544 (August 1983), amended LR 11:95 (February 1985), LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 17:252 (March 1991), LR 22:445 (June 1996), amended by the Business Incentives Division, LR 23:296 (March 1997).

Harold Price  
Assistant Secretary

9703#053

## **RULE**

**Department of Economic Development  
Office of Financial Institutions**

**Fees and Assessments (LAC 10:1.201)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as provided under R.S. 6:126(A), the commissioner of the Office of Financial Institutions hereby amends the Rule promulgated in December 1993 and subsequently amended in October 1995, to reduce the fee charged Louisiana state-chartered banks, savings and loan associations and savings banks for the establishment of an electronic financial terminal.

**Title 10**  
**FINANCIAL INSTITUTIONS, CONSUMER CREDIT**  
**INVESTMENT SECURITIES AND UCC**  
**Part I. Financial Institutions**  
**Chapter 2. Fees and Assessments**  
**§201. Establishment of Fees and Assessments**

DESCRIPTION	FEE
A. - D. ...	
E. Notification by a state bank, savings and loan association, or savings bank for an off-site electronic financial terminal machine. Fee is nonrefundable.	\$100
F. - AE. ...	

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:126 A.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1546 (December 1993), amended LR 21:1069 (October 1995), LR 23:297 (March 1997).

Larry L. Murray  
Commissioner

9703#027

**RULE**

**Department of Environmental Quality**  
**Office of the Secretary**

**Rulemaking Petitions**  
**(LAC 33:I.Chapter 9; V.105 and 2515; XV.112)(OS013)**

*(Editor's Note: The following Rule, proposed in a Notice of Intent and published on pages 1016-1019 of the October 20, 1996 Louisiana Register, is being renumbered to conform to the LAC codification system.)*

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Department of Environmental Quality regulations, LAC 33:I.Chapter 9, V.105 and 2515, and XV.112 (OS013).

This Rule standardizes and consolidates division-specific procedures into one regulation, which is applicable department-wide. This regulation not only clarifies the purpose of and required portions in a petition for rulemaking, but ensures opportunities for public comment in both situations wherein a petition is granted or denied.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures**  
**Chapter 9. Petition for Rulemaking**  
**§901. Scope**

In general, rulemaking to adopt, amend, or rescind any regulation may be initiated by any division as its own option, upon the recommendation of another agency of the state of Louisiana, or at the petition of any interested person. This Chapter addresses general requirements for petitions requesting rulemaking.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997).

**§903. Rescission**

Section 2.13 of the Rules of Procedure of the Louisiana Environmental Control Commission dated July 22, 1980, and effective August 20, 1980, is hereby rescinded.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997).

**§905. Definitions**

*Administrative Authority*—the secretary of the Department of Environmental Quality or his designee.

*Department*—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997).

**§907. Content of a Rulemaking Petition**

Any interested person may petition the administrative authority in writing to issue, amend, or rescind any regulation.

A. The petition shall be addressed to the assistant secretary of the specific office that oversees the regulation.

B. The petition shall be submitted by certified mail.

C. The petition shall include:

1. the petitioner's name and address;
2. the petitioner's interest in the proposed action;
3. the basis for the request;

4. the substance or specific text of any proposed regulation or amendment or a description of the regulation, the rescission, or the amendment that is desired; and

5. any other information that justifies the proposed action.

D. The petition shall address any additional requirements specific to the requests illustrated below:

1. for petitions seeking to exclude a hazardous waste produced at a particular facility, the person shall comply with LAC 33:V.105.M;

2. for petitions seeking approval of alternate equivalent hazardous waste testing or analytical methods, the person shall comply with LAC 33:V.105.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997).

### §909. Processing a Rulemaking Petition

A. Upon receipt, the petition for rulemaking shall be reviewed for completeness, as prescribed in LAC 33:I.907. If found complete, the petition shall be processed in accordance with this Section.

B. Within 90 days of receipt of the petition for rulemaking, the assistant secretary shall deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking by providing the petitioner with a completed Regulatory Agenda Form as provided in DEQ Policy Number 0003-88, "Rule Development Procedure."

1. If the assistant secretary decides to proceed with rulemaking, the department procedures for processing a proposed regulation shall be followed. In addition, a notice of the initiation of rulemaking shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking or in the official journal of the state, if the impact of the proposed Rule is statewide.

2. If the assistant secretary decides not to proceed with rulemaking, the decision to deny the petition, stating reasons for the denial, shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking or in the official journal of the state, if the impact of the petition denial is statewide, and in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:298 (March 1997).

## Part V. Hazardous Waste and Hazardous Materials

### Subpart 1. Department of Environmental Quality—Hazardous Waste

#### Chapter 1. General Provisions and Definitions

##### §105. Program Scope

These Rules and Regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these Rules and Regulations, including "solid waste" and "hazardous waste", appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

\*\*\*

[See Prior Text in A-G]

H. General Procedures to Petition the Administrative Authority. The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9.

I. Petitions for Equivalent Testing or Analytical Methods

1. Any person seeking approval of equivalent testing or analytical method may petition for a regulatory amendment under LAC 33:V.105.I and LAC 33:I.Chapter 9. To be

successful, the petitioner must demonstrate to the satisfaction of the administrative authority that the proposed method is equal to or superior to the corresponding method prescribed in Method 1311, in 40 CFR part 268 Appendix 1, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

2. In addition to the information required by LAC 33:I.Chapter 9, each petition must include:

a. a full description of the proposed method, including all procedural steps and equipment used in the method;

b. a description of the types of wastes or waste matrices for which the proposed method may be used;

c. comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846 as incorporated by reference at LAC 33:V.110;

d. an assessment of any factors which may interfere with or limit the use of the proposed method; and

e. a description of the quality control procedures necessary to ensure the sensitivity, accuracy, and precision of the proposed method.

3. After receiving a petition for an equivalent method, the administrative authority may request any additional information on the proposed method which it may reasonably require to evaluate the method.

\*\*\*

[See Prior Text in J - L.2]

M. Petitions to Exclude a Waste Produced at a Particular Facility

1. Any person seeking to exclude a waste at a particular generating facility from the lists in LAC 33:V.4901 may petition for a regulatory amendment under this Subsection and LAC 33:I.Chapter 9. To be successful:

\*\*\*

[See Prior Text in M.1.a-4.d]

5. The procedures in LAC 33:V.105.M and LAC 33:I.Chapter 9 may also be used to petition the administrative authority for a regulatory amendment to exclude from LAC 33:V.109.Hazardous Waste.2.c or 4, a waste which is described in LAC 33:V.109.Hazardous Waste.2.c or 4 and is either a waste listed in LAC 33:V.4901, or is derived from a waste listed in LAC 33:V.4901. This exclusion may only be issued for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by LAC 33:V.105.M.1. Where the waste is a mixture of solid waste and one or more listed hazardous wastes or is derived from one or more hazardous wastes, his demonstration must be made with respect to the waste mixture as a whole. Analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste which is so excluded may still be a hazardous waste by LAC 33:V.4903.

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[See Prior Text in M.6]

7. Each petition must include, in addition to the information required by LAC 33:I.Chapter 9:

\*\*\*

[See Prior Text in M.7.a-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997).

**Chapter 25. Landfills**

**§2515. Special Requirements for Bulk and Containerized Liquids**

\*\*\*

[See Prior Text in A - E.2]

F. Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in LAC 33:V.2515.F; materials that pass one of the tests in LAC 33:V.2515.F.2; or materials that are determined by the administrative authority to be nonbiodegradable through the petition process in LAC 33:I.Chapter 9.

\*\*\*

[See Prior Text in F.1-2.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:821 (September 1996), amended by the Office of the Secretary, LR 23:299 (March 1997).

**Part XV. Radiation Protection**

**Chapter 1. General Provisions**

**§112. Rulemaking**

The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, LR 23:299 (March 1997).

Herman Robinson  
Assistant Secretary

9703#030

**RULE**

**Department of Environmental Quality  
Office of Solid and Hazardous Waste  
Hazardous Waste Division**

**Land Disposal Restriction Variances  
(LAC 33:V.2271) (HW051)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Hazardous Waste Division regulations, LAC 33:V.2271 (HW051).

This Rule clarifies that if an exemption decision by the department is vacated and/or remanded by a court on judicial review, the emergency variance shall be automatically reinstated and shall remain in effect until final action on the remand is taken by the administrative authority and any subsequent appeal process has been completed.

This Rule is necessary because the ability of certain underground injection well operators to continue injection of wastewater during the time period necessary for the department to process their state petitions for exemption under LAC 33:V.2271 has been put into question by the court's decision in *In the Matter of Rubicon, Inc.*, No. 95-CA-0108 (1st Cir. 2/14/96), rehearing denied per curium (3/29/96), in *In the Matter of Dupont, Inc.*, No. 94-CA-2549 (1st Cir. 4/24/96) and in *In the Matter of Cytec, Inc.*, No. 94-CA-1693 (1st Cir. 2/23/96). These decisions vacated and remanded the department's decisions to grant land disposal exemptions on strictly procedural grounds, not on the merits of the department's actions. There are three other exemption decisions granted by the department pending at the Nineteenth Judicial District Court.

This action will allow affected companies to continue operation of their injection wells until final action on remand is taken by the department and any subsequent appeal process has been completed. This will preserve the status quo pending action by the department.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental Quality—  
Hazardous Waste**

**Chapter 22. Prohibitions on Land Disposal**

**§2271. Exemptions To Allow Land Disposal of a  
Prohibited Waste By Deep Well Injections**

\*\*\*

[See Prior Text in A-V.5.j]

**W. Emergency Variance**

1. During the petition review process, the applicant is required to comply with all prohibitions on land disposal under this Chapter, unless a petition for an exemption has been approved by the EPA, and the administrative authority grants an emergency variance. If EPA has approved the exemption, the land disposal of the waste may continue for up

to one year under an emergency variance issued by the administrative authority until the administrative authority makes a decision on the petition for exemption. The administrative authority may extend an emergency variance beyond one year; however, such approval is solely based on the agency's inability to review the petition during the first one-year variance. The administrative authority shall either grant or deny the petition within the extended emergency variance period, no later than June 1, 1995, for petitions submitted prior to June 1, 1992. After the administrative authority issues a decision on the exemption, the waste may be land disposed only in accordance with the provision of the exemption.

2. If the exemption decision is vacated and/or remanded by a court on judicial review, the emergency variance shall be automatically reinstated and shall remain in effect until final action on the remand is taken by the administrative authority and any subsequent appeal process has been completed.

\* \* \*

[See Prior Text in X-Z]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended LR 23:299 (March 1997).

Mike Strong  
Assistant Secretary

9703#056

## RULE

### Office of the Governor Division of Administration Property Assistance Agency

Fleet Management (LAC 34:XI.103)

Notice is hereby given that the Office of the Governor, Division of Administration, Property Assistance Agency, under authority of R.S. 39:321, and the Administrative Procedure Act, R. S. 49:950 et seq., has amended the existing State Fleet Management Regulations (LAC 34:XI.103) as follows:

#### Title 34

### GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

#### Part XI. Fleet Management

#### Chapter 1. General Provisions

#### §103. Program Definition

A.1. - 2.b.ii.(d). ...

iii. It shall be the responsibility of the agency transportation coordinator to apply to the Department of Public Safety for vehicle license plates and to notify the state fleet manager, within 45 days of receipt, of both the license number and agency property tag number assigned to a new vehicle and any subsequent number changes which may occur.

2.c. - d.i. - v. ...

vi. Annually, it shall be the responsibility of the agency transportation coordinator to insure that a Personal Assignment Agreement (DOA form MV-2) is completed and forwarded to the state fleet manager by May 1 and is signed and approved by the commissioner in order to continue the personal assignment into the new fiscal year beginning July 1. Any personal assignment approved by the commissioner during the year shall expire June 30 and renewal will require submission of a Personal Assignment Agreement (DOA form MV-2) as described above.

As an alternative to submitting individual MV-2 forms for employees who are requesting renewal of personal assignment and/or home storage approval for the next fiscal year, the state fleet manager may accept a listing of those employees who are currently approved for personal assignment and/or home storage for update purposes. In order to be approved, the listing must consist of only those names of employees who have been previously approved on an individual MV-2 form, with current and correct information, and is on file with the state fleet manager and the originating agency. Any changes to the original information on the MV-2 form must be submitted on a new MV-2 form for approval at the time of the change. This list shall consist of the name of the employee, social security number of the employee, and vehicle identification number of the vehicle that is personally assigned and/or home stored. The list must be approved by the agency transportation coordinator and the agency head prior to submission to State Fleet Management.

vii. ...

2.e.i. - ii. ...

iii. Annually, it shall be the responsibility of the agency transportation coordinator to insure that a Home Storage Agreement form (DOA form MV-2) is completed and forwarded to the state fleet manager by May 1 and is signed and approved by the commissioner in order to continue home storage into the new fiscal year beginning July 1. Any home storage approved by the commissioner during the year shall expire June 30 and renewal will require submission of a Home Storage Agreement (DOA form MV-2) as described above.

As an alternative to submitting individual MV-2 forms for employees who are requesting renewal of personal assignment and/or home storage approval for the next fiscal year, the state fleet manager may accept a listing of those employees who are currently approved for personal assignment and/or home storage for update purposes. In order to be approved, the listing must consist of only those names of employees who have been previously approved on an individual MV-2 form, with current and correct information, and is on file with the state fleet manager and the originating agency. Any changes to the original information on the MV-2 form must be submitted on a new MV-2 form for approval at the time of the change. This list shall consist of the name of the employee, Social Security Number of the employee, and vehicle identification number of the vehicle that is personally assigned and/or home stored. The list must be approved by the agency transportation coordinator and the agency head prior to submission to State Fleet Management.

2.f.i. - ii. ...

iii. All daily vehicle usage logs (DOA form MV-3) for both personally assigned and pool vehicles are approved by the appropriate supervisor and received by the agency transportation coordinator by the third working day of the month following the month to which the report pertains. The approving supervisor is responsible for auditing each respective DOA form MV-3. MV-3 data may be submitted monthly via magnetic media provided the information is formatted as required by the Division of Administration and the agency has received prior approval from the state fleet manager to submit data in this manner.

iv. preventive maintenance is performed on all fleet vehicles and recorded on the Preventive Maintenance Record (DOA form MV-4) or a maintenance form approved by the state fleet manager.

v. - vi. ...

2.g. - h. ...

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:361-363 and R. S. 39:1761-1771.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 12:231 (April 1986), amended LR 13:15 (January 1987), amended by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 13:742 (December 1987), LR 23:300 (March 1997).

Mike McCumsey  
Assistant Director

9703#005

## RULE

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

#### Genetic Diseases—Neonatal Screening (LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1229 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health amends Subsections F and G and restates supporting references of LAC 48:V.6303 as follows:

#### Title 48

#### PUBLIC HEALTH - GENERAL

#### Part V. Public Health Services

#### Subpart 19. Genetic Diseases Services

#### Chapter 63. Neonatal Screening

#### §6303. Purpose, Scope, Methodology

\*\*\*

F. Medical/Nutritional Management. In order 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 state's Genetic Diseases Program and/or Special Supplemental Nutrition Program for Infants, Women, and Children (WIC), the following guidelines must be met:

a. The patient must be a resident of the State of Louisiana.

b. The patient must receive a medical evaluation at least once annually at Tulane Human Genetics Program Clinic or from another medical center program providing specialized management of metabolic patients under the supervision of a physician who is board certified in clinical biochemical genetics or a physician with written documentation of a medical evaluation and continuing consultation with a geneticist board certified in clinical biochemical genetics. A licensed and/or registered dietitian must also be on staff and readily available for both acute and chronic dietary needs of the patient. Medical centers not meeting these criteria must consult with one of the medical geneticists of the Tulane Human Genetics Program on the diagnosis and treatment regimen.

c. The patient must provide necessary specimens as requested by the medical specialist at Tulane Human Genetics Program or a specialist at another medical center whose evaluation and treatment plan has been approved by Tulane. Laboratory test results for phenylalanine and tyrosine levels must be submitted to the Genetics Program Office by the treating medical center.

d. The patient must include dietary records with the submission of each blood specimen if the patient is receiving services through the Tulane Human Genetics Program.

e. All insurance forms relative to charges for special formula must be signed and submitted by the parent or appropriate family member.

f. The parent or guardian must inform the Genetics Program Office immediately of any changes in insurance coverage.

G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers not Using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1, 2, 3:

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism and the following hemoglobinopathies: sickle cell disease, SC disease, thalassemias, E disease and C disease.

2. The laboratory must perform the newborn screening testing battery on at least 50,000 specimens a year unless the said laboratory has been routinely performing the full screening battery since January 1, 1995.

3. Only the following testing methodologies are acceptable without prior approval:

Disease	Testing Methodology
PKU	Fluorometric Guthrie Phenylalanine level cut-off: ≥4mg/dl, call Genetics Office immediately for obtaining phenylalanine/tyrosine valves  Controls: 2mg/dl, 4mg/dl, 6mg/dl, 8mg/dl
Congenital Hypothyroidism	Radioimmunoassay (RIA) or Enzyme Immunoassay (EIA) methods for T4 and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates

Hemoglobinopathies (sickle cell)	Hemoglobin Electrophoresis to include: cellulose acetate/citrate agar capillary electrophoresis isoelectric focusing (IEF) High Performance Liquid Chromatography (HPLC)  (Sickle Dex is NOT acceptable)  Controls must include: F, A, S, C, E Result reporting: by phenotype Positive/Negative is NOT acceptable
New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approval will be based on documentation of FDA approval and an in-house validation study of said methodology.	

4. The laboratory must participate in the proficiency testing program of the Centers for Disease Control for newborn screening using dried blood spots and Health Care Financing Administration (HCFA) approved proficiency testing programs for using whole blood specimens.

5. The laboratory must submit quarterly statistical reports to the Genetic Office that indicate the number of specimens screened by method, the number of specimens unsatisfactory for testing, the number normal and positive and for screening of hemoglobinopathies, the number by phenotype (see Genetics Office address in Subsection G.6).

6. To ensure appropriate and timely follow-up, all initial positive results must be immediately reported, along with patient demographic information to the Genetic Diseases Program Office either by FAX at (504) 568-7722 or by telephone at (504) 568-5070 and followed up by the mailing of the information to the following address: Genetic Diseases Program, P. O. Box 60630 - Suite 308, New Orleans, LA 70160, telephone (504) 568-5070.

7. The laboratory must register by letter with the Genetic Diseases Program of the Office of Public Health. This letter must contain the following:

- a. assurance of compliance with the requirements described in Subsection G.1. - 7.;
- b. the type of testing methodologies used;
- c. the number of specimens projected to be tested or actually tested annually;
- d. the type of specimen(s) used, i.e., filter paper or whole blood;
- e. reporting format for positive/abnormal test results.

8. Guidelines and recommendations on quality assurance of newborn screening from nationally recognized committees and authors should be considered in the establishment and operation of a newborn screening system<sup>2</sup>.

<sup>1</sup>Reference

American Academy of Pediatrics, Committee on Genetics: New Issues in Newborn Screening for Phenylketonuria and Congenital Hypothyroidism. *Pediatrics* 1982; 60:104-6.

<sup>2</sup>References pertaining to Subsection G:

a. Committee on Genetics, American Academy of Pediatrics Issues in Newborn Screening. *Pediatrics* 1992; 89:345.

b. CORN Newborn Screening Committee, Council on Regional Networks for Genetic Services. U.S. Newborn Screening System

Guidelines: Statement of the Council of Regional Networks for Genetic Services. *Screening*, 1 (1992 pp. 135-147).

c. Andrews I Legal Liability and Quality Assurance in Newborn Screening. Chicago, American Bar Foundation (1985), pp. 82-83.

d. National Committee for Clinical Laboratory Standards (NCLS) Standards for Blood Collection on Filter Paper for Neonatal Screening. Document LA4-A2 July 1992.

e. Committee on Assessing Genetic Risks, Division of Health Sciences Policy, Institute of Medicine Assessing Genetic Risks National Academy Press, Washington DC (1994).

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 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997).

Bobby Jindal  
Secretary

9703#040

## RULE

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

#### Sanitary Code—Reportable Diseases (Chapter II)

(*Editor's Note:* The following Rule, which appeared on pages 1223 through 1224 of the December 20, 1996 *Louisiana Register*, is being republished to correct typographical errors.)

#### Sanitary Code Chapter II

#### The Control of Disease

2:003 The following diseases are hereby declared reportable:

- Acquired Immune Deficiency Syndrome (AIDS)
- Amebiasis
- Arthropod-borne encephalitis (Specify type)
- Blastomycosis
- Botulism\*
- Campylobacteriosis
- Chancroid\*\*
- Chlamydial infection\*\*
- Cholera\*
- Cryptosporidiosis
- Diphtheria
- Enterococcus infection; resistant to vancomycin
- Escherichia coli 0157:H7 infection
- Gonorrhea\*\*
- Haemophilus influenzae infection
- Hemolytic-Uremic Syndrome
- Hepatitis, Acute (A,B,C, Other)
- Hepatitis B carriage in pregnancy
- Herpes (neonatal)
- Human Immunodeficiency Virus (HIV) infection\*\*\*\*
- Legionellosis
- Lyme disease
- Lymphogranuloma venereum\*\*
- Malaria

\*\*\*\*\*Report to the Louisiana Genetic Diseases Program  
Office by telephone (504) 568-5070 or FAX (504) 568-7722.

Bobby P. Jindal  
Secretary

9703#001

## RULE

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

#### Sanitary Code—Seafood Sanitation (Chapter IX)

The Department of Health and Hospitals, Office of Public Health amends Chapter IX of the State Sanitary Code, Section 9:052-3, Paragraph (C). The Rule change is necessary to correct an error that was made during previous rulemaking. Language has been added to this Section that will exempt, under certain conditions, the requirement that trucks utilized for hauling shell stock oysters to a steam factory for thermal processing and canning be refrigerated. The refrigeration requirements that were previously adopted were intended by this agency to apply only to shellfish offered for sale in the fresh and frozen market place.

Section 9:052-3, Paragraph (C) shall be amended as follows:

#### Chapter IX. Seafood

\* \* \*

#### 9:052-3 General Provisions

\* \* \*

C. Except for deliveries made to a shellfish dealer certified by the Office of Public Health for inclusion on the U.S. Food and Drug Administration's Interstate Certified Shellfish Shippers List and located less than 30 minutes from dockside, all land-based deliveries of shell stock shall be made aboard mechanically refrigerated trucks with an internal air temperature of 45°F or less as measured 12 inches from the blower. For shipments by air, an internal meat temperature of 45°F or less shall be maintained at all times. To accomplish this it shall be necessary to pre-chill shell stock to an internal temperature of 40°F or less prior to being packed into insulated containers with frozen gel packs. Land-based deliveries of molluscan shell stock to a steam factory for thermal processing and canning shall be exempt from these refrigeration requirements during the months November through May provided that the shellfish are delivered to the cannery in accordance with the requirements cited in Paragraph (A) of this Section and the Department of Wildlife and Fisheries, Enforcement Division is notified via their toll free telephone number (1-800-442-2511) prior to making each delivery.

\* \* \*

Bobby P. Jindal  
Secretary

9703#026

Measles (rubeola)\*  
Meningitis, other bacterial or fungal  
Mumps  
Mycobacteriosis, atypical\*\*\*  
Neisseria meningitidis infection  
Pertussis  
Rabies (animal and man)  
Rocky Mountain Spotted Fever (RMSF)  
Rubella (German Measles)  
Rubella (congenital syndrome)  
Salmonellosis  
Shigellosis  
Staphylococcus aureus (infection; resistant to methicillin/  
oxacillin or vancomycin)  
Streptococcus pneumoniae (infection; resistant to  
penicillin)  
Syphilis\*\*  
Tetanus  
Tuberculosis\*\*\*  
Typhoid fever  
Varicella (chickenpox)  
Vibrio infections (excluding cholera)

Report cases on green EPI-2430 card unless indicated otherwise below.

\*Report suspected cases immediately by telephone. In addition, report all cases of rare or exotic communicable diseases and all outbreaks.

\*\*Report on STD-43 form. Report syphilis cases with active lesions by telephone.

\*\*\*Report on CDC 72.5 (f5.2431) card.

\*\*\*\*Report on EPI-2430 card. Name and address are optional but city and ZIP Code must be recorded.

All reportable diseases and conditions other than the venereal diseases, tuberculosis and those conditions followed by asterisks should be reported on an EPI-2430 card and forwarded to the local parish health unit or the Epidemiology Section, P.O. Box 60630, New Orleans, Louisiana 70160, telephone 1-800-256-2748 or FAX (504) 568-3206.

#### Other Reportable Conditions

Cancer  
Complications of abortion  
Congenital hypothyroidism\*\*\*\*\*  
Galactosemia\*\*\*\*\*  
Hemophilia\*\*\*\*\*  
Lead poisoning  
Phenylketonuria\*\*\*\*\*  
Reye Syndrome  
Severe traumatic head injury+  
Severe undernutrition (severe anemia, failure to thrive)  
Sickle cell disease (newborns)\*\*\*\*\*  
Spinal cord injury+  
Sudden infant death syndrome (SIDS)

Report cases on an EPI-2430 card unless indicated otherwise below:

+Report on DDP3 form; preliminary telephone report from emergency room encouraged (504) 568-2509.

**RULE**

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

**Record Preparation Fees and  
Quarterly Submissions (LAC 42)**

The Louisiana Gaming Control Board hereby adopts Rules in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**§109. Record Preparation Fees**

A. Any person requesting a hearing, or to whom a hearing is being afforded, pursuant to the provisions of §§103 and 108 or otherwise pursuant to the provisions of the Louisiana Gaming Control Law, R.S. 27:1 et seq., the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., and Rules promulgated in accordance therewith, shall be assessed and pay a fee based upon costs of preparing the administrative record and transcript for submission to the board or the 19th Judicial District Court.

B.1. No less than 10 days prior to the date scheduled for the administrative hearing, the party shall deposit with the board the sum of \$100 as prepayment of the costs of preparing the administrative record and transcript.

2. Failure to timely pay the \$100 deposit may result in dismissal of the hearing (with prejudice).

C.1. After the hearing has been conducted, the actual costs of preparing the administrative record and transcript will be determined by the board and the party will be notified of such actual costs.

2. In the event actual costs are less than \$100, a refund will be made to the party.

3. Actual costs in excess of \$100 shall be assessed against the party, who shall pay the excess costs within 10 days of the date of receipt of the notice of assessment.

4. Failure to timely pay the excess costs assessed may result in dismissal of the hearing, and shall prevent the record and transcript from being transmitted to the board or 19th Judicial District Court.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:304 (March 1997).

**§110. Quarterly Submissions**

A. Commencing with the issuance of any riverboat gaming operator license, the licensee shall submit on a quarterly basis to the board a statement of compliance with the applicant or licensee's previously submitted application or economic development plan as to those aspects of the plant which are then underway.

B. The licensee will certify quarterly under oath that a good faith effort to meet the voluntary procurement and employment conditions is being made, and shall quarterly

demonstrate to the board that an effort was made to meet the conditions. The quarterly statement shall be forwarded to the board by certified mail no later than 20 days after the end of each quarter.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:304 (March 1997).

Hillary J. Crain  
Chairman

9703#002

**RULE**

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

**Child Support Collection and  
Distribution (LAC 67:III.2514)**

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, revisions have been made to the method in which Support Enforcement Services distributes child support collections. Prior federal law totally mandated the manner of distribution. Federal law now requires that reimbursement of the federal portion of benefits from the Aid to Families with Dependent Children Program (AFDC) or Family Independence Temporary Program (FITAP) be made first. The state may then retain or distribute the remainder as it chooses. Therefore, the state has established a procedure to distribute funds.

The following Rule will become effective April 1, 1997.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 4. Support Enforcement Services**

**Chapter 25. Support Enforcement**

**Subchapter D. Collection and Distribution of Support  
Payments**

**§2514. Distribution of Child Support Collections**

A. Effective November 1, 1996 the agency will distribute child support collections in the following manner:

1. In cases in which the applicant/recipient (AR) currently receives AFDC or Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will be retained by the state to reimburse previous and current assistance amounts, with the following exceptions:

a. in cases in which the collection amount and the court-ordered monthly obligation exceed the AFDC/FITAP amount, the AR will be refunded an amount that, added to the AFDC/FITAP amount, will bring the AR up to the court-

ordered monthly obligation amount, or the collection amount, whichever is smaller;

b. in cases in which the collection amount exceeds the amount of unreimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received in a month will be distributed as follows:

a. the AR will be refunded an amount equal to the court-ordered monthly obligation;

b. any excess amount will be applied to amounts owed to the state;

c. any remaining amounts will be paid to the AR.

3. In cases in which the AR never received assistance, or the AR previously received AFDC or FITAP and no amount is owed to the state, all collections will be refunded to the AR.

4. In IV-E Foster Care cases, all amounts collected are sent to the IV-E Agency for appropriate distribution.

B. There are general exceptions to distribution. Any collections received through intercept programs or income assignments, are subject to refund to the noncustodial parent based on federal and state laws and regulations. Amounts collected through IRS and/or state tax intercepts will be applied to arrears in this order:

1. amounts owed to the state; and

2. amounts owed to the AR.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997).

Madlyn B. Bagneris  
Secretary

9703#033

## RULE

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

#### Plan Document—Catastrophic Illness Endorsement

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate Rules with respect thereto, the Board of Trustees amends the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document to implement changes to the Catastrophic Illness Endorsement to provide a more meaningful benefit to members who purchase the endorsement, as well as to facilitate adjudication of claims for benefits under the endorsement. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

**Amendment Number 1**—Amend the Catastrophic Illness Endorsement provision in the *Schedule of Benefits* by deleting therefrom all references to 70 percent payment for inpatient hospital expenses and 30 percent payment for outpatient and professional expenses, such that the provision will read as follows:

#### 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:

Option 1 -- \$10,000 Maximum

Option 2 -- \$5,000 Maximum

**Amendment Number 2**—Delete Article 3, Section VI, in its entirety, and insert a new Article 3, Section VI to read as follows:

#### VI. Catastrophic Illness Endorsement

A. Optional at the Election of the Employee. Upon enrollment and payment of an additional monthly premium, Catastrophic Illness Endorsement (CIE) benefits are available to persons, except dependent parents as defined in Article 1, Section I (1) (4), covered under the Comprehensive Medical Plan as set forth in Article 3, Section I.

A new employee may enroll together with any eligible dependents in the CIE benefit within 30 days of the employee's date of employment without a pre-existing condition exclusion or evidence of good health. The employee must elect and maintain coverage under the CIE in order for the dependent to be eligible to enroll in the CIE.

Any request for coverage after 30 days of employment will be subject to the terms of Article 1, Section II (D).

B. Diseases Included. Benefits will be payable under this provision for services rendered on or after the covered person's effective date, for treatment of one or more of the following diseases:

1. Cancer, including Leukemia
2. Poliomyelitis (polio)
3. Diphtheria
4. Smallpox
5. Scarlet fever
6. Tetanus (lockjaw)
7. Spinal Meningitis
8. Encephalitis (sleeping sickness)
9. Tularemia
10. Hydrophobia (rabies)
11. Sickle Cell Anemia

C. Lifetime Maximum Benefit. The lifetime maximum benefit payable under Article 3, Section VI for eligible expenses incurred by any one covered person with respect to all diseases listed above is indicated in the Schedule of Benefits.

D. Benefits Payable. Catastrophic illness endorsement benefits are paid prior to benefits available under all other provisions of this contract, up to the Catastrophic Illness Endorsement lifetime maximum benefit, and shall be subject to the limitations of the Fee Schedule.

In the event a covered person has received the maximum amount payable under the Catastrophic Illness Endorsement, such person shall be eligible for benefits under the

Comprehensive Medical Benefits provisions of the Plan, to the extent such benefits remain unpaid.

E. Eligible Expenses. Eligible expenses under the Catastrophic Illness Endorsement are any expenses for which benefits are payable under Article 3, including services authorized under Article 3, Section IV. The difference between the allowable expense under Article 3, Section I, and the billed charges shall be considered an eligible expense under the Catastrophic Illness Endorsement, up to the Catastrophic Illness Endorsement lifetime maximum benefit, provided that billed charges in excess of the fee schedule shall not be considered an eligible expense.

F. Ineligible Expense. Expenses not eligible for reimbursement under the Catastrophic Illness Endorsement are:

1. any expense not eligible under Article 3, Section 1, except as noted above in Article 3, Section VI (E);
2. any expense incurred for outpatient prescription drugs; and
3. any expense incurred for mental health and/or substance abuse treatment.

James R. Plaisance  
Executive Director

9703#051

#### RULE

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

**Plan Document—Continuation of Coverage**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate Rules with respect thereto, the Board of Trustees amends the Plan Document of Benefits.

In order to implement changes included in the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), effective January 1, 1997, the board has amended Article 1, Section III, Subsection K, Paragraph 5 of the Plan Document of Benefits for the State Employees Group Benefits Program to read as follows:

"5. Effective January 1, 1997, if a Covered Employee or Covered Dependent is determined by Social Security, or by the State Employees Group Benefits Program staff in the case of a person who is ineligible for Social Security disability due to insufficient "quarters" of employment, to have been totally disabled on the date such person became eligible for continued coverage under this Section, or within the first 60 days thereafter, and such person elects to continue coverage pursuant to the provisions of Article 1, 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)(5) the Covered Person must:

\* \* \*

James R. Plaisance  
Executive Director

9703#050

#### RULE

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

**Plan Document—Emergency Room  
Facility Charges at Non-PPO Hospitals**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate Rules with respect thereto, the Board of Trustees amends the Plan Document of Benefits, as follows:

The board finds that it is necessary to amend the Plan Document to implement a higher benefit for those cases in which emergency treatment is received at an emergency room in a hospital which is outside the Group Benefits preferred provider network.

**Amendment Number 1** -- Amend the footnote indicated by "\*\*\*" SCHEDULE OF BENEFITS by adding a new Paragraph c to read as follows:

c. A Non-PPO Hospital will be paid, after applicable deductibles, at 80 percent of Eligible Expenses for Emergency Room Services provided at the Hospital Emergency Room and billed by that Hospital.

**Amendment Number 2** -- Amend Article 1, Section I, by adding a new Subsection OO to read as follows:

OO. The term *Emergency Room Services* as used herein shall mean Hospital services eligible for reimbursement, provided at a Hospital Emergency Room and billed by a Hospital, and provided on an expeditious basis for treatment of unforeseen medical conditions which, if not immediately diagnosed and treated, could reasonably result in physical impairment or loss of life.

**Amendment Number 3** -- Amend Article 3, Section X, Subsection B, by adding a new Paragraph 3 to read as follows:

3. A Non-PPO Hospital will be paid, after applicable deductibles, 80 percent of Eligible Expenses for Emergency Room Services provided at the Hospital Emergency Room and billed by that Hospital. The Plan Member has the responsibility for establishing that such treatment services were Emergency Room Services, as defined by the Program.

James R. Plaisance  
Executive Director

9703#049

# Notices of Intent

## NOTICE OF INTENT

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

**Registration of Pesticides (LAC 7:XXIII.13113)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides proposes to amend Regulations regarding standard registrations of pesticides. These Rules comply with and are enabled by R.S. 3:3203. No preamble regarding these proposed Rules is available.

### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticides

#### Chapter 131. Advisory Commission on Pesticides

#### Subchapter D. Registration of Pesticides

#### §13113. Standard Registrations

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of December each year. Application shall be made on forms or formats prescribed by the commissioner; or on forms or formats which have the prior, written approval of the commissioner.

1. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which the label has been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. two complete copies of the labeling of the pesticide, containing:
  - i. the specific name of each active ingredient in the pesticide;
  - ii. the percentage of the active ingredients in the pesticide;
  - iii. the percentage of the inert ingredients in the pesticide;
  - iv. the net contents of each package in which the pesticide will be sold;
  - v. a statement of claims made for the pesticide;
  - vi. directions for the use of the pesticide, including warnings or caution statements;

d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;

e. such other information as the commissioner may require.

2. Application for re-registration of a pesticide for which the label has not been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. such other information as the commissioner may require.

3. The registration requirements as described in LAC 7:XXIII.13113.A.1 shall be resubmitted for any pesticide for which the label has been changed within 60 days of the change.

B. Any registration may be denied by the commissioner if he determines that:

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;
2. the label on the pesticide does not comply with state and federal requirements;
3. use of the pesticide may produce unreasonable adverse effects on the environment;
4. information required in LAC 7:13113.A has not been furnished to the commissioner by the manufacturer.

C. Any pesticide registered in Louisiana must comply with the following:

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.
2. Each shipping container must bear the lot or batch number of the pesticide.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 23:192 (February 1997), LR 23:

Interested persons should submit written comments on the proposed Rules to Bobby Simoneaux through April 25, 1997, at 5825 Florida Boulevard, Baton Rouge, LA 70806.

A public hearing will be held on these proposed Rules on April 25, 1997 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

**Bob Odom  
Commissioner**

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Registration of Pesticides**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No costs or savings to state or local governmental units are anticipated to result from implementation of the proposed Rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue to state or local governmental units is anticipated to result from implementation of the proposed Rule amendment.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed Rule change will reduce cost to pesticide manufacturers because labels are only required to be resubmitted upon a change, not every five years and upon change as previous law required.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition or employment is anticipated.

Richard Allen  
Assistant Commissioner  
9703#021

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Agricultural Environmental Sciences  
Structural Pest Control Commission**

**Adjudicatory Hearing Violations (LAC 7:XXV.14121)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission proposes to amend Regulations regarding the violations which can be brought before the Structural Pest Control Commission at an adjudicatory hearing. These proposed Rules comply with and are enabled by R.S. 3:3366 and R.S. 3:3371. No preamble regarding these proposed Rules is available.

**Title 7**

**AGRICULTURE AND ANIMALS  
Part XXV. Structural Pest Control**

**Chapter 141. Structural Pest Control Commission  
§14121. Adjudicatory Proceedings of the Commission;  
Violations**

- A. - D.21 . . .
  - 22. operating faulty or unsafe equipment;
  - 23. operating in a faulty, careless, or negligent manner.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3366.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry,

Structural Pest Control Commission, LR 15: 957 (November 1989), LR 23:

Interested persons should submit written comments on the proposed Rules to Bobby Simoneaux through April 25, 1997 at 5825 Florida Boulevard, Baton Rouge, LA 70806.

A public hearing will be held on these proposed Rules on April 25, 1997 at 9 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Adjudicatory Hearing Violations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No costs or savings to state or local governmental units are anticipated to result from implementation of the proposed Rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue to state or local governmental units is anticipated to result from implementation of the proposed Rule amendment.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Structural pest control operators who are found in violation after an adjudicatory hearing for operating in a faulty, careless, or negligent manner or for operating faulty or unsafe equipment will have additional costs if subject to a penalty. No impact on receipts or income is anticipated to persons not found in violation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition or employment is anticipated.

Richard Allen  
Assistant Commissioner  
9703#020

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Structural Pest Control Commission**

**Wood Destroying Insects  
(LAC 7:XXV.Chapter 141)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend Regulations governing wood destroying insects. These proposed Rules comply with and are enabled by R.S. 3:3366.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons should submit written comments on the proposed Rule to Bobby Simoneaux through April 25, 1997, at 5825 Florida Boulevard, Baton Rouge, LA 70806.

A public hearing will be held on these proposed Rules on April 25, 1997 at 9 a.m. at the above address. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these proposed Rules is available.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Wood Destroying Insects**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule adopts a new Wood Destroying Insect Report (WDIR) form designated as LPCA 142. It also implements a training program for licensees and technicians and new Rules for conducting and processing the WDIR. The cost to the state for issuing licenses and printing, administering and grading approximately 1,600 tests in FY 97-98 is estimated to be \$40,000. These costs are estimated to be \$12,500 each subsequent year. The additional paperwork will consist of the application form and test forms. Operating expenses include cost of form design, printing, copies, electronic licensing and storage of applicant data.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The department (Structural Pest Control Commission) will collect approximately \$40,000 (1,600 tests at \$25 per person) in FY 97-98 and approximately \$12,500 in each of the following years (500 tests at \$25 per person).

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Each affected person will be required to attend a training course costing approximately \$15 and be tested and licensed at a cost of \$25 for a combined cost of \$40 per person. The training course will be conducted by the Louisiana Pest Control Association. It is estimated that there will be approximately 1,600 applicants in FY 97-98 (\$64,000) and approximately 500 applicants in each of the following years (\$20,000). The economic benefit will be derived from performing services for the public under the new WDIR Inspector category.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect on competition and employment is anticipated as a result of this Rule change.

Richard Allen  
Assistant Commissioner  
9703#059

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Civil Service  
Board of Ethics**

**Lobbyists Required Reporting**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics intends to adopt the following form, as required by R.S. 24:53G, which will enable lobbyists to file semi-annual expenditure reports.

**LOBBYING EXPENDITURE  
REPORT**

COVERING JANUARY 1 THROUGH JUNE 30  
DUE AUGUST 15

COVERING JULY 1 THROUGH DECEMBER 31  
DUE FEBRUARY 15

**Lobbyist's  
Registration  
Number** \_\_\_\_\_

**FOR  
OFFICE  
USE ONLY**  
Postmark  
Date: \_\_\_\_\_

**Instructions**

- Print in ink or type.
- Fill in Registration Number in spaces provided.
- Complete form, have it notarized and return to the Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809, (504) 922-1400
- This form must be delivered or postmarked by the due date.
- This form may be faxed to (504) 922-1414. The original should be forwarded on the day of fax transmittal.

1. NAME \_\_\_\_\_  
Last First MI

2. BUSINESS ADDRESS \_\_\_\_\_  
Street and Number

City State Zip

MAILING ADDRESS \_\_\_\_\_

3. BUSINESS PHONE \_\_\_\_\_  
Area Code and Telephone Number

4. Total of all expenditures made January 1 through June 30: \$ \_\_\_\_\_  
(Include expenditures from Schedules A and B)

5. Total of all expenditures made July 1 through December 31: \$ \_\_\_\_\_  
(When Applicable) (Include expenditures from Schedules A and B)

6. Total of all expenditures made during calendar year: \$ \_\_\_\_\_  
(Line 4 added with Line 5 should equal Line 6)

7. Did you make an expenditure exceeding \$50 on one occasion for any one legislator:

From January 1 through June 30?  Yes  No  
From July 1 through December 31?  Yes  No  NA

If the answer to either question in Number 7 above is YES, please complete Schedule A and attach.

8. Did you make expenditures exceeding the sum of \$250 for any one legislator:

From January 1 through June 30?  Yes  No  
 From July 1 through December 31?  Yes  No  NA

If the answer to either question in Number 8 above is YES, please complete Schedule A and attach.

9. Did you expend funds for a reception, social gathering, or other function to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus, or any delegation thereof were invited during the reporting period?  
 Yes  No

If the answer to Number 9 above is YES, please complete Schedule B and attach.

State of \_\_\_\_\_

Parish of \_\_\_\_\_

Before me, the undersigned authority, personally came and appeared \_\_\_\_\_, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

\_\_\_\_\_  
 Signature of Lobbyist

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public

SCHEDULE B: EXPENDITURES FOR RECEPTIONS, ETC.			
This Schedule must be completed if you answered YES to question 9 on the Lobbying Expenditure Report. The following information must be provided for all receptions, social gatherings, or other functions to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus, or any delegation thereof, was invited.			
1. NAME(S) OF GROUP(S) INVITED	2. DATE OF RECEPTION	3. LOCATION OF RECEPTION	4. TOTAL AMOUNT OF EXPENDITURES FOR ATTENDING LEGISLATORS*

\*No amount expended on persons other than attending legislators is reportable.

No preamble to the proposed form has been prepared. Interested persons may direct their comments to Patricia H. Douglas, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, (504) 922-1400, until April 10, 1997.

R. Gray Sexton  
 Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
 FOR ADMINISTRATIVE RULES  
 RULE TITLE: Lobbyists Required Reporting**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
 The only estimated costs will be \$300 of postage costs to mail the form to registered lobbyists. This cost will be absorbed by the budget of the Ethics Administration Program
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
 No effect by promulgation of this form.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
 Persons who may be affected by this proposed form are registered lobbyists. It is impossible for this agency to assign a dollar amount to each lobbyist's time required to complete the form. Timely filing of these forms will prevent automatic fines on lobbyists.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
 No effect.

R. Gray Sexton  
 Executive Secretary  
 9703#063

Richard W. England  
 Assistant to the  
 Legislative Fiscal Officer

SCHEDULE A: EXPENDITURES FOR LEGISLATORS			
This Schedule must be completed if you answered YES to either question 7 or 8 on the Lobbying Expenditure Report. If, during the period January 1 through June 30 or the period July 1 through December 31, you made either a) an expenditure for any one legislator exceeding \$50 on any one occasion or b) aggregate expenditures exceeding \$250 for any one legislator during a reporting period, then you must provide the aggregate total of expenditures made on that legislator in that reporting period.			
1. LEGISLATOR'S NAME	2. AMOUNT OF EXPENDITURES MADE ON A LEGISLATOR FOR WHOM YOU EITHER SPENT OVER \$50 ON ONE OCCASION OR MADE EXPENDITURES EXCEEDING \$250 BETWEEN JANUARY 1 AND JUNE 30	3. AMOUNT OF EXPENDITURES MADE ON A LEGISLATOR FOR WHOM YOU EITHER SPENT OVER \$50 ON ONE OCCASION OR MADE EXPENDITURES EXCEEDING \$250 BETWEEN JULY 1 AND DECEMBER 31	4. TOTAL OF COLUMNS 2 AND 3

## NOTICE OF INTENT

### Department of Economic Development Office of Financial Institutions

#### Depository Institution Records Retention (LAC 10:I.701 and LAC 10:III.111)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:127, the commissioner of the Office of Financial Institutions gives notice of intent to repeal the Rule promulgated in the *Louisiana Register*, Volume 9, Pages 680-683 (October 1983) regarding bank records retention schedules and adopt a Rule providing for a record retention schedule for all depository institutions subject to the supervision of the commissioner. This proposed Rule significantly streamlines the existing record retention Rule by requiring that applicable institutions maintain minimum records and retention periods as deemed necessary by the commissioner for the proper examination and supervision of the institution by this office.

#### Title 10

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

#### Part I. Financial Institutions

#### Chapter 7. Records Retention

#### §701. Records Retention Schedule

Each depository institution subject to the regulation and supervision of the Office of Financial Institutions shall retain such minimum records which are deemed necessary for the examination and supervision of such institutions by this office and for such minimum retention periods as determined by the commissioner and set forth in a "record retention schedule." This Rule does not replace the institution's responsibility to create, implement, and maintain its own comprehensive record retention program, consistent with the institution's strategic goals and objectives. Such records may be retained in various forms including but not limited to hard copies, photocopies, computer printouts or microfilm, microfiche, imaging, or other types of electronic media storage that can be readily reproduced into hard copies.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:127.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 23:

#### Part III. Banks

#### Chapter 1. General Provisions

#### §111. Retention of Banking Records

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:170.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:680 (October 1983), repealed by the Department of Economic Development, Office of Financial Institutions, LR 23:

All interested persons are invited to submit written comments on this proposed Rule no later than 5 p.m., April 20, 1997 to Joseph P. Gardner, Deputy Chief Examiner, Office of Financial Institutions, Box 94095, Baton Rouge, LA

70804-9095, or by hand delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

Larry L. Murray  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Depository Institution Records Retention

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The only anticipated cost associated with the implementation of this proposed Rule is the \$160 publication cost in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There is a potential cost savings to those depository institutions affected by the revised Rule due to the new, abbreviated record retention schedule. In addition, such institutions may experience cost savings in their ability to retain records in various forms of storage, such as electronic medium, imaging, microfiche, microfilm, etc., which equates to less storage space.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Larry L. Murray  
Commissioner  
9703#038

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Economic Development Office of Financial Institutions

#### Fees and Assessments (LAC 10:I.201-205)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as provided under R.S. 6:126(A), the commissioner of the Office of Financial Institutions gives notice of intent to amend the Rule originally promulgated in December 1993, and subsequently amended in October 1995 and March 1997; and repromulgate the Rule in its entirety. The commissioner proposes to eliminate the following in the proposed Rule:

1. the relocation fee for a main office or a branch office;
2. the fee charged banks, savings and loan associations and savings banks for the establishment of a loan or trust production office;
3. the fee charged to obtain a replacement charter or branch certificate;
4. the fee charged to exceed the legal lending limit to finance the sale of other real estate;

5. the fee for the filing of an agreement for substitution of fiduciary between two or more financial institutions authorized to exercise fiduciary powers; and

6. the fee imposed for the late filing of a call report or thrift financial report.

Also proposed is a reduction of the fee charged for the conversion of a national bank or federal savings and loan association or savings bank to a state-chartered bank, savings and loan association or savings bank. Also proposed is a clarification of the fee for the acquisition of a Louisiana-domiciled bank by an in-state or out-of-state financial institution holding company to include Louisiana-domiciled savings and loan associations and savings banks. Additionally, an applicant may now request a reduction of the applicable fees when filing multiple, simultaneous applications.

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT INVESTMENT SECURITIES AND UCC**

**Part I. Financial Institutions  
(formerly Part I. Banks)**

**Chapter 2. Fees and Assessments**

**§201. General Provisions**

The Depository Institutions Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered banks, savings and loan associations, savings banks and credit unions for services rendered. All fees detailed in this Rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may request that a reduced fee be charged for the simultaneous filing of multiple applications. This privilege will not be afforded to applications that will not be expected to be consummated within 12 months of the filing date.

**AUTHORITY NOTE:** Promulgated in accordance with LSA-R.S. 6:121(B)(1) and 6:126(A).

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 23:

**§203. Establishment of Fees and Assessments**

DESCRIPTION	FEE
A. For the reservation of a corporate name of a state bank, savings and loan association, or savings bank.	\$100
B. Application for a de novo state bank, savings and loan association or savings bank charter, or the merger or consolidation of two banks, savings and loan associations, or savings banks. The fee for a merger or consolidation may be reduced based on certain factors including, but not limited to: the date of each institution's most recent examination, the financial condition of the applicant, the structure of the institutions, the complexity of the transaction, the number of similar transactions contemplated, and any other factor(s) as determined by the Commissioner of Financial Institutions.	\$10,000; \$5,000 for each additional institution affected.
C. The conversion from a national or federally-chartered depository institution to a state-chartered depository institution.	\$1,500

D. Application for a state bank, savings and loan association or savings bank for a branch office.	standard form: \$1,000 short form: \$250
E. Processing fee for an application to acquire a failing or failed institution. If the applicant is the successful bidder, the processing fee will be applied to the application fee(s) as set forth in B. and D. above:	
1. Existing state-chartered financial institution.	\$500 per branch
2. De Novo state-chartered financial institution.	\$5,000
F. Application for a state bank, savings and loan association, or savings bank for an off-site electronic financial terminal machine.	\$100
G. Application for a conversion or merger of a state-chartered bank, savings and loan association, or savings bank into a national bank, a federal savings and loan association, or a federal savings bank.	\$1,500
H. Application for the organization and/or merger of a stock or mutual holding company for an already existing bank, savings and loan association, or savings bank (phantom).	\$2,000
I. Special examination fee for a state bank, savings and loan association, or savings bank. Fee per examiner.	\$50/hour
J. Semi-annual assessment of each state-chartered bank, savings and loan association, and savings bank at a floating rate to be assessed no later than June 30 and December 31, to be based on the total consolidated average assets, for the preceding quarter. Not applicable to Trust Banks. Any amounts collected in excess of actual expenditures of the OFI shall be credited or refunded on a pro-rata basis. Any shortages in assessments to cover actual operating expenses of OFI shall be added to the next variable assessment or billed on a pro-rata basis.	Variable
K. Annual assessment of each holding company domiciled in and/or operating in Louisiana, to be assessed no later than September 30 of each year to be based upon the holding company's total consolidated assets as of the previous June 30, in accordance with the following schedule.	
1. Assets less than \$100,000,000	\$350
2. Assets of \$100,000,000 to \$149,999,999	\$500
3. Assets of \$150,000,000 or greater	\$650
L. Examination fee for holding companies of each bank, savings and loan association, or savings bank domiciled in and/or operating in Louisiana. Fee per examiner.	\$50/hour
M. Semi-annual assessment for each bank limited to the exercise of trust powers only and domiciled and operating in Louisiana to be assessed no later than June 30 and December 31.	\$500
N. Examination fee for each trust bank domiciled and operating in Louisiana. Fee per examiner.	\$50/hour

O. Examination fee for a trust department of a state-chartered bank, savings and loan association, or savings bank. Fee per examiner.	\$50/hour
P. Examination of the registered transfer agent activities of a state-chartered bank, savings and loan association, or savings bank. Fee per examiner.	\$50/hour
Q. Review of a restatement and/or amendment to the Articles of Incorporation of a state-chartered bank, savings and loan association or savings bank.	\$250
R. Application by a state-chartered bank, savings and loan association, or savings bank to exercise trust powers and/or re-institute trust powers formerly surrendered.	\$1,000
S. Application by a state-chartered bank, savings and loan association, or savings bank to establish or acquire a subsidiary or service corporation.	\$1,000
T. Application by an in-state or out-of-state holding company to acquire a Louisiana bank, savings and loan association, or savings bank, or a holding company thereof, or an out-of-state holding company with a Louisiana bank, savings and loan or savings bank subsidiary(-ies).	\$1,000; \$11,000 if de novo charter also required.
U. Corporate Credit Union Examination Fee.	\$5,000 plus \$400 per day per examiner.
V. Application by a state-chartered bank, savings and loan association, or savings bank to merge with its parent holding company.	\$1,000
W. Processing fee for a certificate of authority filed by a state-chartered savings and loan association or savings bank not domiciled in Louisiana to operate a branch in Louisiana.	\$1,000
X. Application for conversion by any state-chartered depository institution to another state charter.	\$1,500
Y. Application for the voluntary conversion of a depository institution from a mutual to a stock form (equity ownership).	\$1,500
Z. - AE. Repealed.	

**AUTHORITY NOTE:** Promulgated in accordance with LSA-R.S. 6:126(A), 6:212 and 6:646(B)(5).

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1546 (December 1993), amended LR 21:1069 (October 1995), LR 23:

**§205. Administration**

The commissioner may increase any of the above fees when a combination of two or more of the transactions described above occur, said fee not to exceed the lesser of \$50 per hour, or the combined fees as stated above.

**AUTHORITY NOTE:** Promulgated in accordance with LSA-R.S. 6:121(B)(1) and 6:126(A).

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19:1546 (December 1993), repromulgated LR 23:

All interested persons are invited to submit written comments on this proposed Rule no later than 5 p.m., April 20, 1997, to John P. Ducrest, Deputy Chief Examiner, Office

of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, or by hand-delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

Larry L. Murray  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Fees and Assessments**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The only anticipated cost associated with the implementation of this Rule is the \$160 publication cost in the *Louisiana Register*.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on the revenue collections of state or local governmental units. In addition to fee income, this office charges a variable assessment on financial institutions in order to cover our costs of operation. The amount of the assessment is calculated by first estimating expenditures for the next six-month period. From this estimate, expected fee income is subtracted to yield the amount which will be assessed. Therefore, all fee income lost will be offset by a proportional increase in the variable assessment charged to banks, savings and loan associations, and savings banks.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed revision will have a neutral effect on the entities covered by this Rule with respect to any estimated costs. The proposed revision will have no effect on the economic benefits of the entities covered by this Rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Larry L. Murray  
Commissioner  
9703#037

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

**Scholarship and Grant Policy and Procedure Manual**

The Student Financial Assistance Commission (LASFAC) hereby proposes to amend the Glossary of the Scholarship and Grant Policy and Procedure Manual, issued May 20, 1996.

"Academic Year (High School):

For purposes of the Louisiana Honors Scholarship Program, the annual academic year for high school begins with the summer session, includes the fall and winter terms and ends at the conclusion of the spring term, in that order.

For example: for a high school graduate to be considered for award of the scholarship to attend college in the 1996 fall term, he or she must have graduated from high school

during the summer term 1995 (usually June or July), mid-term 1995 (usually December), or the spring term 1996 (usually May or June).

This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Bulletin 741."

LASFAC supplies copies of the manual to schools participating in the scholarship and grant programs administered by the commission.

Interested persons may submit written comments on the proposed amendment until 4:30 p.m., May 20, 1997, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Scholarship and Grant Policy and Procedure Manual

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs are anticipated to correct this error in the glossary of the Scholarship and Grant Policy and Procedure Manual. The manual text itself (V.D.1.C.i.) specifies that eligible recipients must receive a high school diploma from the institution during the academic year preceding the award year.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections are anticipated to result from this correction.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Administrators and Louisiana Honors Scholarship recipients will not be confused by the mistaken wording in the glossary definition of high school academic year in the manual.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated to result from this correction.

Jack L. Guinn  
Executive Director  
9703#025

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Tuition Trust Authority Office of Student Financial Assistance

#### Student Tuition Assistance and Revenue Trust (START Saving) Program (LAC 28.VI)

The Louisiana Student Trust Authority (LATTA) advertises its intention to adopt Rules governing the Student Tuition Assistance and Revenue Trust (START Saving) Program.

The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in the 1995 Regular Legislative Session as Act 547, effective June 18,

1995. The Internal Revenue Code (IRC) Section 529 provides tax incentives for those state tuition savings and prepayment programs meeting the definition of a qualified state tuition program. Amendments to Act 547 are being proposed to conform the statute with the IRC. Implementation of these START Saving Program Rules is contingent upon the enactment of conforming changes.

#### I. Program Description and Purpose

The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to help make education affordable and accessible to all citizens of Louisiana; to assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions; to provide the citizens of Louisiana with financing assistance for education and protection against rising tuition costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education; to encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and to encourage recognition that financing an education is an investment in the future.

The START Saving Program establishes education savings accounts by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated beneficiary or a group of beneficiaries. In addition to earning regular interest at competitive rates, certain accounts are also eligible for tuition assistance grants provided by the state to help offset the beneficiary's cost of postsecondary tuition. The grant amount is determined by the account owner's annual income and total annual deposits of principal.

#### II. Legislative Authority

Act Number 547, of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as Chapter 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3091 - 3099.2).

#### III. Program Administration

The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the House of Representatives and state Senate. The LATTA administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA). LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTA.

#### IV. Applicable Definitions

4.1 *Beneficiary*—the person named in the education savings account depositor's agreement as the individual entitled to apply the account balance, or portions thereof,

toward payment of their postsecondary qualified higher education expenses.

**4.2 Depositor's Agreement**—the agreement for program participation executed by the account owner which incorporates, by reference, R.S. Chapter 22-A, Title 17, and the Rules promulgated by the LATTA to implement this statute and any other state or federal law applicable to the agreement.

**4.3 Education Assistance Account (EAA)**—an account which is eligible for tuition assistance grants and is established on behalf of a designated beneficiary by a parent, grandparent, legal guardian, or person claiming the beneficiary as a dependent on their federal income tax, or by an independent undergraduate on his own behalf.

**4.4 Education Savings Account**—a comprehensive term which refers to the two types of accounts that may be established under the program: an education assistance account and an education scholarship account.

**4.5 Education Scholarship Account (ESA)**—an account which is not eligible for tuition assistance grants and is established on behalf of a beneficiary or beneficiaries by a person or organization other than a parent, grandparent, legal guardian, independent student or person claiming the beneficiary or beneficiaries as dependent(s) on that person's or organization's federal income tax return.

**4.6 Eligible Educational Institution**—either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education or a proprietary school licensed pursuant to Chapter 24-A of this Title, and any subsequent amendments thereto.

**4.7 Emergency Refund**—a refund of the redemption value of an account due to an unforeseen event which has adversely impacted the account owner, such as termination of employment, death, or permanent disability and resulted in a severe reduction in income or extraordinary expenses.

**4.8 Enrollment Period**—that period designated by the LATTA during which applications for enrollment in the START program will be accepted by the LATTA.

**4.9 False or Misleading Information**—a statement or response made by a person which is knowingly false or misleading and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

**4.10 Family Member**—in reference to the account beneficiary:

- (a) an ancestor of such individual;
- (b) the spouse of such individual;
- (c) a lineal descendant of such individual, of such individual's spouse or parent of such individual or the spouse of any lineal descendant described herein. A legally adopted child of an individual shall be treated as a lineal descendant of such individual.

**4.11 Fully Funded Account**—an account having a redemption value equal to or greater than five times the

annual tuition at the highest cost Louisiana public college or university projected to the scheduled date of the beneficiary's first enrollment in an eligible educational institution. An account which is "fully funded" is no longer eligible for accrual of tuition assistance grants. However, if subsequent cost projections result in the fully funded amount being more than the account balance, then tuition assistance grants may resume until the level of the most recent fully funded account projection has been met.

**4.12 Independent Student**—a person who is defined as an independent student by the Higher Education Act of 1965, as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an education assistance account.

**4.13 Louisiana Tuition Trust Authority (LATTA)**—the statutory body responsible for the administration of the START Saving Program.

**4.14 Louisiana Office of Student Financial Assistance (LOSFA)**—the organization responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

**4.15 Louisiana Resident**—any person who resided in the state of Louisiana continuously during the 12 months immediately prior to the date of application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

- A. if registered to vote, is registered to vote in Louisiana;
- B. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
- C. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
- D. if earning an income, has complied with state income tax laws and regulations.

A member of the Armed Forces stationed outside of Louisiana, but who claims Louisiana as his "home of record" and is in compliance with Subparagraph D above, is exempt from the requirement of continuous residence in the state during the 12 months preceding the date of completion of the depositor's agreement.

A member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation.

Persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements.

**4.16 Maximum Allowable Account Balance**—the amount projected to equal five times the annual qualified higher education expenses, including tuition, at the eligible educational institution selected projected to the scheduled date of the beneficiary's first enrollment in that institution. In the event no specific eligible educational institution is named by the account owner, the maximum allowable account balance amount is projected to equal five times the annual qualified higher education expenses, including tuition, at the highest cost public institution in the state, projected to the scheduled date of the beneficiary's first enrollment. Once the redemption value of an education assistance account equals or

exceeds the maximum allowable account balance, principal deposits will no longer be accepted for the account. However, if subsequent projections increase the maximum allowable account balance, principal deposits may resume until the most recent maximum allowable account balance has been attained.

**4.17 Owner of Account**—the person(s), independent student, organization or group that completes a depositor's agreement on behalf of a beneficiary or beneficiaries and is the owner of record of all funds credited to the account.

**4.18 Qualified Higher Education Expenses**—tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible institution of postsecondary education.

**4.19 Rate of Expenditure**—the rate [see Section 8.3] per academic year, at which tuition assistance grants may be disbursed from an education assistance account to pay the beneficiary's cost of tuition, or portion thereof, at an eligible educational institution.

**4.20 Refund Recipient**—the person authorized by the depositor's agreement, or by operation of law, to receive refunds from the account.

**4.21 Redemption Value**—the cash value of an education savings account attributable to the sum of the principal invested, the interest earned on principal and authorized to be credited to the account by the LATTA, any tuition assistance grants appropriated by the Legislature and authorized by the LATTA to be allocated to the account and the interest earned on tuition assistance grants, less any tuition assistance grants or interest thereon restricted from expenditure and less any penalties required by *Internal Revenue Code*, Section 529.(b)(3). If the account has a redemption value after the beneficiary has completed his educational program, this excess value shall be treated as a refund.

**4.22 Scheduled Date of First-Enrollment**—for a dependent beneficiary, is the month and year in which the beneficiary turns 18 years of age. For an independent student, the scheduled date of first-enrollment is the expected date of enrollment reported by the independent student beneficiary. This date is used to determine eligibility for tuition assistance grants. See the term "*Fully Funded Account*."

**4.23 Tuition**—the mandatory educational charges required as a condition of enrollment and is limited to undergraduate enrollment. It does not include nonresidence fees, laboratory fees, room and board nor other similar fees and charges.

**4.24 Tuition Assistance Grant**—a payment allocated to an education assistance account, on behalf of the beneficiary of the account, by the state. The grant amount is calculated based upon the account owner's annual adjusted gross income and total annual deposits of principal. The grant and interest earned may only be used to pay the beneficiary's tuition, or portion thereof, at an eligible in-state institution.

## V. Establishing an Education Savings Account

Except where otherwise provided, all terms, conditions, and limitations in this Chapter shall apply to both education assistance accounts and education scholarship accounts.

**5.1 Education Assistance Accounts (EAA).** An Education Assistance Account is an Education Savings Account eligible for tuition assistance grants, which is established on behalf of a designated beneficiary by a parent, grandparent, legal

guardian or the person claiming the designated beneficiary of the account as a dependent on their federal income tax return, or by an independent student on his own behalf.

**5.1.1 Program Enrollment Period.** All eligible beneficiaries may be enrolled between July 1 and November 1 of each year. In addition to the July 1 through November 1 enrollment period, the enrollment period is open 12 months a year for those depositors' agreements completed prior to the named beneficiary's first birthday.

**5.1.2 Completing the Depositor's Agreement.** This agreement must be completed, in full, by the account owner. The owner shall designate a beneficiary. The owner may designate a limited power of attorney to another person who would be authorized to act on the owner's behalf, in the event the owner became incapacitated. The legal spouse of the owner may be listed as co-owner of the account. Transfer of account ownership is not permitted. Only the owner(s) or the beneficiary may be designated to receive refunds from the account.

**5.1.3 Agreement to Terms.** Upon executing a depositor's agreement, the account owner certifies that he understands and agrees to the following statements:

A. admission to a postsecondary educational institution; participation in the START Program does not guarantee that a beneficiary will be admitted to any institution of postsecondary education;

B. payment of full tuition; participation in the START Program does not guarantee that the full cost of the beneficiary's tuition will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

C. maintenance of continuous enrollment; once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion;

D. guarantee of redemption value; the LATTA guarantees payment of the redemption value of any Education Savings Account, subject to the limitations imposed by R.S.17:3098;

E. conditions for payment of education expenses; payments for qualified higher education expenses under the START Saving Program are conditional upon the beneficiary's acceptance and enrollment at an eligible educational institution;

F. fees; except for penalties that may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of an account; financial institutions may be authorized by the LATTA to offer assistance in establishing a START Program account;

**5.1.4 Acceptance of the Depositor's Agreement.** A depositor's agreement will be accepted upon evidence of the following:

A. proof of citizenship and residency as defined by Subparagraphs 5.1.5 and 5.1.6;

B. completion and submission of the depositor's agreement;

C. receipt by the LATTA of the initial deposit amount required to open an account;

D. acceptance by the LATTA of the signed depositor's agreement. Upon acceptance of the depositor's agreement, the LATTA will establish and credit the account of the named beneficiary with the amount of the initial deposit.

**5.1.5 Citizenship Requirements.** Both the account owner and beneficiary must meet the following citizenship requirements:

- A. be a United States citizen, or
- B. be a permanent resident of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and provide copies of INS documentation with the submission of the depositor's agreement.

**5.1.6 Residency Requirements.** On the date an account is opened, meaning an initial deposit has been made and accepted, either the account owner or his designated beneficiary must be a Louisiana resident, as defined in Section 4.15 of these Rules. If the owner indicates Louisiana residency, he must provide proof of same with the submission of the depositor's agreement. Proof of residency of the account owner may be indicated by supplying copies of one or more of the documents listed in this Section that show continuous residency in the state of Louisiana for the preceding 12 months:

- A. Louisiana voter's registration card;
- B. Louisiana driver's license;
- C. Louisiana motor vehicle registration;
- D. homestead exemption;
- E. utility bills at the same residence;
- F. professional or occupational license;
- G. proof of full-time Louisiana employment.

If the account owner is a member of the Armed Forces stationed in Louisiana under permanent change of station orders, he must provide a copy of such orders.

If the account owner is a nonresident of the state of Louisiana, he must provide proof that the named beneficiary is a Louisiana resident. Proof of residency for beneficiaries less than 18 years of age may be indicated by supplying copies of one or more of the following documents:

- A. under the age of 1 at the time the completed depositor's agreement is received:
  - 1. a birth certificate indicating the beneficiary was born in Louisiana;
  - 2. any item listed under Subparagraph B;
- B. between 1 year of age and kindergarten enrollment:
  - 1. a progress report form from the child's preschool or day care center indicating 12 months of residency;
  - 2. in the event there exist no records on the beneficiary, the beneficiary will be considered a Louisiana resident if the beneficiary resides with and is dependent upon one or more persons who provide documentation of residency listed in this Section;
- C. school aged children from kindergarten to twelfth grade:
  - 1. a school report card or transcript from a Louisiana public or private school;
  - 2. in the event school documents are unavailable, the beneficiary will be considered a Louisiana resident if the

beneficiary resides with and is dependent upon one or more persons who provide documentation of residency as listed in this Section.

The determination of residency shall be based upon verifiable circumstances or actions and certified true copies of relevant documentation. The LATTA may request additional documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

**5.1.7 Providing Personal Information.** The account owner is required to disclose personal information in the depositor's agreement, including his Social Security Number; the designated beneficiary's Social Security Number; the beneficiary's date of birth; the familial relationship between the owner and the designated beneficiary; the owner's prior year's adjusted gross income amount as reported to the Internal Revenue Service and by signing the agreement provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue and Taxation. Social Security Numbers will be used for purposes of federal income tax reporting and to access individual account information for administrative purposes [see Section 11.5].

**5.1.8 First Disbursement Restriction.** A minimum of one year must lapse between the date the owner makes the first deposit opening an account and the first disbursement from the account to pay a beneficiary's qualified higher education expenses, which will normally be the beneficiary's projected scheduled date of first-enrollment in an eligible educational institution.

**5.1.9 Number of Accounts for a Beneficiary.** There is no limit on the number of education savings accounts that may be opened for one beneficiary by different account owners; however, the sum total of funds in all accounts for the same beneficiary may not exceed the maximum allowable account balance for that beneficiary and the sum of all education assistance accounts will be used to determine when these accounts are fully funded for the purpose of earning tuition assistance grants.

**5.2 Education Scholarship Accounts (ESA)**  
Reserved.

## **VI. Deposits to Education Savings Accounts**

**6.1 Application Fee and Initial Deposit Amount.** No application fee will be charged to participants applying for a START Program account directly to the LATTA. Financial institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. An initial deposit of at least \$10 is required to open an education savings account and the initial and all subsequent deposits must be rendered in whole dollar amounts of at least that amount. A lump sum deposit may not exceed the maximum allowable account balance [see Section 4.16].

**6.2 Deposit Options.** The account owner shall select one of the following deposit options during the completion of the depositor's agreement; however, the owner may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

- A. occasional lump sum payment(s);
- B. monthly payments made directly to the LATTA or to a LATTA-approved financial institution;
- C. automatic account debit, direct monthly transfer from the owner's checking or savings account to the LATTA;
- D. payroll deduction, if available through the owner's employer.

Account owners are encouraged to maintain a schedule of regular monthly deposits. After acceptance of the depositor's agreement and annually thereafter, the LATTA will project the amount of the monthly deposit that will assure the account owner of sufficient savings to meet the qualified higher education expenses of the beneficiary at the scheduled date of enrollment at the selected institution, or the highest cost public institution if one was not pre-selected.

**6.3 Limitations on Deposits.** All deposits must be rendered in whole dollar amounts of at least \$10 and must be made in cash (check, money order, credit or debit card), defined as any of the deposit options listed in Section 6.2. A minimum of \$100 must be deposited annually for the account to be considered for award of state tuition assistance grants. Once the account becomes fully funded [see Section 4.11], it will no longer be considered for tuition assistance grants, regardless of the total amount of annual deposits made to the account. Once the redemption value has reached or exceeded the maximum allowable account balance [see Section 4.16], principal deposits will no longer be accepted to the account.

**VII. Allocation of Tuition Assistance Grants**

Tuition assistance grants are state-appropriated funds allocated to an education assistance account, on behalf of the beneficiary named in the account. The grants are calculated based upon the account owner's annual adjusted gross income and total annual deposits of principal. Although allocated to individual accounts, tuition assistance grants are state funds and shall be held in an escrow account maintained by the state treasurer until the beneficiary attends an eligible institution as set forth in Section 7.7.

**7.1 Providing Proof of Annual Adjusted Gross Income.** The account owner's annual adjusted gross income is used in computing the annual tuition assistance grant allocation. To be eligible in any given year for a tuition assistance grant, the account owner of an education assistance account must authorize the LATTA to access the owner's state tax return filed with the Louisiana Department of Revenue and Taxation, or provide the LATTA a copy of his federal income tax return filed for that year. In completing the depositor's agreement, the account owner of an education assistance account authorizes the LATTA to access his records with the Louisiana Department of Revenue and Taxation. In the event the account owner will not file his tax information with the Louisiana Department of Revenue and Taxation by their May 15 deadline, he must provide the LATTA with a copy of the form filed with the Internal Revenue Service (Form 1040, 1040A, 1040EZ, or 1040TEL), or a notarized statement as to why no income tax filing was required of the owner. To ensure timely allocation of tuition assistance grants to the account, the owner should provide these documents prior to

July 1 following the applicable tax year. If the account owner fails to provide the required tax documents by December 31 of the year following the taxable year, the account shall not be allocated a tuition assistance grant for the year being considered.

**7.2 Availability of Tuition Assistance Grants.** The availability of tuition assistance grants to be allocated to education assistance accounts is subject to an appropriation by the Louisiana Legislature. In the event that sufficient grants are not appropriated during any given year, the LATTA shall reduce tuition assistance grant rates, pro rata, as required to limit grants to the amount appropriated.

**7.3 Tuition Assistance Grant Rates.** The tuition assistance grant rates applicable to an education assistance are determined by the adjusted gross income of the account owner, according to the following schedule:

Reported Adjusted Gross Income	Tuition Assistance Grant Rate*
0 to \$14,999	14 percent
\$15,000 to \$29,999	12 percent
\$30,000 to \$44,999	10 percent
\$45,000 to \$59,999	8 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	0 percent

\*Rates may be reduced pro rata, to limit grants to amounts appropriated by the Legislature.

**7.4 Restrictions on Allocation of Tuition Assistance Grants to Education Assistance Accounts.** The allocation of tuition assistance grants is limited to education assistance accounts which:

- A. have principal deposits totaling at least \$100 annually;
- B. have an owner's reported adjusted gross income of less than \$100,000;
- C. have a redemption value that is less than that of a fully funded account [see Section 4.11].

**7.5 Frequency of Allocation of Tuition Assistance Grants to Education Assistance Accounts.** Tuition assistance grants will be allocated annually and reported on the July 1 quarterly statement, or no later than the second statement following the owner's required disclosure of his or her prior year's federal adjusted gross income.

**7.6 Rate of Interest Earned on Tuition Assistance Grants.** The rate of interest earned on tuition assistance grants shall be the rate of return earned on the Tuition Assistance Fund as reported by the state treasurer.

**7.7 Restriction on Use of Tuition Assistance Grants.** Tuition assistance grants, and any interest which may accrue thereon, may only be expended in payment of the beneficiary's tuition, or a portion thereof, at an eligible educational institution located in the state of Louisiana. Tuition assistance grants may not be used at an out-of-state

eligible educational institution, nor may they be used to pay for any qualified higher education expenses other than tuition. Tuition assistance grants, although allocated to a beneficiary's account and reported on the account owner's quarterly statements, are assets of the state of Louisiana until expended to pay a beneficiary's tuition at an eligible Louisiana institution. Tuition assistance grants are not the property of the account owner or beneficiary. The amount of tuition assistance grants which may be expended during a given term is determined by the length of the program in which the beneficiary actually enrolls [see Section 8.3].

#### **VIII. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary**

**8.1 Enrollment Notification.** The designated beneficiary of an education assistance account must notify the LATTA of the name and address of the institution at which he has enrolled using the Notice of Enrollment form. The Notice of Enrollment form should be completed and returned as soon as the beneficiary has determined which institution he will attend and must be returned at least 60 days prior to the beginning of the term for which benefits are to be utilized to ensure timely notification of available benefits to the beneficiary and the educational institution.

**8.2 Statement of Available Funds.** Upon receipt of the Notice of Enrollment, the LATTA will forward to both the beneficiary and the institution, a statement specifying the amount of tuition assistance grants which may be expended from the account for the specified academic term, and the balance of the account which may be expended for any remaining qualified higher education expenses that may be billed by the institution.

**8.3 Rate of Expenditure of Tuition Assistance Grants.** To determine the beneficiary's allowable rate of expenditure of tuition assistance grants from an education assistance account, the total of tuition assistance grants and interest earned thereon which has been allocated to the account, is divided by the number of years, or the number of remaining years, in the program in which the beneficiary enrolled or is attending, meaning the number of years to complete an undergraduate certificate, associate degree, or bachelor's degree program as defined by the institution, not to exceed four years. The amount so calculated or the actual tuition, whichever is less, is the amount of tuition assistance grants which may be expended for the academic year. If the student is attending a semester institution, the amount shall be divided by 2 to determine the amount allowable each semester; if attending a quarter institution the amount shall be divided by 3 to determine the amount allowable each quarter.

**8.4 Expenditure of Principal and Interest.** The balance of principal and earned interest in an education savings account may be expended as authorized by the beneficiary to pay his qualified higher education expenses billed by the institution.

**8.5 Payments to Eligible Educational Institutions.** After the final date for adding or dropping courses without penalty, the institution may bill the START program for the qualified higher education expenses of the beneficiary, up to the amounts specified in the Statement of Available Funds. Upon reconciliation of institutional billing statements, the LATTA

will disburse funds from the appropriate accounts, consolidate and forward payment directly to the institution. The LATTA will make all payments for qualified higher education expenses directly to the eligible educational institution. No payments for qualified higher education expenses shall be disbursed directly to the beneficiary.

**8.6 Withdrawal During the Academic Term.** If the designated beneficiary of an education savings account withdraws from the institution prior to the end of the academic term and withdrawals from the education savings account have been used to pay all or part of his qualified higher education expenses for that term, an institutional refund to the education savings account may be required. If any refund is due the beneficiary from the institution, a pro rata share of any refund of qualified higher education expenses, including tuition, equal to that portion of the qualified higher education expenses paid by disbursements from the education savings account, shall be made by the institution to the LATTA. The LATTA will credit any refunded amount to the appropriate education savings account.

**8.7 Receipt of Scholarships.** If the designated beneficiary of an education savings account is the recipient of a scholarship, waiver of tuition, or similar subvention which cannot be converted into money by the beneficiary, the owner or beneficiary may request a refund from the education savings account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account. Upon the institution's verification that the beneficiary received a scholarship, waiver or similar subvention, the LATTA will refund, without penalty, the amount to the account owner or the beneficiary, as designated in the depositor's agreement.

**8.8 Advanced Enrollment.** A beneficiary may enroll in an eligible educational institution prior to his scheduled date of first-enrollment [see Section 4.22] and utilize education savings account funds. However, a beneficiary may not utilize funds from an education savings account prior to one year from the date the account owner made the first deposit opening the account.

**8.9 Part-Time Attendance and Nonconsecutive Enrollment.** A beneficiary may utilize funds in an education savings account for enrollments which are nonconsecutive and for part-time attendance at an eligible educational institution.

#### **IX. Termination and Refund of an Education Savings Account**

Contributions to an education savings account are voluntary. The account owner may terminate an account at any time. The LATTA may terminate an account in accordance with Section 9.2. A partial refund of an account may only be made as described in Subparagraph 9.3.C. All other requests for refund will result in the refund of the redemption value and termination of the account.

**9.1 Designation of a Refund Recipient.** In the depositor's agreement, the account owner may designate the beneficiary to receive refunds from the account; however, the beneficiary, if so designated, must be enrolled in an eligible educational institution to be eligible for receipt of any such refund, otherwise the refund will be made directly to the account