

I. EXECUTIVE ORDERS	
MJF 97-14—Emergency Response Commission	382
MJF 97-15—Violence-free Workplace	382
MJF 97-16—International Trade Commission	383
MJF 97-17—Board of Parole	383
MJF 97-18—Bond Allocation—Housing Finance Agency	383
MJF 97-19—Federal Property Assistance Program	384
II. EMERGENCY RULES	
Agriculture and Forestry	
Office of Agro-Consumer Services, Weights and Measures Commission—Bar Code Scanning Devices (LAC 7:XXXV.Chapter 175)	386
Governor's Office	
Division of Administration, Architects Selection Board—Interview Procedure; Voting (LAC 4:VII.128)	388
Health and Hospitals	
Office of the Secretary, Bureau of Health Services Financing—Eligibility of Aliens	388
Hospital Program—Out-of-State Services	390
Low Income Families Eligibility Group	390
Mentally Retarded/Developmentally Disabled Waiver Program—Annual Individual Cost Cap	391
State-Funded Medically Needy Program—Organ Transplant Services	392
Temporary Assistance for Needy Families (TANF) Work Requirements	393
Public Safety and Corrections	
Office of State Police, Division of Charitable Gaming Control—Charitable Bingo, Keno, Raffle; Compensation of Workers; Progressive Mega Jackpot Bingo (LAC 42:I.1732 and 1791)	393
Social Services	
Office of Family Support—AFDC—Alien Eligibility (LAC 67:III.1141 and 1143)	399
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Commercial Red Snapper Fishery Closure	400
Turkey Season Closure—1997	401
III. RULES	
Economic Development	
Board of Architectural Examiners—License Renewal Procedure (LAC 46:I.1101)	402
Placing of Seal or Stamp (LAC 46:I.1105)	403
Education	
Board of Elementary and Secondary Education—Bulletin 741—Class Size Waivers	403
Bulletin 741—GED Minimum Score	404
Finance and Property—Nonpublic Sector (LAC 28:I.1713)	404
Environmental Quality	
Office of Air Quality and Radiation Protection, Air Quality Division—Permit Applications and Submittal of Information (LAC 33:III.517)(AQ147)	01
Health and Hospitals	
Board of Medical Examiners—Clinical Exercise Physiologists; Licensing (LAC 46:XLV.3701-3767)	05
Office of Public Health—Sanitary Code—Permits (Chapter I)	112
Sanitary Code—Toledo Bend Reservoir and Sabine River (Chapter I)	112

This public document was published at a total cost of \$2,573.48. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$4,573.48. The total cost of all printings of this document including reprints is \$2,573.48. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-987. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audio cassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Office of the Secretary, Bureau of Health Services Financing—Ambulatory Surgical Centers (LAC 48:I.4539)	1144	412	✓
Durable Medical Equipment—Customized Wheelchairs	1145	413	✓
Early Periodic Screening Diagnosis and Treatment (EPSDT) Program—Follow-up Medical Screening and Rehabilitation Services	1146	413	✓
Medicaid Application Centers	1147	414	✓
Medically Needy Program	1148	414	✓
Outpatient Hospital Program Laboratory Services	1149	414	✓
Professional Services Program—Physicians Services	1150	414	✓
Insurance			
Office of the Commissioner—Regulation 32—Group Coordination of Benefits		415	
Regulation 33—Medicare Supplement Insurance Minimum Standards		422	
Revenue and Taxation			
Office of the Secretary—Electronic Funds Transfer (LAC 61:I.4910)		448	
Social Services			
Office of Family Support—AFDC—Alien Eligibility (LAC 67:III.1141 and 1143)		448	
AFDC—Eligibility and Special Conditions; Job Opportunities and Basic Skills Training Program (LAC 67:III.Chapters 9, 11, 13, 15 and 29)		448	
Project Independence—Participation and Services (LAC 67:III.Chapter 29)		450	
IV. NOTICES OF INTENT			
Agriculture and Forestry			
Office of Animal Health Services, Livestock Sanitary Board—Equine Infectious Anemia and Livestock Auction Market Requirements (LAC 7:XXI.Chapter 118)		453	
Civil Service			
Board of Ethics—Organization; Powers; Hearings; Penalties; Reports; Records; and Registration		458	
Civil Service Commission—Performance Planning and Review System		471	
Economic Development			
Racing Commission—Bleeder Medication (LAC 35:I.1507)		474	
Maximum Number of Jockeys (LAC 46:XLI.901)		474	
Order of Preference (LAC 35:V.6505)		475	
Qualifications for Jockey/Apprentice Jockey; Applicant for a License (LAC 46:XLI.701 and 703)		475	
Racing a Horse Under Investigation (LAC 35:I.1733)		476	
Education			
Board of Elementary and Secondary Education—Bulletin 1929—Accounting and Uniform Governmental Handbook		477	
Environmental Quality			
Office of Air Quality and Radiation Protection, Radiation Protection Division—Revision to General Conformity (LAC 33:III.1405)(AQ152*)		478	
Office of Solid and Hazardous Waste, Hazardous Waste Division—Treatment Facilities Exemption (LAC 33:V.105)(HW058*)		478	
Solid Waste Division—Financial Assurance for Local Governments (LAC 33:VII.315 and 727)(SW024)		479	
Governor's Office			
Crime Victims Reparations Board—Victim Compensation (LAC 22:XIII.103)		483	
Office of Elderly Affairs—Hearings (LAC 4:VII.1265-1269)		484	
Planning and Service Areas and Area Agencies on Aging (LAC 4:VII.1137 and 1139)		485	
Service Procurement (LAC 4:VII.1143)		488	
Health and Hospitals			
Board of Examiners of Psychologists—Licensure through Reciprocity (LAC 46:LXIII.201)	1151	489	✓
Board of Nursing—Licensure Eligibility and Educational Programs (LAC 46:XLVII.Chapter 33)	1122	490	✓
Officers of the Board; Registration and Licensure; and License Renewal (LAC 46:XLVII.3303, 3347 and 3355)	1153	492	✓
Board of Veterinary Medicine—Professional Conduct—Specialty List (LAC 46:LXXXV.1063)	1121	494	✓
Office of the Secretary, Bureau of Health Services Financing—Case Management Services Reimbursement—Infants and Toddlers with Special Needs	1123	494	✓
Disproportionate Share Hospital Payment Methodologies	1124	495	✓
Home and Community Based Services—Elderly Home Care	1125	497	✓
Labor			
Office of Workers' Compensation—Individual Self-Insurer (LAC 40:I.1732)		499	
Natural Resources			
Office of the Secretary—Oyster Lease Damage Evaluation Board Proceedings (LAC 43:I.Chapters 37 and 39)		500	
Public Safety and Corrections			
Office of State Police, Division of Charitable Gaming Control—Charitable Bingo, Keno, Raffle; Progressive Mega Jackpot Bingo (LAC 42:I.1791)		504	
Revenue and Taxation			
Sales Tax Division—Sales and Use Tax Exemption—Intrastate/Interstate Commerce (LAC 61:I.4401 and 4403)		510	

Social Services	
Office of Family Support—Electronic Benefits Transfer (LAC 67:III.401)	511
Transportation and Development	
Board of Registration for Professional Engineers and Land Surveyors—Seal and Signature (LAC 46:LXI.1701)	512
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Black Bass—Atchafalaya Basin Complex (LAC 76:VII.165)	514
Toledo Bend Reservoir Reciprocal Agreement (LAC 76:VII.110)	514
V. ADMINISTRATIVE CODE UPDATE	
Cumulative—January 1997 through March 1997	516
VI. POTPOURRI	
Agriculture and Forestry	
Office of Agricultural and Environmental Sciences, Horticulture Commission—1997 Annual Quarantine Listing	517
Rice Promotion Board—Rice Referendum Election Results/Meeting Minutes	519
Environmental Quality	
Office of Air Quality and Radiation Protection, Air Quality Division—Compliance Certification	522
Air Toxics Program	523
Consolidated Fugitive Emission Programs	523
Office of Legal Affairs and Enforcement, Investigations and Regulation Development Division—Semiannual Regulatory Agenda	523
Office of the Secretary—Risk Based Corrective Action Program (OS21)	523
Office of Solid and Hazardous Waste, Hazardous Waste Division—Public Hearing—Substantive Changes (LAC 33:V.105 and Chapter 49.Appendix E)(HW057)	524
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites	525
Injection and Mining Division—Public Hearing—Oilfield Waste Facility	526
Public Hearing—Oilfield Waste Facility	527
Revenue and Taxation	
Severance Tax Division—Natural Gas Base Rate Adjustment	527
Social Services	
Office of Community Services—Public Hearing—Social Services Block Grant (SSBG)	527

Executive Orders

EXECUTIVE ORDER MJF 97-14

Emergency Response Commission

WHEREAS: Executive Order MJF 96-48, signed on October 17, 1996 establishes the Louisiana Emergency Response Commission (hereafter "Commission"); and

WHEREAS: it is necessary to expand the membership of that Commission to include three additional 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 (I) of Executive Order MJF 96-48 is amended to provide as follows:

I. Ten at-large members.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-48 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 3rd day of March, 1997.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9704#011

EXECUTIVE ORDER MJF 97-15

Violence-free Workplace

WHEREAS: the goal of the State of Louisiana is to have all the officers and employees in state government work in a violence-free workplace;

WHEREAS: a peaceful and secure work environment facilitates productivity and job performance;

WHEREAS: the occurrence of violence, aggressive acts, and verbal or nonverbal threatening behavior and harassment in the workplace has a negative impact on the officers and employees of state government and the public they serve; and

WHEREAS: developing and maintaining a violence-free workplace requires both the commitment of management and the involvement of the officers and employees of state government working to achieve the same goal;

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

SECTION 1: The goal of the State of Louisiana is to achieve and maintain a violence-free workplace.

SECTION 2: The Commissioner of Administration (hereafter "commissioner") shall develop and promulgate guidelines and a model plan for a violence-free workplace by April 1, 1997. The guidelines and a model plan shall provide practical information on the prevention of workplace violence and on the mitigation of its ill effects, specifically including information on the following:

A. prohibiting acts or threats of violence, by or against state officers and employees, at all work sites and whenever official state business is being conducted;

B. minimizing the chance of exposure of state officers and employees to violent, threatening, or harassing situations by implementing effective security measures and administrative procedures and practices;

C. analyzing each state work site from the perspective of preventing the occurrence and minimizing the effects of any violent, threatening, and harassing situations; and

D. educating state officers and employees to increase their awareness about security, health, and safety concerns and training them how to properly respond in the event that a violent, threatening, or harassing situation occurs.

SECTION 3: By January 1, 1998, each state agency shall implement a plan to maintain a violence-free workplace. Each agency's plan shall incorporate the guidelines and model plan promulgated by the commissioner, tailoring them to the specific needs of the agency. Each agency shall also provide seminar(s) for its officers and employees to educate and train them regarding the prevention of workplace violence. The commissioner shall monitor the implementation of each agency's plan, and shall report his findings and conclusions to the Governor by March 15, 1998.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the commissioner in implementing the provisions of this Order.

SECTION 5: This Order is effective upon signature of the Governor and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 5th Day of March, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9704#020

EXECUTIVE ORDER MJF 97-16

International Trade Commission

WHEREAS: Executive Order MJF 97-12, signed on February 21, 1997, established the Louisiana International Trade Commission (hereafter "commission"); and

WHEREAS: it is necessary to amend a provision in the Order;

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: Section 5 of Executive Order MJF 97-12, is amended to provide as follows:

The membership of the commission shall elect all of its officers.

SECTION 2: All other Sections and Subsections of Executive Order MJF 97-12 shall remain in full force and effect.

SECTION 3: 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 6th day of March, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9704#010

EXECUTIVE ORDER MJF 97-17

Board of Parole

WHEREAS: the Board of Parole (hereafter "the board"), created within the Department of Public Safety and Corrections by R.S. 15:574.2, consists of seven members appointed by and serving at the pleasure of the Governor;

WHEREAS: R.S. 15:574.2 (A)(1) only provides for the position of chairman of the board (hereafter "chair"); and

WHEREAS: in order for the board to function more effectively, it is necessary to create a position of vice-chair;
NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The position of vice-chair of the Board of Parole is hereby created. The Governor shall select the vice-chair from its membership.

SECTION 2: The vice-chair shall not receive any compensation in addition or supplemental to the annual salary for members of the board set forth in R.S. 15:574.2 (A)(3).

SECTION 3: The vice-chair shall preside in the absence of the chair and shall, in addition to such other duties assigned by the Governor, be responsible for developing and administering the schedule of parole hearings in accordance with R.S. 15:574.4 (B)(1), and preparing for the board, for its adoption, such rules, regulations, and procedures deemed necessary and proper to facilitate the effective operation of the board.

SECTION 4: The chair and the vice-chair shall work with the Governor's executive counsel and assistant executive counsel in accomplishing the duties set forth in Section 3 of this Order.

SECTION 5: This Order is effective upon signature of the Governor and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 11th day of March, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9704#019

EXECUTIVE ORDER MJF 97-18

Bond Allocation—Housing Finance Agency

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

EXECUTIVE ORDER MJF 97-19

Federal Property Assistance Program

WHEREAS: the Louisiana Housing Finance Agency has requested an allocation from the 1997 Ceiling to be used in connection with financing mortgage loans for first time home buyers throughout the State of Louisiana, in accordance with the provisions of Section 143 of the *Internal Revenue Code* of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$50,000,000	Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1997, provided that such bonds are delivered to the initial purchasers thereof on or before June 10, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code* of 1986, as amended.

SECTION 6: 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 12th day of March, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9704#023

WHEREAS: Public Law 94-519, enacted on October 17, 1976, amended the Federal Property and Administrative Act of 1949, 40 U.S.C. §484 et seq., to permit the donation of federal surplus personal property to the states and local organizations for public purposes and for other purposes;

WHEREAS: the General Services Agency within the Executive Branch of the United States Government is the designated federal agency which allocates the surplus property among the states in a fair and equitable manner pursuant to criteria which are based on need and utilization;

WHEREAS: after the administrator of General Services transfers the surplus property to a designated state agency, the property is distributed by the state agency 1) to public agencies for use in carrying out or promoting for the residents of a given political area public purposes, which include conservation, economic development, education, parks and recreation, public health and public safety; and 2) to nonprofit educational or public health institutions or organizations, including medical institutions, hospitals, health clinics, schools, colleges, universities, schools for the mentally retarded or physically handicapped, child care centers, and certain radio and television stations;

WHEREAS: before any property may be transferred to a state agency by the administrator of General Services, the state shall develop, according to state law, a detailed plan of operation, developed in conformity with federal law, which includes adequate assurance for the federal government that the state agency has the "necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to: accountability, internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups";

WHEREAS: a permanent, revised plan of operation must be submitted to the administrator of General Services for approval in order that the state and/or state program may continue to qualify under Public Law 94-519; and

WHEREAS: in addition to the federal surplus personal property that may be transferred to the states pursuant to the Federal Property and Administrative Act of 1949, as amended, under 10 U.S.C. §2576 a, added by Public Law 104-181, the secretary of Defense may also transfer to federal and state agencies the personal property of the Department of Defense, including small arms and ammunition, which the secretary of Defense determines is excess to the needs of the Department of Defense, but suitable for use by state and federal agencies in law enforcement activities, such as counter-drug and counter-terrorism actions;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority

vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Federal Property Assistance Agency is hereby renamed the Federal Property Assistance Program (hereafter "program").

SECTION 2: The program shall submit a revised Plan of Operation to the administrator of General Services for approval so that the state and/or the public agencies in the State of Louisiana may participate or continue to participate as donees under the Federal Property and Administrative Services Act of 1949, as amended.

SECTION 3: The program shall be the agency within the State of Louisiana that is responsible for carrying out the provisions of the Plan of Operation, as approved by the administrator of General Services, and the counter-drug program, as prescribed by the secretary of Defense.

SECTION 4: The program shall be a unit within the Louisiana Property Assistance Agency (hereafter "agency"), a section of the Division of Administration, within the Executive Branch, Office of the Governor. The program manager shall report to the commissioner of Administration, through the director of the agency.

SECTION 5: The director of the agency, acting through the program manager, shall possess all power and authority

necessary to exercise and perform all the functions, duties, and responsibilities cited in both the revised Plan of Operation and the counter-drug program, so as to comply with all applicable state and federal laws and regulations.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 7: Upon signature of the Governor, the provisions of this Order shall be retroactive to January 1, 1997 and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 17th day of March, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9704#021

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agro-Consumer Services
Weights and Measures Commission

Bar Code Scanning Devices (LAC 7:XXXV.Chapter 175)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:4608, the Commissioner of Agriculture and Forestry finds that this Emergency Rule setting forth amendments to the weights and measures Regulations governing the use of bar code scanning devices is necessary in order to protect the welfare of the citizens of Louisiana.

Due to recent publicity regarding the accuracy of scanning devices in commerce and the receipt of several citizen complaints regarding overcharges, the Commissioner conducted a baseline survey of businesses in Louisiana which use scanning devices in order to establish the accuracy of the scanning devices. The results of the survey were presented at a duly noticed and constituted meeting of the Weights and Measures Commission held on November 12, 1996, with the results indicating that consumers are overcharged an average of 2.73 percent per transaction. Following receipt of the survey results, the Department immediately began the process of amending the weights and measures Regulations through the normal promulgation process to put into place an inspection and enforcement program governing the use of bar code scanning devices. The normal promulgation process pursuant to the Administrative Procedure Act will not be complete for several months. The lack of an inspection and enforcement program for bar code scanning devices would cause imminent peril to public health, safety, and welfare of the citizens of this state in that citizens would continue to be overcharged in this, the busiest consumer spending period of the year.

In order to insure protection of the consumer pending final adoption of this Rule through the normal promulgation process, the Commissioner declares an emergency to exist and adopts by emergency process the following Emergency Rule setting forth an inspection and enforcement program for bar code scanning devices.

The effective date of this Emergency Rule is March 31, 1997, and it shall be in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 175. Weights and Measures

§17501. Specifications, Tolerances and Regulation for Commercial Weighing and Measuring Devices

The Commissioner of Agriculture and Forestry, under authority conferred by the Louisiana Revised Statutes of 1950, Title 3, Section 4608, and for the enforcement of requirements applicable to the equipment therein referred to, hereby adopts by reference all rules, regulations, standards, specifications and tolerances as contained in the *National Bureau of Standards and Technology Handbook H-44*, and amendments thereto, entitled *Specifications, Tolerances, and Regulations for Commercial Weighing and Measuring Devices*, and as contained in the National Conference on Weights and Measures Publication 19 entitled *Examination Procedure for Price Verification*, but only insofar as the Louisiana Revised Statutes of 1950, as amended, may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4606 and R.S. 3:4608 (formerly R.S. 55:4 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended and promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), amended by the Weights and Measures Commission, LR 23:

§17502. Definitions

Wherever in these Regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

* * *

Hand-held Scanning Device—a portable device that scans UPC codes that allows for the comparison of the price displayed on a shelf, item, or otherwise advertised, to the price for the item in the point-of-sale database.

* * *

Point-of-Sale—an assembly of elements including a weighing element, indicating element, and receiving element (which may be equipped with a scanner) used to complete a direct sale transaction.

Price Look-Up Code or PLU—a pricing system where numbers are assigned to items or commodities and the price is stored in a data-base for recall when the numbers are manually entered. PLU codes are used with scales, cash registers, and point-of-sale items.

* * *

Scanner or Scanning Device—an electronic system that employs a laser bar code reader to retrieve product identity, price and other information stored in computer memory.

Universal Product Code or *UPC*—a unique symbol that consists of a machine-readable code and human-readable numbers.

Weights, Measures, or Weighing and Measuring Devices—all weights, scales, scanners, taxi meters, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any such instruments. However, it does not include or refer to devices used to meter or measure, other than by weight, water, natural or manufactured gas, electricity, or motor fuel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:157 (March 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1531 (December 1993), amended by the Weights and Measures Commission, LR 23:

§17514. Bar Code Scanning Devices and Labels

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

C. In calculating violations of this Section, multiple items contained in the same lot shall constitute one violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1533 (December 1993), amended by the Weights and Measures Commission, LR 23:

§17522. Fee Schedule

A. - D. ...

E. The registration fee for each location utilizing scanning devices shall be as follows:

Category	Number of Point-of-Sale Devices	Fee
A	1 to 10	\$ 50
B	11 to 25	\$100
C	Over 25	\$150

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended by the Weights and Measures Commission, LR 23:

§17523. Registration

A. Each commercial weighing and measuring device in use in Louisiana shall be registered annually with the Division insofar as is specified in this Regulation.

B. - C. ...

D. Scanning devices shall be registered according to the following criteria:

1. make;
2. model;
3. serial number; and
4. number of point-of-sale devices.

E. A late fee of \$25 will be assessed for each device, the maximum penalty of \$100 per outlet, when the application is submitted after December 31.

F. A late fee of \$25 will be assessed for each new device not registered within 30 days from the date it is put into service.

G. A compound weighing device shall be considered one or more devices for the purpose of registration in accordance with the following:

1. A compound weighing device that consists of a single load receiving element and more than one indicating element shall be considered a single device when all indicating elements may be tested during the same test for the purpose of sealing the device as correct. Said device shall be considered separate devices for each separate test necessary for sealing.
2. A compound weighing device that consists of one indicating element and more than one load receiving element shall for the purpose of registration be considered a separate device for each load receiving element.

H. Applicants for registration may request application forms, verbally or in writing, from the Division of Weights and Measures of the Department of Agriculture and Forestry.

I. Each application for annual registration shall be accompanied by payment of required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. The initial annual registration and fees due for scanning devices for calendar year 1997 shall be payable on or before April 30, 1997. Registration renewals and fees due for scanning devices for calendar years after 1997 shall be due and payable as set forth in this Section.

J. Any registration obtained without complying with all of the requirements of these Regulations may be voided by the Division.

K. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

L. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the Division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the Division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

M. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

N. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at

the last address provided by the registrant, on or before November 15 and must be returned before January 1.

O. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

P. Any registrant having a device registered under provisions of this Regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the Commission's Office in writing to remove said device from its records.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended by the Weights and Measures Commission, LR 23:

Bob Odom
Commissioner

9704#009

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Architects Selection Board

Interview Procedure; Voting (LAC 4:VII.128)

In accordance with R.S. 38:2310 et seq., as amended, the Rules governing the voting procedure of the Architects Selection Board are hereby amended. This Emergency Rule is to be effective upon publication in the *Louisiana Register* and will remain in effect for 120 days or until a final Rule takes effect through the normal rulemaking process.

Emergency rulemaking is necessary in order to proceed immediately with the selection of a designer for the Capitol Complex—North Building. This selection is imminent and will benefit from the revised procedure by having more qualified architects included in the interview procedure.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 1. Architects Selection Board

Subchapter B. Selection Procedure

§128. Interview Procedure

A.1. - 3.c. ...

4. The selection procedure (§127) will be followed from Subsections A and B.1, 2, 3, 4, and 6. However, if an applicant is not selected unanimously on the first ballot, the following procedure will be implemented.

a. After the results of the weighted ballot are reported, the board secretary will list all applicants receiving one or more points. They will be listed in order, ranked by number of points from highest to lowest.

b. After the list is prepared, there will be a roll call vote on each applicant starting with the first applicant on the list. Voting for each applicant will take place in the order that he is listed. Each applicant on the list will receive a "yes" or "no" vote from each board member. Each applicant who receives a majority will be invited to be interviewed.

c. Voting will end when the end of the list is reached or when there are five applicants to be invited to be interviewed, whichever comes first.

d. In the event that the end of the list is reached before there are at least three applicants to be interviewed, the board may begin voting again by the method of their choice.

e. All applicants selected by the foregoing process will be invited to be interviewed at an interview meeting.

5. The interview meeting will be held in accordance with criteria that the board sets forth in a letter to the applicants that have been selected to be interviewed.

6. At the interview meeting, the board will begin in an open meeting and vote to go into executive session to conduct the interviews in accordance with the criteria set forth in Paragraph 5 above and pursuant to R.S. 42:6 and 42:6.1.

7. After all the interviews have been conducted, the board will return to a public meeting, and the selection procedure will then resume from §127.B.5, 7, 8, and 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2310 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 17:1206 (December 1991), amended LR 23:

Roger Magendie
Director

9704#066

DECLARATION OF EMERGENCY

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

Eligibility of Aliens

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 adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first. Adoption of this Rule on an emergency basis is necessary to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193).

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) significantly changed Medicaid eligibility for individuals who are not citizens of the United States. Medicaid must be provided to eligible citizens or

nationals, but certain noncitizens may be eligible to receive only treatment for an emergency medical condition. This Emergency Rule adopts the mandatory provisions of P.L. 104-193 and states the options chosen by the state. This Emergency Rule addresses only the citizenship requirement: every applicant for Medicaid under any classification addressed in this Emergency Rule must meet all requirements for eligibility. Previous regulations for Medicaid eligibility of lawful permanent residents and aliens Permanently Residing in the United States Under Color of Law (PRUCOL) no longer apply and are replaced by this Emergency Rule. A previous Emergency Rule, effective January 1, 1997, redefined and replaced all definitions and categories of alien groups (*Louisiana Register*, Volume 23, Number 1, page 24). The following Emergency Rule will continue the provisions of the corresponding Emergency Rule in force.

All noncitizens are classified as qualified aliens or nonqualified aliens (which includes illegal aliens). Nonqualified aliens are eligible only for emergency services. Some specifically defined qualified aliens are eligible for regular Medicaid benefits. Those qualified aliens who are not eligible for regular Medicaid benefits are eligible only for emergency services.

In general, aliens who are refugees, asylees, or whose deportation is being withheld are eligible for consideration of Medicaid eligibility until five years after the date of entry into the United States, regardless of when they enter the country, and veterans and those on active duty in the armed services and their families.

Mandatory qualified alien groups eligible for regular Medicaid benefits are:

1. aliens receiving Medicaid on August 22, 1996 (until January 1, 1997);
2. aliens receiving SSI (until SSA notifies Medicaid that SSI benefits have stopped);
3. qualified aliens who were in the United States prior to August 22, 1996, who are members of these groups, whether or not receiving Medicaid on that date and meet any of these criteria:
 - a. lawful permanent residents to whom 40 qualifying quarters of Social Security can be credited;
 - b. refugees until five years after the date of the alien's entry into the United States;
 - c. asylees until five years after the grant of asylum;
 - d. aliens who have had deportation withheld under Section 243(h) of the INA until five years after the grant of withholding; and
 - e. honorably discharged veterans and aliens on active duty in the United States armed forces, and the spouse or dependent child(ren) of such individuals;
4. qualified aliens entering the United States on or after August 22, 1996, who are members of the groups below:
 - a. refugees for five years from date of entry;
 - b. asylees for five years from date of entry;
 - c. aliens whose deportation has been withheld under Section 423(h) of the INA for five years from grant of withholding;

d. veterans and aliens on active duty in the United States' armed forces, and the spouse or dependent child(ren) of such individuals;

5. American Indians born in Canada who have at least 50 percent Indian blood who enter and reside in the United States.

The state has determined that the following optional groups of qualified aliens are not eligible for regular Medicaid services under this Emergency Rule, but may be eligible for emergency services if they meet all eligibility criteria other than citizenship:

1. aliens receiving Medicaid benefits on August 22, 1996, but not receiving SSI, are not eligible January 1, 1997 and afterward.

2. aliens who were in the United States prior to August 22, 1996, who are included in the definition of qualified alien, but not included in the mandatory group of qualified aliens living in the United States before August 22, 1996 are not eligible for Medicaid.

Definitions

Illegal Aliens either were never legally admitted to the United States for any period of time, or were admitted for a limited period of time and did not leave the United States when their period of time expired. Illegal aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

Ineligible Aliens are aliens lawfully admitted to the United States but only for a temporary or specified period of time as legal nonimmigrants. Ineligible aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship. The following categories of individuals are ineligible aliens:

1. foreign government representatives on official business and their families and servants;
2. visitors for business or pleasure, including exchange visitors;
3. aliens in travel status while traveling directly through the U.S.;
4. crewmen on shore leave;
5. treaty traders and investors and their families;
6. foreign students;
7. international organization representation and personnel and their families and servants;
8. temporary workers including agricultural contract workers; and
9. members of foreign press, radio, film, or other information media and their families.

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

1. lawful permanent residents;
2. refugees;
3. asylees;

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

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

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

Emergency Rule

Effective for dates of service May 1, 1997 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) regarding Medicaid eligibility for noncitizens. The following optional groups of qualified aliens are not eligible for regular Medicaid services under this Emergency Rule, but may be eligible for emergency services if they meet all eligibility criteria other than citizenship:

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

Bobby P. Jindal
Secretary

9704#044

DECLARATION OF EMERGENCY

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

Hospital Program—Out-of-State Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:950 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 Bureau of Health Services Financing adopted an Emergency Rule, with an effective date of July 1, 1995, to

reduce reimbursement for out-of-state inpatient hospital services to the lower of 50 percent of billed charges or the Medicaid per diem rate of the state where the services are provided and reduce out-of-state outpatient hospital services to 50 percent of billed charges (*Louisiana Register*, Volume 21, Number 7). Prior to the adoption of July 1, 1995 Emergency Rule, reimbursement for out-of-state inpatient hospital services was at 72 percent of billed charges. After a review of the prior authorization process for out-of-state care, the bureau has determined it is necessary to revise the reimbursement methodology for out-of-state inpatient hospital services rendered to recipients under the age of 21 by increasing the payment to 72 percent of billed charges. Outpatient services will continue to be reimbursed at 50 percent of billed charges except for ambulatory surgical procedures and outpatient laboratory procedures which are reimbursed in accordance with a fee schedule. This action is necessary to assure the health and welfare of these recipients by maintaining access to medical services when a recipient requires emergency care while out of state or when the medical services are not available in this state.

It is anticipated that implementation of this Emergency Rule will increase expenditures by approximately \$1,277,157 for the fiscal year of 1997-1998.

Emergency Rule

Effective for dates of service on or after April 4, 1997, the Department of Health and Hospitals, Bureau of Health Services Financing increases reimbursement to out-of-state hospitals to 72 percent of billed charges for inpatient services provided to recipients under the age of 21.

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

9704#006

DECLARATION OF EMERGENCY

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

Low Income Families Eligibility Group

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first. Adoption of this Rule on an emergency basis is necessary to avoid sanctions or

penalties from the federal government arising from failure to adopt appropriate regulations related to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193). A previous Emergency Rule (*Louisiana Register*, Volume 23, Number 1, page 29) established a new group of eligibles replacing AFDC eligibles. The following Emergency Rule continues the previous provisions in force.

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the Aid to Families with Dependent Children (AFDC) program which provided financial assistance to families meeting certain requirements, and replaced it with a block grant program for Temporary Assistance for Needy Families (TANF) effective July 1, 1997, or such earlier date as the Secretary of DHHS receives the TANF State Plan. Receipt of TANF does not entitle the recipient to Medicaid. TANF provisions were adopted in Louisiana by Department of Social Services, effective October 1, 1996.

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

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

Among those who will meet the income and resource criteria for low-income families are persons who are eligible for TANF financial assistance because TANF criteria are currently more restrictive than low-income family criteria. Other families who meet the criteria for low-income family but are not TANF-eligible will be eligible for Medicaid under this definition. This Emergency Rule provides notification that the population described in Section 1931 of the Social Security Act constitutes an eligibility group covered by Medicaid and establishes the income and resource limitations applicable.

Emergency Rule

Effective May 1, 1997 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a new Medicaid eligibility group for low income families with children who meet eligibility requirements described in Section 1931 of the Social Security Act. Eligibility criteria under the AFDC State Plan in effect on July 16, 1996 will be used to determine eligibility. Additionally, recipients of TANF are deemed to meet these criteria so long as TANF requirements are more restrictive than eligibility requirements under the AFDC State Plan in effect on July 16, 1996.

Bobby P. Jindal
Secretary

DECLARATION OF EMERGENCY

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

**Mentally Retarded/Developmentally Disabled
Waiver Program—Annual Individual Cost Cap**

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 Department of Health and Hospitals, Bureau of Health Services Financing administers the waiver for Mental Retardation/Developmentally Disabled (MR/DD) individuals under the Home and Community Based Services Waiver Program. Waiver participation 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 allow services to be provided in a home or community based setting for a recipient who would otherwise require institutional care. Aggregate costs for participants in the MR/DD Waiver Program must not exceed the costs for recipients of institutional care.

The department has determined that the cost effectiveness of the waiver may be jeopardized as more institutionalized individuals requiring intensive care are considered for admission to the waiver program. Therefore, the bureau is establishing an annualized individual cost cap not to exceed \$100,000 for waiver services. For the purpose of monitoring waiver costs, waiver service expenditures for each participant will be reviewed on a quarterly basis to assure that the expenditures for the services identified on the care plan are within the cost cap. It is the responsibility of the case management services provider, with oversight from the Office for Citizens with Developmentally Disabilities (OCDD), to:

1. assure that the services identified on the care plan are adequate to meet the individual's needs;
2. document waiver service costs on the initial and updated care plans;
3. routinely monitor care plans to insure that waiver service costs do not exceed the cost cap; and
4. timely report any changes in the individual's circumstances that could impact the care plan and cost cap.

When an individual's waiver service costs exceed \$25,000 a quarter for one or more quarters, the bureau will notify OCDD that expenditures to date indicate that waiver service costs will exceed the cost cap if they continue at the current rate. If the services necessary to assure the health and safety of an individual cannot be provided at an annualized cost less

than the cost cap, then that individual shall not be determined eligible (at application) or continue to be eligible (at redetermination) for waiver participation. In the event that an individual loses waiver eligibility, the bureau will refer the individual to OCDD as member of their target population to coordinate alternate arrangements for care. In order to facilitate the management of the annualized individual cost cap in the MR/DD Waiver Program, the bureau is also transferring authority for the issuance of the waiver services authorization form (MR-14) from the case management services provider to the Health Standards Section. This action is necessary to maintain cost effectiveness in the waiver and to assure that the health and safety of waiver participants can be maintained in the community with the services available under the MR/DD Waiver Program.

Emergency Rule

Effective April 21, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations governing the Mental Retardation/Developmentally Disabled Waiver Program: 1) establish an annualized individual cost cap not to exceed \$100,000 for wavier services and 2) transfer the authority for the issuance of the waiver services authorization form (MR-14) from the case management services provider to the Health Standards Section. The annualized individual cost cap shall be applicable for all admissions certified to the MR/DD waiver on or after April 21, 1997 and for subsequent updates to the care plan. For the purpose of monitoring waiver costs, waiver service expenditures for each participant will be reviewed on a quarterly basis to assure that the expenditures for the services identified on the care plan are within the cost cap. It is the responsibility of the case management services provider, with oversight from the Office for Citizens with Developmentally Disabilities (OCDD), to:

1. assure that the services identified on the care plan are adequate to meet the individual's needs;
2. document waiver service costs on the initial and updated care plans;
3. routinely monitor care plans to insure that waiver service costs do not exceed the cost cap; and
4. timely report any changes in the individual's circumstances that could impact the care plan and cost cap.

When an individual's waiver costs exceed \$25,000 a quarter for one or more quarters, the bureau will notify OCDD that expenditures to date indicate that waiver service costs will exceed the cost cap if they continue at the current rate. If the services necessary to assure the health and safety of an individual cannot be provided at an annualized cost less than the cost cap, then that individual shall not be determined eligible (at application) or continue to be eligible (at redetermination) for waiver participation. In the event that an individual loses waiver eligibility, the bureau will refer the individual to OCDD as member of their target population to coordinate alternate arrangements for care.

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 Emergency Rule. A

copy of this Emergency Rule is available at the parish Medicaid offices for review by interested persons.

Bobby P. Jindal
Secretary

9704#045

DECLARATION OF EMERGENCY

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

**State-Funded Medically Needy
Program—Organ Transplant Services**

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq., and it 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 Department of Health and Hospitals, Bureau of Health Services Financing adopted an Emergency Rule with an effective date of July 1, 1996 in compliance with Executive Order 96-17 to establish a State-Funded Medically Needy Program which limited eligibility to those individuals who were either certified under the Title XIX Medically Needy Program or had a pending application under the Title XIX Medicaid Program and were subsequently determined eligible for the Title XIX Medically Needy for June 1996 (*Louisiana Register*, Volume 22, Number 7). The July 1, 1996 Emergency Rule was subsequently amended effective October 8, 1996 to establish an eligibility determination process under the State-Funded Medically Needy Program for specified applicant groups (*Louisiana Register*, Volume 22, Number 10). The department has now determined it is necessary to expand the number of applicant groups who may participate in the eligibility determination process under the State-Funded Medically Needy Program. Therefore, the following Emergency Rule is being adopted to amend the general provisions of the State-Funded Medically Needy Program to include persons who meet the medical criteria for organ transplant surgery as the fifth category for the eligibility determination process.

Adoption of this Emergency Rule is necessary to protect the health and welfare of those persons who meet the medical criteria for organ transplant surgery from the imminent peril that would result if they have no resources to access necessary medical services. It is anticipated that implementation of this Emergency Rule will increase expenditures by approximately \$1,500,000 for state fiscal year 1996-1997.

Emergency Rule

Effective March 14, 1997 the Department of Health and Hospitals, Bureau of Health Services Financing amends Section D of the general provisions for the State-Funded Medically Needy Program to incorporate persons who meet the medical criteria for the following organ transplant

surgeries as the fifth category for the eligibility determination process.

- a. Bone Marrow
- b. Heart
- c. Heart/Lung
- d. Kidney
- e. Liver
- f. Lung
- g. Pancreas
- h. Pancreas/Kidney

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 Emergency Rule.

Bobby P. Jindal
Secretary

9704#081

DECLARATION OF EMERGENCY

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

Temporary Assistance for Needy
Families (TANF) Work Requirements

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

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the Aid to Families with Dependent Children (AFDC) program which provided financial assistance to families meeting certain requirements, and replaced it with a block grant program for Temporary Assistance for Needy Families (TANF) effective July 1, 1997, or such earlier date as the Secretary of DHHS receives the TANF State Plan. TANF provisions were adopted in Louisiana by Department of Social Services effective October 1, 1996. A previous Emergency Rule (*Louisiana Register*, Volume 23, Number 1, page 31) and Notice of Intent (*Louisiana Register*, Volume 23, Number 2, page 233) provided notification that Medicaid coverage will not be available to persons who fail to meet the work requirement associated with TANF, with the following exceptions: a

pregnant woman; infant; or child under one of the poverty level related groups; or a minor child who is not the head of the household under TANF. The following Emergency Rule shall continue the provisions of the corresponding Rule in force.

Emergency Rule

Effective May 1, 1997 and concurrently with implementation of the Personal Responsibility and Work Opportunity Act of 1996 provisions for financial assistance by Department of Social Services, eligibility for Medicaid as a TANF recipient is terminated for failure to meet work requirements as described in Section 1931(b)(3) of the Social Security Act.

Bobby P. Jindal
Secretary

9704#043

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of State Police
Division of Charitable Gaming Control

Charitable Bingo, Keno, Raffle; Compensation of Workers;
Progressive Mega Jackpot Bingo (LAC 42:I.1732 and 1791)

The Department of Public Safety and Corrections, Office of State Police, Division of Charitable Gaming Control hereby adopts LAC 42:I.1732 and amends LAC 42:I.1791 in accordance with R.S. 33:4861.26, R.S. 36:408, R.S. 40:1485.4, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. R.S. 33:4861.12 provides in part for the payment of certain employees and workers of licensed charitable organizations.

The division adopted Emergency Rules and promulgated final Rules, LAC 42:I.1791, which regulated the play of a new form of bingo known as progressive mega jackpot bingo as mandated by R.S. 33:4861.26. The final Rule was adopted effective February 20, 1996 (*Louisiana Register*, Volume 22, Number 2).

The Emergency Rule is necessary to prevent the imminent threat to the public welfare in that it has become necessary to adopt LAC 42:I.1732 in order to regulate more efficiently the payment of such employees and workers, and to amend LAC 42:I.1791 in order to regulate more efficiently the activity of the progressive mega jackpot bingo game. Since the inception of the progressive mega jackpot bingo game in October, 1995, charitable gaming revenues have declined significantly. As a result, a number of licensees have discontinued gaming. The amendment is necessary in order to enhance gaming activity and provide a means to increase charitable gaming revenues and for related matters.

This Emergency Rule shall become effective March 20, 1997, and shall remain in effect for a period of 120 days or until the final Rule is promulgated, whichever occurs first.

Title 42

LOUISIANA GAMING

Part I. Charitable Gaming

Chapter 17. Charitable Bingo, Keno and Raffle

Subchapter G. Civil Penalties

§1732. Compensation of Workers

A. Payment of Workers. In accordance with R.S. 33:4861.12(A)(2) and (B)(2), any person, association, or corporation licensed to hold, operate, or conduct any games of chance pursuant to this Part may pay eligible workers for services actually rendered in assisting in the holding, operating, or conducting of a licensed charitable game of chance. Payments to workers shall not exceed \$5 for each hour actually worked up to a total of six hours. In no event shall payments exceed \$30 per licensed session per paid worker. No more than 10 workers shall be paid for any one licensed session. All workers, paid or unpaid, shall be bona fide active members of the licensed organization conducting the game.

1. Payments to workers shall be made once a month for the preceding calendar month, or as otherwise provided by the division.

2. Payment shall only be made by check from the licensed organization's charitable gaming checking account. Payments in the form of cash or money orders are prohibited. Organizations shall document on each check the amount of gross wages and the amount deducted for any state or federal tax withholdings.

3. Each organization shall be responsible for withholding and timely submitting all applicable social security, state and federal taxes.

B. Records Required. Any licensee choosing to pay workers as provided by this Section shall maintain, for each gaming session, separate documents or written forms required by the division for each worker paid.

1. The licensee shall declare the accuracy of its information and the document shall include the following information:

- a. date of the session;
- b. printed name and signature of each worker with a declaration attesting to the fact that the worker has been paid for the number of hours indicated on this document for services actually rendered;
- c. social security number of each worker;
- d. drivers license number of each worker;
- e. number of hours actually worked during the session by the worker;
- f. printed name and signature of the designated session manager; and
- g. name of the licensed organization of which such worker is a bona fide active member.

2. All such affidavits or documentation shall be retained for a period of three years as provided by this Part. Each organization is responsible for all applicable social security, state and federal taxes.

C. Any licensed charitable organization that pays any worker as provided in this Section must maintain positive net gaming proceeds for each quarter. Net gaming proceeds shall equal total gross proceeds minus prize payouts and expenses.

Unless otherwise provided by the division, in the event that any licensed charitable organization fails to maintain positive net gaming proceeds during any quarter, such licensee shall discontinue the payment of workers as provided in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4861.12 and R.S. 40:1485.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Division of Charitable Gaming Control, LR 23:

§1791. Progressive Mega Jackpot Bingo

* * *

C. Requirements Prior to Start-Up. Each location, hall, commercial lessor or noncommercial lessor that has any licensed organization(s) participating in the progressive mega bingo jackpot game shall transmit by facsimile to the division and to the respective governing authority of the parish or municipality or the certified public accountant contracted to oversee the progressive mega jackpot bingo game, if applicable, the following information and documentation prior to the start-up of a progressive mega jackpot bingo game or before any additional organizations are allowed to enter:

1. list of names and license numbers of licensed charitable organizations participating in the progressive mega jackpot bingo game and the respective gaming location's name and physical address, and the designated organization representative as provided in Paragraph 2 of Subsection I and any subsequent changes;

2. list of all members holding, operating, or conducting or assisting in holding, operating, or conducting any game or games of chance, if different from the list submitted with the most current license application, as well as an affidavit from each such member confirming membership as a bona fide active member and other related information as otherwise provided by the division;

* * *

5. the name of the governing authority of the parish or municipality, or the certified public accountant contracted to oversee the progressive mega jackpot bingo game, if applicable;

* * *

D. Entry and Withdrawal. Each participating organization shall provide a start up fee in the amount of \$200 at the commencement of or entry into a progressive mega jackpot bingo game for deposit into a "Charitable Gaming Progressive Mega Jackpot Bingo Account." All organizations electing to participate in a progressive mega jackpot bingo game shall contribute an additional \$100 prior to the commencement of a progressive mega jackpot bingo game which shall constitute the progressive mega jackpot bingo prize for the first 24-hour period. This contribution is nonrefundable and shall also be considered part of the total amount of prizes awarded for each organization's first scheduled session of the progressive mega jackpot bingo game.

1. Each participating organization shall submit a check made payable from the organization's charitable gaming checking account to the designated hall, commercial lessor or noncommercial lessor representative in the amount of \$100 during its licensed four-hour session and prior to the commencement of the organization's first scheduled call

bingo game made payable to the "Charitable Gaming Progressive Mega Jackpot Bingo Account." This \$100 contribution is nonrefundable and shall constitute part of the progressive mega jackpot bingo prize for the following day and shall be considered part of the total amount of prizes awarded during that session. In no instance shall participating organizations be allowed to make any contributions or submit any start-up fees in the form of cash or money order.

3. The \$200 start-up fee deposit shall remain in the account until the progressive mega jackpot bingo game is discontinued by the organizations and shall be refundable upon discontinuance of the progressive mega jackpot bingo blackout game or to any single organization withdrawing, whether voluntarily or involuntarily, from the progressive mega jackpot bingo game within three calendar days of withdrawal or as otherwise provided by the division.

E. Structure of Game. The progressive mega jackpot bingo game shall be conducted in conjunction with the organization's regular blackout bingo games and the structure of such game shall be as follows:

1. A separate additional 3 on 1 up sealed vertical disposable bingo card shall be sold at \$2 per card for the play of only the progressive mega jackpot bingo game. Also, participating organizations may offer only to those patrons who purchase a 3 on 1 up sealed vertical disposable bingo card for \$2 per card a separate additional 3 on 1 up sealed vertical disposable bingo card at no (zero) value for the purchase of each such card. Such 3 on 1 up sealed vertical disposable bingo cards shall afford patrons a chance to win the progressive mega jackpot bingo game and the regular blackout bingo prize. Participating organizations shall assign a fixed value or price structure for the 3 on 1 up sealed vertical disposable bingo cards with the division in writing on forms provided by the division and receive written approval from the division prior to purchasing any such bingo cards from a licensed distributor and prior to the start up or entry into a progressive mega jackpot bingo game.

2. Only those patrons who have purchased a minimum buy-in package for the organization's regular session games shall be allowed to purchase separate 3 on 1 up sealed vertical disposable bingo cards for the progressive mega jackpot bingo game at that session. The minimum buy-in package shall not contain disposable bingo cards that entitle a patron to win the progressive mega jackpot bingo prize, but the purchase of any such package shall afford a patron the opportunity to win only the respective organization's regular blackout bingo prize.

3. Any disposable bingo card that is altered from the original manufacturer's cut, collation, or print shall be invalid.

4. No progressive mega jackpot bingo game 3 on 1 up sealed vertical disposable bingo cards shall be sold after the announcement by the caller that the progressive mega jackpot bingo game shall commence at least five minutes before the first ball is called. Such progressive mega jackpot disposable bingo cards shall:

a. be purchased by the organization on a separate invoice from a licensed distributor;

b. have an assigned fixed value or price structure for each participating organization approved by the division in writing prior to the purchase from a licensed distributor and prior to the start up or entry into any progressive mega jackpot bingo game and shall only be good for the session date stamped;

F. Amount of Prizes Awarded. A progressive mega jackpot bingo account consists of all contributions made by participating organizations excluding the \$200 start-up fee as provided in Subsection D of this Section during the progressive mega jackpot bingo game.

2. The dollar amount of any progressive mega jackpot bingo game shall not exceed the sum of \$50,000. Participating organizations may establish a maximum progressive mega jackpot or cap which does not exceed the sum of \$50,000 only upon written application to and receipt of written approval from the division. Once approved by the division, any subsequent change to the maximum jackpot or cap shall require written approval from the division. Once the maximum jackpot or cap is reached for any progressive mega jackpot bingo game, participating organizations may continue to make contributions in the amount of \$100 to the progressive mega jackpot bingo account to accumulate a second or subsequent jackpot and shall establish with the division the amount of the next maximum jackpot or cap to be offered. However, in the event that the maximum jackpot or cap is reached, organizations shall not offer any subsequent progressive mega jackpot bingo prize until such time that the first progressive mega jackpot bingo prize is won. Only one progressive mega jackpot bingo prize of participating organizations shall be awarded during any 24-hour period as provided in Subsection G of this Section. Unless otherwise provided by the division, the request for written approval as set forth herein shall be submitted on forms prescribed by the division.

H. Winner(s). A progressive mega jackpot bingo game shall be won when any player(s) achieves a blackout in 48 balls called or less only on the 3 on 1 up sealed vertical disposable bingo card and only during the 24-hour period described in Subsection G of this Section. Each face on any 3 on 1 up sealed vertical disposable bingo card shall be considered when determining the number of winners.

1. In the event that a patron achieves a blackout in 47 balls called or less on a card from a minimum buy-in package, that patron shall win only the regular blackout bingo prize of the respective organization and that regular blackout bingo game shall end. If such a blackout is achieved in 47 balls called or less, play shall resume until the forty-eighth ball is called, and once called, the progressive mega jackpot bingo game shall end. If no blackout is achieved, the game shall continue until a consolation prize is won as provided in Paragraph 5 of this Subsection.

2. In the event a patron achieves a blackout on cards from a minimum buy-in package on the same number of balls called as a patron who achieves a blackout on a 3 on 1 up sealed vertical disposable bingo card, the regular blackout

bingo prize of the respective organization shall be divided equally between all verified winners of the progressive mega jackpot bingo game at that session. The progressive mega jackpot bingo game shall be won only by a patron(s) who achieves a blackout on the 3 on 1 up sealed vertical disposable bingo card as provided in this Subsection.

3. In the event there is more than one winner of the progressive mega jackpot bingo game during the 24-hour period as provided in Subsection G of this Section, the progressive mega jackpot bingo prize shall be divided equally between all verified winners of that progressive mega jackpot bingo game. Once the progressive mega jackpot prize is won, the number of balls called to achieve a winner for the next 24-hour period shall revert to 48 balls unless otherwise provided by the division.

4. A patron who achieves a blackout on a 3 on 1 up sealed vertical disposable bingo card in fewer balls called than a patron who achieves a blackout on a 3 on 1 up sealed vertical disposable bingo card at another licensed session of a participating organization shall share the progressive mega jackpot bingo prize equally with all verified winners during the 24-hour period as provided in Subsection G of this Section.

5. If no blackout is achieved in 48 balls called or less, the organization's progressive mega jackpot bingo game shall continue until a consolation prize is won. The consolation prize shall be the respective organization's regular blackout bingo prize and shall constitute part of the total amount of prizes awarded during that called bingo session.

* * *

7. The division may, upon written request and adequate justification, issue a written approval allowing participating organizations in a progressive mega jackpot bingo game to increase the number of balls called to achieve a progressive mega jackpot bingo prize winner. In the event such request is granted by the division to increase the number of balls called to achieve a winner, the method of determining a winner as provided in this Subsection shall be modified accordingly.

I. Noninterest Bearing Account. A separate noninterest bearing checking account shall be opened by the participating organizations for the progressive mega jackpot bingo game.

* * *

2. Each location, hall, commercial lessor, or noncommercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall designate in writing and submit to the division a representative who shall make deposits and obtain bank receipts of all monies contributed and deposited into the progressive mega jackpot bingo game account before 11:30 a.m. on the next banking day.

3. Unless as otherwise provided by the division, at least two designated representatives of each participating organization shall be authorized signatories on the progressive mega jackpot bingo bank account.

4. Monthly bank statements for the progressive mega jackpot bingo game account shall be mailed directly to the division, governing authority of the parish or municipality, or the contracted certified public accountant overseeing the progressive mega jackpot bingo game, if applicable.

* * *

K. All revenues related to the progressive mega jackpot bingo game, and all checks written to and issued from the "Charitable Gaming Progressive Mega Jackpot, Bingo Account" shall be reported by each participating organization in a manner acceptable to the division.

L. Any licensed charitable organizations playing bingo within the state who participate in a progressive mega jackpot bingo game may contract a certified public accountant selected by the participating organizations and who shall be approved by the division to oversee the progressive mega jackpot bingo game and bank account in the event that the governing authority of the parish or municipality does not have a regulatory body to oversee the game.

1. The division, governing authority of the parish or municipality, or if applicable, the contracted certified public accountant approved by the division shall be responsible for, but not limited to the following:

a. reconciling bank statements monthly;

b. ensuring that each \$100 contribution for each session played has been properly deposited in a timely manner, as provided in Subsection R of this Section;

c. ensuring that all banking fees and other related costs as provided in Subsection N of this Section are recovered from the proper parties;

d. ensuring that checks written on the account are disbursed only to verified progressive mega jackpot bingo blackout prize winners, to organizations requesting refunds of the \$200 start up fee due to voluntary or involuntary withdrawal from the progressive mega jackpot bingo game as provided in Subsection D of this Section, or for those purposes as may be necessary, if approved in writing by the division;

e. immediately notifying by facsimile all organizations participating in the progressive mega jackpot bingo game that the maximum progressive mega jackpot or cap has been reached;

f. notifying by facsimile each day all participating locations, halls, commercial lessors, or noncommercial lessors of the amount of the estimated progressive mega jackpot bingo prize; and

g. notifying the division of any discrepancies, problems, violations, or deficiencies in the reporting, conduct of the game, or compliance requirements of this Part.

2. The division shall have the right to approve any contracts or agreements, and the terms or conditions thereof entered into with a certified public accountant contracted to oversee a progressive mega jackpot bingo game. The division may, at any time, revoke any such approval granted and declare any such contract void with or without cause, upon written notice to any such certified public accountant.

M. Equipment. Each location, hall, commercial lessor or noncommercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall have at least the following equipment on site and operational at all times.

1. Facsimile machine at each such location capable of transmitting to the division, the governing authority of the parish or municipality, or the certified public accountant

contracted to oversee the progressive mega jackpot bingo game, if applicable.

2. A minimum of at least one camera and one monitor at each such location that is capable of televising the first and the next ball to be called including the letter and number on the bingo balls, and the winning card(s) of the progressive mega jackpot bingo game(s) to the patrons at that session.

3. A video cassette recorder at each such location capable of monitoring and recording any winning card and all bingo balls including the letter and number on the bingo balls, as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game.

* * *

N. Costs. Each location, hall, commercial lessor or noncommercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall bear all costs, related to, but not limited to, the following:

1. facsimile machine installation at each such location capable of transmitting the required data and information to the division, the governing authority of the parish or municipality, or the certified public accountant contracted to oversee the progressive mega jackpot bingo game for the parish or parishes, if applicable.

2. banking fees and other related costs, accounting fees of the certified public accountant contracted to oversee all deposits, disbursements, and reporting and tax requirements of the progressive mega jackpot bingo game bank account(s), if applicable. Unless as otherwise provided by the division, these costs shall be shared by each such location proportionate to the number of sessions held at each site.

3. attorney fees as may be required for any progressive mega jackpot bingo game. Unless as otherwise provided by the division, these costs shall be shared by each such location proportionate to the number of sessions held at each site.

4. a minimum of at least one camera and one monitor at each such location that is capable of televising the first and next ball to be called, including the letter and number on the bingo balls, and the winning card(s) of the progressive mega jackpot bingo game to patrons at that session.

5. a video cassette recorder capable of monitoring and recording any winning card and all bingo balls, including the letter and number on the bingo balls, as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game.

* * *

O. Organization Requirements and Verification Procedures. All licensed charitable organizations participating in a progressive mega jackpot bingo game shall use the following procedures in verifying the play and winner(s) of the progressive mega jackpot bingo game.

1. Use at each of its games the required camera, monitor, and video cassette recorder at its gaming location to televise and record the following:

a. the caller announcing the information as set forth in Paragraph 5 of this Subsection;

b. all bingo balls as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game. Each ball, including the letter and number on the ball should be visible to the patrons prior to being extracted from the bingo machine hopper;

c. the winning card(s) of the progressive mega jackpot bingo game and to display on the monitor such card(s) to the patrons at that session.

* * *

5. The caller shall announce:

a. the organization's name, license number, session date, session time, the name of the location of the game, and record this information on the video cassette prior to calling the first ball of the progressive mega jackpot bingo game;

b. the dollar amount of the progressive mega jackpot bingo prize and the number of balls to be called for the progressive mega jackpot bingo game prior to the start of each gaming session;

c. that the progressive mega jackpot bingo game shall commence at least five minutes before the first ball is called for the progressive mega jackpot bingo game;

d. when the forty-eighth ball is called or subsequent ball is called as provided in accordance with Paragraph 7 of Subsection H and ask if there are any winners and then state that the progressive mega jackpot bingo game has ended;

e. any progressive mega jackpot bingo game winners from another organization's licensed session for the 24-hour period as provided in Subsection H of this Section prior to the first called bingo game of a session, the start of the progressive mega jackpot bingo game, and upon receipt of the facsimile as provided in Paragraph 12 of this Subsection;

f. in order to be eligible to win the progressive mega jackpot bingo game and to collect the prize, one must possess two of the four types of personal identification as provided in Subsection P of this Section;

g. each bingo ball by letter and number as it is extracted from the bingo machine and placed on the bingo board for view by all patrons during the progressive mega jackpot bingo game.

6. A person, other than the caller, working in a managerial capacity with the licensed organization conducting the progressive mega jackpot bingo game shall reduce to writing the sequence that the bingo balls are actually called for the progressive mega jackpot bingo game. Such record shall be in ink and shall become part of the session records and shall be maintained for a period of three years as required by this Part.

7. In the event that there is a progressive mega jackpot bingo game winner as provided in Subsection H of this Section, the video cassette tape shall immediately be rendered incapable of further recording, and secured by the session manager of that organization.

a. The organization shall verify that the winning progressive mega jackpot bingo card(s) compares to the actual balls called. Such verification shall be made by at least three separate persons working in a managerial capacity on behalf of the licensed organization.

b. The organization shall use at each of its games the master verification checkbook or similar verification device at its gaming location to compare to the winning card(s) of the progressive mega jackpot bingo game to ensure that such winning card(s) is a valid winner and has not been altered. Such verification shall be made by at least three separate persons working in a managerial capacity on behalf of the licensed organization.

c. The organization shall make available such cassette to the division or to the governing authority of the parish or municipality within three business days where it shall be reviewed and retained for a period of one year.

8. In the event that a licensed bingo session is not held by any participating organization, such organization shall transmit by facsimile a license modification form immediately to the division and the governing authority of the parish or municipality or the contracted certified public accountant, if applicable, stating that a licensed session was not held and the reason why the session was not held. The modification form shall be signed by the organization's member-in-charge.

9. Ensure that the contracted certified public accountant, if applicable, receives a copy of the participating organization's licensed scheduled sessions prior to beginning the progressive mega jackpot bingo game and any subsequent changes to said license. Unless as otherwise provided by the division, all proposed modifications to licensed schedules shall be submitted to the division for approval at least 72 hours in advance of any proposed change.

10. Vouchers. All organizations participating in a progressive mega jackpot bingo game shall utilize the same type of carbon copy voucher when awarding progressive mega jackpot bingo prize winners. All required information on the voucher(s) shall be accurately completed and properly signed immediately after the winning progressive mega jackpot bingo card(s) has been verified as provided by this Subsection. The voucher(s) shall contain, but shall not be limited to, the following information:

- a. organization name, license number, session date, and session starting time;
- b. printed names and signatures of at least three separate persons working in a managerial capacity on behalf of the licensed organization;
- c. name and physical address of the hall;
- d. number of winners for the session;
- e. dollar amount of the progressive mega jackpot bingo prize and the number of balls called for the winning card; and

* * *

11. Any winner(s) of the progressive mega jackpot bingo game shall be given the original voucher, and the carbon copy voucher(s) shall be retained along with the winning 3 on 1 up sealed vertical disposable bingo cards by the organization awarding the progressive mega jackpot bingo prize. The progressive mega jackpot bingo winner(s) printed name(s), signature(s), and social security number(s) shall be affixed to the back of the winning card(s) in order to be valid.

12. Any participating organization(s) which has a progressive mega jackpot bingo winner(s) at its licensed session shall immediately transmit by facsimile the completed

voucher(s), the session record as provided in Paragraph 6 of this Subsection and the winning card(s) of the progressive mega jackpot bingo game to the following:

- a. the division;
- b. governing authority of the parish or municipality, if applicable;
- c. the contracted certified public accountant approved by the division for that progressive mega jackpot bingo game, if applicable; and
- d. all locations, halls, commercial lessors and noncommercial lessors whose organizations participate in the progressive mega jackpot bingo game.

P. Payment of the Winner(s). The original voucher(s), the carbon copy voucher(s), and the original winning 3 on 1 up sealed vertical disposable bingo card(s) shall be presented to the division or the governing authority of the parish or municipality, or the contracted certified public accountant(s), if applicable, within three working days for verification. No winner(s) of the progressive mega jackpot bingo prize shall be certified and no winner shall be paid until verified by the division or the governing authority of the parish or municipality. Any winner of the progressive mega jackpot bingo game shall be paid only by check from the charitable gaming progressive mega jackpot bingo account.

1. No winner(s) of the progressive mega jackpot bingo prize shall be paid unless two of the following types of personal identification are presented by the winner(s) to the division, governing authority of the parish or municipality or the certified public accountant overseeing the progressive mega jackpot bingo account, if applicable:

- a. Social Security card;
- b. valid driver's license or other valid state issued picture identification;
- c. voter registration card; or
- d. birth certificate.

2. Failure to provide a valid Social Security card and a valid driver's license or other state issued picture identification may result in the withholding of taxes from any prize awarded. The organization that sponsored the progressive mega jackpot bingo game at which the progressive mega jackpot bingo prize was won shall submit to each respective taxing authority the taxes withheld and the appropriate forms indicating the amount of any such withholdings.

* * *

R. Each location, hall, commercial lessor, or noncommercial lessor that has any licensed organization participating in the progressive mega jackpot bingo game shall:

1. prepare a detailed deposit slip(s) for all participating organizations' contributions to the progressive mega jackpot bingo game to be deposited from the previous calendar day indicating each licensed organization's name, license number, and the amount to be deposited. Contributions shall only be accepted in the form of a check made payable from the participating organization's charitable gaming checking account made payable to the Charitable Gaming Progressive Mega Jackpot Bingo Account. Contributions in the form of cash and money orders are prohibited;

2. deposit all participating organizations' contributions to the progressive mega jackpot bingo game from the previous calendar day(s) into the progressive mega jackpot bingo account before 11:30 a.m. on the next banking day, and maintain a detailed log of such deposits;

3. transmit daily by facsimile the detailed deposit slip and proof of deposit as provided in Paragraphs 1 and 2 of this Subsection to the division, governing authority of the parish or municipality or the contracted certified public accountant overseeing the progressive mega jackpot bingo account for that game, if applicable;

4. immediately and conspicuously display at each participating progressive mega jackpot bingo game site for a period of one week after the awarding of the progressive mega jackpot bingo game prize at least the following information concerning the progressive mega jackpot bingo winner;

* * *

d. the dollar amount of the progressive mega jackpot bingo prize awarded;

* * *

10. immediately notify by facsimile the division, governing authority of the parish or municipality, or the contracted certified public accountant, if applicable, of any problems, suspected violations of any provision of this Part, deficiencies, breakdowns, discrepancies, or malfunctions with equipment or the conduct of the progressive mega jackpot bingo game;

11. transmit daily by facsimile on forms prescribed by the division, a list of all progressive mega jackpot bingo games scheduled indicating whether such games were conducted. Such forms shall be transmitted by facsimile to the division, the governing authority of the parish or municipality, or the contracted certified public accountant, if applicable, and must be transmitted prior to the end of the last session held within each respective 24-hour period.

S. The following persons shall be strictly prohibited from playing for the progressive mega jackpot bingo prize.

1. No charitable gaming employee or volunteer shall play for the progressive mega jackpot bingo prize while on duty at any gaming session where a progressive mega jackpot bingo game is being conducted. For purposes of this Section, a gaming employee or volunteer is any member of the licensed organization who participates in the holding, operating or conducting of any game or games of chance or any member of another licensed organization assisting in the holding, operating or conducting of any game or games of chance. A charitable gaming employee or volunteer working any part of a session or taking a temporary break shall be considered on duty for that gaming session.

* * *

3. No licensed distributor owners, or its shareholders, directors, employees or agents shall play the progressive mega jackpot bingo game at any participating organization's licensed session.

4. No licensed manufacturer owners, or its shareholders, directors, employees or agents shall play the progressive mega jackpot bingo game at any participating organization's licensed session.

5. No licensed private casino contractor owners, or its shareholders, directors, employees or agents shall play the

progressive mega jackpot bingo game at any participating organization's licensed session.

6. No employee who regulates charitable games of chance for any state, parish, or municipal governing authority, shall play the progressive mega jackpot bingo game at any participating organization's licensed session.

* * *

U. Any licensed charitable organization, commercial or noncommercial lessor, or the respective officers, agents, or employees thereof who violate any provision of this Section shall be subject to civil penalties, the suspension, restriction, or revocation of its gaming license, and a finding of unsuitability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4861.26 and R.S. 40:1485.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division, LR 22:116 (February 1996), amended by the Division of Charitable Gaming Control, LR 23:

Colonel R. W. "Rut" Whittington
Superintendent

9704#012

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

AFDC—Alien Eligibility (LAC 67:III.1141 and 1143)

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following Emergency Rule in the Aid to Families with Dependent Children (AFDC) Program, effective April 9, 1997. It is necessary to extend emergency rulemaking since the Emergency Rule of December 10, 1996 was effective for a maximum of 120 days and will expire before the final Rule takes effect.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, which was signed into law on August 22, 1996, mandated revision of AFDC Program policy regarding the eligibility of noncitizens effective October 1, 1996. This Emergency Rule supersedes the original Emergency Rule which was effective October 1, 1996. Clarification redefining the eligible categories of aliens was received from the Administration for Children and Families. Action has been taken to certify eligible individuals who were erroneously rejected due to misinterpretation of policy. The Emergency Rule limits eligibility for noncitizens by redefining the groups of noncitizens who may be eligible for benefits, assigning time-limits and deeming income and resources of a sponsor and sponsor's spouse. An Emergency Rule is necessary to effect these federal regulations and to avoid sanctions or penalties which could be imposed by delaying implementation.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Aid to Families with Dependent Children

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter B. Coverage and Conditions of Eligibility

§1141. Eligibility Requirements for Aliens

A. An alien who is not a qualified alien is not eligible. A qualified alien is:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. an alien who is granted asylum under Section 208 of such Act;
3. a refugee who is admitted to the United States under Section 207 of such Act;
4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
5. an alien whose deportation is being withheld under Section 243(h) of such Act; or
6. an alien who is granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980.

B. Time-limited Benefits. An alien who is a qualified alien as defined above who enters the United States after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;
2. the alien is granted asylum under Section 208 of such Act;
3. the alien's deportation is being withheld under Section 243(h) of such Act;
4. the alien is lawfully residing in the United States and is a veteran who is honorably discharged for reasons other than alienage and his spouse and unmarried dependent children;
5. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse and unmarried dependent children.

C. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child by applying the stepparent deeming formula. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:48687 et seq., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Eligibility Determinations, LR 14:280 (May 1988), LR 14:438 (July 1988), amended by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997).

§1143. Income and Resources of Alien Sponsors

In determining eligibility and benefit amount for an alien, the income and resources of the alien shall be deemed to include the income and resources of the sponsor and the sponsor's spouse. A sponsor is defined as any person who executed an affidavit of support pursuant to Section 213A of the Immigration and Nationality Act on behalf of the alien.

The income and resources of the sponsor and the sponsor's spouse shall apply until the alien:

1. achieves United States citizenship through naturalization; or

2. has worked 40 qualifying SSA quarters of coverage or can be credited with such qualifying quarters, and in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit during any such period. In determining the number of qualifying quarters of coverage an alien shall be credited with:

a. all of the qualifying quarters of coverage worked by a parent of such alien while the alien was under age 19; and

b. all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402) and 45 CFR 205-206,233-234, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997).

Madlyn B. Bagneris
Secretary

9704#068

DECLARATION OF EMERGENCY

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

Commercial Red Snapper Fishery Closure

In accordance with the emergency procedures of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317, which provides that the Secretary of the Department may declare a closed season when it is in the best interest of the state, the Secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule:

Effective 12:01 a.m., April 4, 1997, the commercial fishery for Red Snapper in Louisiana waters will close until 12:01 a.m., September 15, 1997. Nothing herein shall preclude the legal harvest of Red Snapper by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell Red Snapper. Effective with the closure, no person shall possess Red Snapper in excess of a daily bag limit. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing Red Snapper taken legally prior to the closure shall maintain appropriate records, in accordance with R.S. 56:306.4.

The Secretary has been notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service that the gulfwide commercial Red Snapper quota has been reached, and the season closure is necessary to prevent overfishing of this species.

James H. Jenkins, Jr.
Secretary

9704#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Turkey Season Closure—1997

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Wildlife and Fisheries Commission hereby closes the following portions of the 1997 wild turkey season until further notice. The Secretary of the Department of Wildlife and Fisheries has been delegated the authority vested in the Commission by virtue of provisions of the 1996-97 Louisiana Hunting Regulations promulgated by the Commission.

A Declaration of Emergency is necessary to protect the turkey resources in these areas that are experiencing flooding conditions. The closure is in effect until further notice.

The following described areas will be closed until further notice for turkey hunting:

Turkey Hunting Area A

All of East Carroll Parish and all lands east of and including the Mississippi River Levee in Madison, Tensas, and Concordia Parishes;

The area in West Feliciana Parish known as Cat Island is closed west of the right-of-way of the abandoned L and A Railroad grade from St. Francisville north to Como Bayou, south of Como Bayou westward to the Mississippi River, east of the main channel of the Mississippi River southward to La. Hwy. 10, and west of La. Hwy. 10 from the Mississippi River

to St. Francisville; also, all of West Feliciana Parish west of the main channel of the Mississippi River including Turnbull Island;

Also closed are Raccourci Island in West Feliciana Parish and all those lands in Pointe Coupee and West Baton Rouge Parishes east of and including the Mississippi River Levee, from La. Hwy. 15 south to U.S. Hwy. 190;

Avoyelles Parish: that portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. Hwy. 452 from Brouillette to La. Hwy. 1 eastward to Simmesport, EXCEPT that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. Hwy. 451, on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. Hwy. 451.

Turkey Hunting Area C

The portions of Avoyelles, Tensas and Concordia parishes within Area C as described below:

Avoyelles Parish: that portion surrounding Pomme de Terre WMA, bounded on the north, east, and south by La. Hwy. 451, on the west by the Big Bend levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. Hwy. 451.

Concordia Parish: north and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. Hwy. 84, south of U.S. Hwy. 84 eastward to La. Hwy. 15 (Ferriday), east of La. Hwy. 15 northward to U.S. Hwy. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line.

Tensas Parish: east and south of U.S. Hwy. 65 from Concordia Parish line to La. Hwy. 128, south of La. Hwy. 128 to St. Joseph, east and south of La. Hwys. 605, 604, and 3078 northward to Port Gibson Ferry.

The following Wildlife Management Areas shall also be closed: Dewey Wills, Little River, Red River, Three Rivers, Pomme de Terre and Grassy Lake.

James H. Jenkins, Jr.
Secretary

9704#007

Rules

RULE

Department of Economic Development Board of Architectural Examiners

License Renewal Procedure (LAC 46:I.1101)

Under the authority of R.S. 37:144 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Architectural Examiners amends LAC 46:I.1101 pertaining to license renewal procedures. The board increases the renewal license registration fee and the delinquent fee charged to an architect domiciled outside Louisiana from \$100 to \$125.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1101. Renewal Procedure

A. A license for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations, architectural-engineering corporations, and limited liability companies shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company to obtain, complete, and timely return a renewal form and fee to the board office, which forms are available upon request from said office.

C. Prior to December 1 of each year, the board shall mail to all individual architects currently licensed a renewal form. An individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$50; the license registration fee for an individual domiciled outside Louisiana shall be \$125. Upon payment of renewal fee, the executive director shall issue a renewal certificate.

D. Prior to June 1 of each year, the board shall mail to all professional architectural corporations, architectural-engineering corporations, and limited liability companies currently licensed a renewal form. A professional architectural corporation, an architectural-engineering corporation, and a limited liability company which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The fee

shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$125. The delinquent fee shall be in addition to the renewal fee set forth in the §1101.C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation, an architectural-engineering corporation, or a limited liability company of the right to renew thereafter. A professional architectural corporation, an architectural-engineering corporation, or a limited liability company who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in §1101.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978), LR 10:739 (October 1984), LR 10:737 (October 1984), amended by Department of Economic Development, Board of Architectural Examiners, LR 15:7332 (September 1989), LR 20:995 (September 1994), repromulgated LR 20:1259 (November 1994), amended LR 23:402 (April 1997).

Mary "Teeny" Simmons
Executive Director

9704#002

RULE

Department of Economic Development Board of Architectural Examiners

Placing of Seal or Stamp (LAC 46:I.1105)

Under the authority of R.S. 37:144 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Architectural Examiners amends LAC 46:I.1105 pertaining to sealing or stamping construction document drawings and specifications. The board clarifies its existing Rule and replaces it with the following:

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part I. Architects

Chapter 11. Administration

§1105. Placing of Seal or Stamp

A. An architect shall affix his or her seal or stamp to all construction document drawings which were prepared by the architect or under the architect's responsible supervision. Construction document drawings prepared by a consulting electrical, mechanical, structural, or other engineer shall be sealed or stamped only by the consulting engineer.

B. An architect shall clearly identify the specification sections prepared by that architect or under that architect's responsible supervision and distinguish such sections from those prepared by consulting engineers. An architect shall affix his or her seal or stamp either to:

1. each specification section, page, or sheet prepared by or under the responsible supervision of the architect; or
2. the appropriate portion of any seals/stamp page in the specification document which identifies the specification sections prepared by the architect or under his or her responsible supervision and those sections prepared by consulting engineers. Consulting engineers shall affix their seal or stamp either to each specification section, page, or sheet prepared by that consultant, or to that portion of any seals/stamp page which identifies the specification sections prepared by that consultant.

C. If a public or governmental agency requires further certification by the architect (such as that the title or index page of the specifications be certified by the architect), the architect's further certification shall include a description of exactly what drawings and what portions or sections of the specifications were prepared by or under the architect's responsible supervision, and what drawings and what portions or sections of the specifications were prepared by others. In addition, the architect shall include a certification from any consulting engineers as to what drawings and what portions or sections of the specifications were prepared by or under the responsible supervision of the consulting engineers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), repromulgated LR 10:739 (October 1984), amended by the Department of Economic Development, Board of Architectural Examiners, LR 20:534 (May 1994), LR 23:403 (April 1997).

Mary "Teeny" Simmons
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 741—Class Size Waivers

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amends Bulletin 741, Policy 1.00.40.c as stated below:

1.00.40.c Administrative Waivers of Bulletin 741 Standards

1. Waivers for Class Size/Ratios. Waivers granted by the state department in the following categories will be considered only when the citation would place the school in an approved probational category.

a. Class Size Waivers. The department may waive class size requirements up to two students over the maximum allowable on receipt of the following:

- i. a letter from the local superintendent detailing each class that exceeds the class size;
- ii. documentation from the principal and the superintendent showing how efforts have been made to comply with standards; and
- iii. a copy of the school's master schedule with class sizes included;
- iv. class sizes above the limit of two will go directly to the appropriate board committee with an executive recommendation from the department.

b. Guidance/Librarian Ratios. The department may waive the required guidance and librarian ratios on receipt of the following:

- i. a letter of justification from the local superintendent;
- ii. a list of all administrative personnel in the school (part-time and full-time); and
- iii. a detailed plan stating how the services will be provided to students.

2. Waivers for Deadlines

Electives and Alternative School Programs. A letter must be provided by the local superintendent specifying the reasons the deadline was not met.

3. Chronological Age Waivers. The Department of Education may waive chronological age requirements based on the following:

a. A request from the parish or system superintendent for deviation of the standard on the required form provided by the Office of Special Educational Services.

b. A letter from the parish or system supervisor/director of special education stating a rationale for the deviation and assuring that parents have been made aware through documented notification procedures of the deviation from standard.

c. Technical assistance will be provided by the regional coordinator and a recommendation on the request will be made to the Office of Special Educational Services.

d. The OSES will notify the city or parish systems or schools of the recommendation.

e. If denied, the city or parish systems may ask for a waiver from the Board of Elementary and Secondary Education.

Implementation to begin with the 1990-91 school year.

4. Waivers for Time Requirements

a. A letter of request must be provided by the local school superintendent or nonpublic school principal.

b. A proposal for implementation must be submitted to the department.

5. Waivers for Integrated Curricula

a. A letter of request must be provided by the local school superintendent or nonpublic school principal.

b. Documentation must be provided to assure that appropriate course content is addressed.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:403 (April 1997).

Weegie Peabody
Executive Director

9704#058

RULE

Board of Elementary and Secondary Education

Bulletin 741—GED Minimum Score

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, Standard 1.124.05, referenced in the *Louisiana Administrative Code*, Title 28, Section 953.E.5. Standard 1.124.05 in Bulletin 741 is revised as follows:

1.124.05 To successfully complete the General Educational Development (GED) test, a student must earn a minimum standard score of 40 on each of the five tests and an average standard score of 45 on the test battery.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:404 (April 1997).

Weegie Peabody
Executive Director

9704#059

RULE

Board of Elementary and Secondary Education

Finance and Property—Nonpublic Sector (LAC 28:I.1713)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of

Elementary and Secondary Education amended LAC 28:I.1713.B.4 as follows:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 17. Finance and Property
§1713. Nonpublic Sector**

* * *

B. Required Services Act: Guidelines

1. - 3. ...

4. Parameters for reporting by function and personnel type are included on the form. The parameters are an estimate of the amount of time that may be dedicated to the preparation of the forms and provisions of the services required. The number of hours actually recorded may vary from school to school. If the parameters are exceeded, additional auditing may be required.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 23:404 (April 1997).

Weegie Peabody
Executive Director

9704#061

RULE

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

**Permit Applications and Submittal of
Information (LAC 33:III.517)(AQ147)**

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.517 (AQ147).

The Rule revises LAC 33:III.517.B.3 to allow the Department of Environmental Quality's Small Business Assistance Program (SBAP) staff to prepare and certify permit applications for exemptions, small source permits, and general permits. Previous language required that only persons properly qualified to perform engineering work as provided in the Louisiana Professional Engineers and Land Surveyors Registration Act were authorized to perform this activity. The average cost to hire consultants to prepare exemptions, small source permits, or general permits is generally cost prohibitive for small businesses. This Rule allows DEQ to prepare permit applications for small businesses who do not have financial resources for outside consultants. This Section is in keeping with Section 507 of the 1990 Clean Air Act Amendments, which requires that SBAPs assist small business stationary sources in receiving permits.

This Rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding

environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 5. Permit Procedures

§517. Permit Applications and Submittal of Information

* * *

[See Prior Text in A-B.2.d]

3. Any permit application for a major source, including Part 70 applications, shall be prepared by or under the supervision of a person properly qualified to perform engineering work as provided in the Louisiana Professional Engineers and Land Surveyors Registration Act. The application shall be certified by a professional engineer, as defined in the above named act, or by a responsible person authorized to act on behalf of the professional engineer. All other permit applications shall be certified by a responsible facility official or his/her designee.

* * *

[See Prior Text in C-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:405 (April 1997).

Gus Von Bodungen
Assistant Secretary

9704#075

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

**Clinical Exercise Physiologists;
Licensing (LAC 46:XLV.3701-3767)**

In accordance with R.S. 49:950 et seq., the State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Clinical Exercise Physiologists Licensing Act, R.S. 37:3421-3433, the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), and the provisions of the Administrative Procedure Act, hereby adopts LAC 46:XLV.3701-3767 to govern the licensing of clinical exercise physiologists to engage in the practice of clinical exercise physiology in the state of Louisiana. The Rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Profession

Subpart 2. Licensure and Certification

Chapter 37. Clinical Exercise Physiologists

Subchapter A. General Provisions

§3701. Scope of Chapter

The Rules of this Chapter govern the licensing of clinical exercise physiologists to engage in the practice of clinical exercise physiology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997).

§3703. Definitions

As used in this Chapter, the following terms shall have the meaning specified:

Act—the Louisiana Clinical Exercise Physiologists Licensing Act, R.S. 37:3421-3433, as hereafter amended or supplemented.

Applicant—a person who has applied to the board for a license to engage in the practice of clinical exercise physiology in the state of Louisiana.

Application—a written request directed to and received by the board upon forms supplied by the board, for a license to practice clinical exercise physiology in the state of Louisiana, together with all information, certificates, documents and other materials required by the board to be submitted with such forms.

Board—the Louisiana State Board of Medical Examiners.

Clinical Exercise Physiologist—a person who, under the direction, approval, and supervision of a licensed physician, engages in the practice of exercise physiology.

Exercise Physiology—the formulation, development, and implementation of exercise protocols and programs, administration of graded exercise tests, and providing education regarding such exercise programs and tests, in a cardiopulmonary rehabilitation program to individuals with deficiencies of the cardiovascular system, diabetes, lipid disorders, hypertension, cancer, chronic obstructive pulmonary disease, arthritis, renal disease, organ transplant, peripheral vascular disease, and obesity.

Exercise Protocols and Programs—the intensity, duration, frequency and mode of activity to improve the cardiovascular system.

Good Moral Character—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3429 for the suspension or revocation of exercise physiology licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to