

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Horticulture Commission

#### Qualifications for Examination and Licensure or Permitting (LAC 7:XXIX.105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby proposes to amend regulations regarding the age of applicants for examination.

The Department of Agriculture and Forestry, Horticulture Commission intends to adopt these rules and regulations for the purpose of allowing someone to apply and take an examination for licensure immediately prior to their 18<sup>th</sup> birthday.

These rules are enabled by R.S. 3:3801 and R.S. 3:3814.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXIX. Horticulture Commission

#### Chapter 1. Horticulture

#### §105. Qualifications for Examination and Licensure or Permitting

All applicants for examination and licensure or permitting under the provisions of R.S.3:3801, et seq., must have attained their 18<sup>th</sup> birthday before taking an examination and before being issued a license or permit. Provided, however, that an applicant for examination who is 17 years of age, but who will attain his or her 18<sup>th</sup> birthday between regularly scheduled examinations make apply for and take the examination immediately prior to his or her 18<sup>th</sup> birthday. No applicant who qualifies to take an examination before his or her 18<sup>th</sup> birthday shall be issued a license or permit before attaining his or her 18<sup>th</sup> birthday.

B.- D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:639 (June 1994), LR 26:

All interested persons may submit written comments on the proposed rules through June 27, 2000, to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed rules is available.

#### Family Impact Statement

The proposed amendments to rules LAC XXIX.105 regarding the age of applicants for examination should not

have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;

the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Qualifications for Examination and Licensure or Permitting

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated implementation cost or savings to state or local governmental units. The proposed rule change will allow those individuals whose 18<sup>th</sup> birthday falls between scheduled exams to take the exam scheduled immediately prior to their 18<sup>th</sup> birthday.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections to state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There could be an economic benefit to those individuals who would qualify to take the test earlier than allowed at present. If such an individual passes the test, they could begin employment sooner. The amount of time will vary with each such individual.

The impact on income should be minimal in the overall realm of things and will vary with each individual, making it difficult to estimate. This impact will be on individuals and not on any groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer  
Assistant Commissioner  
0005#078

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications (LAC 7:XXIII.145)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding the aerial application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils.

The aerial application of the insecticide is in accordance with the current concentration regulations have not been sufficient to control or eradicate the boll weevil. Failure to allow the concentrations in ultra low volume (ULV) Malathion applications will allow the boll weevil the opportunity to destroy the cotton bolls during the early growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers.

These rules comply with and are enabled by LSA-R.S. 3:3203 and R.S. 3:3242.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXIII. Advisory Commission on Pesticides

#### Chapter 1. Advisory Commission on Pesticides

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

#### §145 Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A.4. ...

5. Unless further restricted by other regulations or labeling, the chemicals listed in §143.K above shall be applied in a minimum of five gallons of total spray mix per acre. With the following exceptions:

a. insecticides applied in the Boll Weevil Eradication Program, which shall be applied in accordance with their labels, all other agriculture pesticides, unless further restricted by other regulations or labeling, shall be applied in a minimum of one gallon of total spray mix per acre.

b. malathion insecticide applied with the following conditions to control boll weevil in cotton;

i. The Commissioner hereby declares that prior to making any aerial application of ULV Malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches,

schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicators' responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray

formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60% and 75% of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Differential

correction may be provided by fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to May 20.

xxxvi. Applications of ULV malathion shall be restricted to seven day intervals.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business June 27, 2000 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on June 27, 2000 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is available.

**Family Impact Statement**

The proposed amendments to rules XXIII.145 regarding the aerial application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No estimated implementation cost or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No estimated effect on revenue collections to state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated economic benefits to the aerial applicators will be passed on to the farmers. The savings is estimated to be \$2.00 per acre. There is estimated to be 75,000 acres of cotton planted in the Red River Eradication Zone of the Boll Weevil Eradication Program. It is estimated that one to one and one-half applications will be made to this 75,000 acres.

The cost to aerial applicators is estimated to be \$30,000.00 per airplane to install the Differentially Corrected Global

Positioning System (DGPS) and the flight data logging software.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No estimated effect on competition and employment.

Skip Rhorer  
Assistant Commissioner  
0005#077

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding applications of certain pesticides in certain parishes.

The Department of Agriculture and Forestry, Advisory Commission is proposing to amend these rules and regulations for the purpose of adding Wards 1, 3, 4 and 10 of Point Coupee so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

These rules comply with and are enabled by LA-R.S. 3:3203 and R.S. 3:3223.

**Title 7**

**Agriculture And Animals**

**Part XXIII. Advisory Commission on Pesticides**

**Chapter 1. Advisory Commission on Pesticides**

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

**§143. Restriction on Application of Certain Pesticides**

A. - B. 15. ...

C. The pesticides listed in §143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

- |                               |  |
|-------------------------------|--|
| 1. Avoyelles                  | 14. Madison                                  |
| 2. Bossier                    | 15. Morehouse                                |
| 3. Caddo                      | 16. Natchitoches                             |
| 4. Caldwell                   | 17. Ouachita                                 |
| 5. Catahoula                  | 18. Pointe Coupee,<br>Ward 1, 2, 3, 4 and 10 |
| 6. Claiborne, Ward 4          | 19. Rapides                                  |
| 7. Concordia                  | 20. Red River                                |
| 8. DeSoto, Ward 7             | 21. Richland                                 |
| 9. East Carroll               | 22. St. Landry, Wards<br>1, 4, 5 and 6       |
| 10. Evangeline, Wards 1, 3, 5 | 23. Tensas                                   |
| 11. Franklin                  | 24. Union                                    |
| 12. Grant                     | 25. West Carroll                             |
| 13. LaSalle                   | 26. Winn, Ward 7                             |

\* \* \*

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

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

(September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998) LR 26:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on June 27, 2000 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on June 27, 2000 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is necessary.

**Family Impact Statement**

The proposed amendments to rules XXIII.143 regarding applications of certain pesticides in certain parishes should not have any known or foreseeable impact on any family as Defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Pesticide Restrictions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no implementation costs or savings to state or local governmental units. The Louisiana Department of Agriculture and Forestry intends to amend the rules and regulations for the purpose of adding Wards 1, 3, 4, and 10 of Point Coupe Parish so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups. This rule change is intended to make the Departments rule consistent with current practice.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no estimated effect on competition and employment.

Skip Rhorer  
Assistant Commissioner  
0005#079

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Board of Certified Public Accountants**

Certified Public Accountants  
(LAC:XIX.Chapters 1-21)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of R.S. 37:74, the Board of Certified Public Accountants of Louisiana gives notice of its intent to revise LAC 46:XIX. The objective of this action is to adopt, amend and repeal rules in response to changes in the Louisiana Accountancy Act, Act No. 473 of 1999, enacted on June 18, 1999. The action is necessary because many of the current rules became outdated or inapplicable based on changes in the state's accountancy law. The revised rules are the result of extensive review and study by the Board's Rules Committee. In addition, aside from the significant changes in the law affecting the regulation of CPAs and CPA firms, the Louisiana Accountancy Act made changes in where certain provisions appeared in R.S. 37:71-95. Therefore, changes have been made in the location or order of existing rules along with renaming, renumbering, and reordering the rule chapters and sections. No preamble has been prepared with respect to the revised rules which appear below.

Implementation of the proposed rules will have no known effect upon family stability, functioning, earnings, budgeting; the responsibility and behavior of children; or, parental rights and authority, as set forth in R.S. 49:972.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XIX. Certified Public Accountants**

**Chapter 1. Definitions**

**§101. Definition of terms used in the Rules**

A. The definitions included in the act are used herein with the following additions which apply to LAC 46:XIX, unless otherwise indicated in following chapters:

*Act* the Louisiana Accountancy Act, Act No. 473 of the 1999 Regular Session of the Louisiana Legislature, or as it may hereafter be amended.

*CPA Examination* the examination which constitutes part of the requirement for a certificate as a Certified Public Accountant (CPA).

*Practice in Louisiana*

a. performing or offering to perform professional services as a CPA or CPA firm for a Louisiana based client; or

b. maintaining an office in the state to provide professional services arising out of or related to the specialized knowledge or skills associated with CPAs; or (c) providing any professional service that is restricted to licensees by the act, regardless of whether the service provider physically enters the state. "Louisiana based client" refers to an individual who is domiciled or resides in Louisiana, and with respect to corporations, partnerships, LLCs, LLPs, or other organizations, such term includes those entities with a substantial business presence in Louisiana, including without limitation, those having executive offices, major divisions, or a principal place of business located in Louisiana.

B. Masculine terms shall include the feminine and, when the context requires, shall include firms.

C. Where the context requires, singular shall include the plural or plural shall include the singular.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:1 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1112 (September 1997), LR 26:

### **Chapter 3. State Board of Certified Public Accountants of Louisiana**

#### **§301. Officers**

The officers shall be chairman, secretary, and treasurer. The duties of the respective officers shall be the usual duties assigned to the respective office. The newly elected officers shall assume the duties of their respective offices on the first day of the month following the election of the officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

#### **§303. Fiscal Year**

The fiscal year of the board shall end on June 30 of each year. The annual meeting shall be held as soon as practical after the close of the fiscal year, at which meeting the board shall elect its officers who shall serve until the next annual meeting or until their successors assume their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

#### **§305. Duties of the Secretary**

A. The duties of the secretary include, but are not limited to the following.

1. It shall be the duty of the secretary to determine when the prerequisites and procedures required by the act and by the board for taking the CPA examination have been satisfactorily completed by an applicant.

2. The secretary shall determine when, in his opinion, the prerequisites and procedures required by the act and by the board shall have been satisfactorily completed in respect to issuance of certificates and/or firm permits and he shall submit at each meeting of the board, for its approval or disapproval, current tabulations thereof, listing the names of the persons concerned.

3. The secretary shall list in the minutes of the board all persons approved for the issuance of certificates and/or firm permits and all persons whose certificates and/or firm permits are revoked, suspended, expired, or reinstated.

4. It shall be the responsibility of the secretary to see that official registers of all persons who have received certificates or firm permits from the board are maintained.

5. It shall be the responsibility of the secretary that annual listings of all certified public accountants, registrants in inactive status, and CPA firms are maintained.

6. The secretary may delegate duties related to his areas of responsibility to the Executive Director and/or other board personnel as may be appropriate in the circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

#### **§307. Duties of the Treasurer**

A. The duties of the treasurer include, but are not limited to:

1. responsibility for the maintenance of the accounts of the board and the preparation of a financial report once a year, as of June 30; and

2. submittal of an annual budget to the board for its approval.

3. The treasurer may delegate duties related to his areas of responsibility to the Executive Director and/or other board personnel as may be appropriate in the circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

#### **§309. Meetings**

A. Any public meeting may be called by the chairman or by joint call of at least two of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board. Regularly scheduled board meetings are usually held on the last working days of January, April, July and October.

B. Meetings of the board shall be conducted in accordance with *Robert's Rules of Order* insofar as such rules are compatible with the laws of the state governing the board or its own resolutions as to its conduct. The chairman or presiding officer shall be entitled to vote on every issue for which a vote is called.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 9:207 (April 1983), and LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1067 (November 1991), LR 23:1113 (September 1997), LR 26:

#### **§311. Monthly Compensation**

A. The officers of the board shall receive compensation of \$150 per month and other members shall receive \$100 per month. This compensation shall be for time expended by such members in conducting and/or monitoring examinations, attending board meetings and hearings, issuing of certificates and firm permits, conducting investigations, and discharging other duties and powers of the board.

B. A new appointee to the board shall be seated at the first board meeting he attends following his qualification as required by R. S. 37:74. A new appointee's compensation shall commence the month he is seated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:6 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1119 (September 1997), LR 26:

**§313. Paid Out of Treasury**

The compensation of board members and all other necessary expense incurred by the board in carrying out its duties as well as expense for operating the office of the board, conducting investigations (including the hiring of investigators and counsel), examinations and the issuance of firm permits and certificates shall be paid out of the treasury of the board.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:6 (January 1980), LR 26:

**§315. Duties of the Executive Director**

The Executive Director shall manage the day-to-day affairs of the board's office, supervise the personnel of the board and perform such other duties as may be assigned from time to time by the board. The board may delegate appointing authority to the Executive Director with respect to agency staff positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

**§317. Substance Abuse and Drug-Free Workplace Policy**

The board has adopted a written Substance Abuse and Drug-Free Workplace Policy applicable to employees, appointees, prospective employees and prospective appointees requiring testing for illegal drugs and unauthorized substances in accordance with R.S. 49:1001, et seq. and Executive Order 98-38.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

**§319. Assessment of Application, Annual and Other Fees**

A. Examination, certification, firm permit application, renewal, and other fees shall be assessed by the board in amounts not to exceed the following:

|  |        |
|--|--------|
| Application fees:                                |        |
| CPA examination fee                              | \$ 250 |
| Service charge for refund of examination fee     | \$ 50  |
| Original or reciprocal certification application | \$ 100 |
| Reinstatement of certificate application         | \$ 100 |
| Firm permit application                          | \$ 100 |
| Annual fees:                                     |        |
| Renewal of certificate                           | \$ 100 |
| Registration CPA inactive status                 | \$ 60  |

|  |         |
|--|---------|
| Renewal of firm permit                     | \$ 15   |
| per owner (unlicensed in LA) not to exceed | \$5,000 |
| Notice of substantial equivalency          | \$ 100  |
| Other fees in amounts not to exceed:       |         |
| Temporary (provisional) licenses           | \$ 100  |
| Replacement of a CPA certificate           | \$ 50*  |
| Transfer of grades transfer fee            | \$ 25   |
| Written verifications                      | \$ 25   |

Delinquent and other fees are cited in the act and applicable rules

B. \*A replacement certificate shall be issued at the holder's request upon payment of fee and compliance with the following requirements:

1. in the event of a certificate which has been lost, the loss must be advertised in an appropriate newspaper for at least five times in 30 days and the request for replacement must be accompanied by a sworn statement that the certificate is lost and that the loss has been advertised in accordance with this rule;

2. in the event of a certificate which has been mutilated, the mutilated certificate must be returned to the board and if it is mutilated beyond the point of being able to be identified, the request must also be accompanied by a sworn statement that the return document is, in fact, the certificate;

3. if the request for replacement is to have a change in the name in which the certificate is issued, the original certificate must be returned to the board and the request must be accompanied by the appropriate documentation of the name change.

C. Returned Check. A fee not to exceed \$25 will be assessed against each person who pays any obligation to the board with a returned check. Failure to pay the assessed fee within the notified period of time shall cause the application to be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, Promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), LR 13:13 (January 1987), and LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:

**Chapter 5. Qualifications; Education and Examination**

**§501. Definition**

*Accredited University or College* a university or college accredited by any one of the six regional accreditation associations: the Southern Association of Colleges and Schools; Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Secondary Schools; Northwest Association of Schools and Colleges; and Western Association of Schools and Colleges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1119 (September 1997), LR 26:

**§503. Educational Requirements**

A. To be eligible for examination and certification by and under auspices of the board, after December 31, 1996, an applicant shall possess a baccalaureate or higher degree,

duly conferred by an accredited university or college recognized and approved by the board, and shall have, in the course of attaining such degree, or in addition thereto, received credit for not less than 150 hours of postsecondary, graduate, or postgraduate education at and by an accredited college or university approved by the board. The applicant shall present evidence which shall consist of one or more official transcripts certifying that the applicant has attained the foregoing degree and educational hours, and said transcripts shall evidence award of credit for satisfactory completion of the following courses and credit hours, according to whether such courses and credits are taken as an undergraduate course and semester hour or a graduate course and semester hour.

|   | Undergraduate<br>Semester<br><u>Hours</u> | Graduate<br>Semester<br><u>Hours</u> |
|---|---|--------------------------------------|
| Accounting Courses:   |   |                                      |
| Intermediate  | 6   | 3                                    |
| Cost  | 3   | 3                                    |
| Income tax  | 3   | 3                                    |
| Auditing  | 3   | 3                                    |
| Accounting Electives:   | 9   | 9                                    |
| 3 semester hours from one of the following:   |   |                                      |
| Advanced Financial Accounting,  |   |                                      |
| Not-for-profit Accounting/Auditing,   |   |                                      |
| Theory  |   |                                      |
| 6 semester hours in accounting above<br>the basic and beyond the elementary level                                     |   |                                      |
| Total Accounting Courses  | 24  | 21                                   |
|   | Undergraduate<br>Semester<br><u>Hours</u> | Graduate<br>Semester<br><u>Hours</u> |
| Business Courses  |   |                                      |
| (other than Accounting Courses):  | 24  | 24                                   |
| Including at least 3 semester hours in<br>Commercial Law, as it affects<br>accountancy for CPA examination candidates |   |                                      |
| Total Business Courses  | 24  | 24                                   |

1. The board will accept for business course credit semester hours earned in courses offered through the institution's College of Business and reported on official transcripts in the following areas:

- a. commercial law;
- b. economics;
- c. management;
- d. marketing;
- e. business communications;
- f. statistics;
- g. finance;
- h. information systems;
- i. mathematics (as it pertains to business);
- j. technical writing (covering subjects as opinions, tax planning reports, and management advisory service reports and management letters);
- k. computer science;
- l. CPA examination review courses if the curriculum is developed and taught in a classroom environment by a faculty member under contract at the

accredited college or university which is offering the course for credit.

2. Up to six semester hours in industry-specific business courses may be used to satisfy the business courses requirement described in §503.A.1.

3. Up to six semester hours for internship may be applied to the 150-hour requirement, but may not be used to meet the accounting or business courses requirement.

4. Standard conversion (four quarter hours equals three semester hours) will be applied whenever a school is not on the semester basis.

5. Remedial courses may be applied to the 150-hour requirement, but may not be used to satisfy the accounting or business courses requirement.

6. Credit hours for repeated courses for which credit has been previously earned may not be applied to the 150-hour requirement.

B. An applicant who has taken an examination approved by the board prior to December 31, 1996 shall not be required to receive credit for 150 hours in accordance with §503.A until his eligibility expires in accordance with this Subsection. Such applicants remain eligible to take any examination administered by the board prior to December 31, 1999, and shall thereafter be eligible, subject to applicable rules and regulations of the board, if conditioned on examination prior to December 31, 1999 to take sections of the examination in order to pass all sections of the examination. Candidates who have earned conditional credit(s) which expire after December 31, 1999 shall remain eligible until the expiration of the conditional credit(s). After expiration of their conditional credit(s) they shall be required to show completion of 150 semester hours before reapplying to take any other CPA examination in Louisiana.

C. In the event that the applicant's degree does not reflect the credit hours in the courses prescribed by §503.A, the board may, on good cause shown by the applicant, allow the substitution of other courses that, in the board's judgment, are substantially equivalent to any of such prescribed courses or to the credit hours prescribed therein. Documentation of good cause for any such requested substitution shall be submitted by the applicant to the board upon affidavit sworn to and subscribed by the applicant and an officer of the university, college or other educational institution where the course to be substituted was taken. Such affidavit shall set forth a course description of the course sought to be substituted and a comparison of the content of such course to that of the course for which substitution is requested.

D. If the applicant's degree does not reflect the credit hours in the courses prescribed by §503.A, an applicant may become eligible for examination and certification by and under the auspices of the board by having otherwise taken and completed the courses required by this rule and received credit for satisfactory completion thereof awarded by an accredited university, college, vocational or extension school recognized and approved by the board.

E. With respect to courses required for the degree, other than those specified by §503.A, the board does recognize credit received for courses granted on the basis of advanced placement examinations (such as CLEP, ACT or similar examinations). Except for correspondence courses at an accredited university approved by the board, the accounting

and business course credits specifically listed in §503.A shall have been awarded pursuant to satisfactory completion of a course requiring personal attendance at classes in such course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17:1070 (November 1991), LR 23:1120 (September 1997), LR 26:

### **§505. Examination**

A. The examination shall consist of:

1. the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants; or

2. if applicable, the International Uniform CPA Qualification Examination (IQEX) prepared and graded by the American Institute of Certified Public Accountants.

B. Qualifications

1. Application. The board shall examine candidates for examination as a CPA.

a. Examinations are ordinarily held in May and November of each year. Candidates for these examinations shall file complete application forms. A complete application is one that is properly filled out, including payment of the required examination fee and, if an initial application, accompanied by all required official transcripts.

b. Applications for the May examination are due in the office of the board's agent no later than 5 p.m., March 1. Applications for the November examination are due in the office of the board's agent no later than 5 p.m., September 1. If the last day for filing falls on a Saturday, Sunday or state of Louisiana holiday, the due date will be extended to include the next state of Louisiana working day.

c. First time or transfer-of-grades candidates who have not taken their accounting courses in Louisiana must include a copy of the course description(s) of all accounting courses not clearly identified by titles listed in §503.A.

2. Residency Requirements

a. In addition to the requirements set forth in §503, an applicant for an initial examination must meet the following residency requirement:

i. reside in the state for a period of 120 consecutive days within the one-year period prior to the date of the candidate's initial examination; or

ii. during the period of a temporary residency outside of Louisiana, the applicant has maintained a permanent legal residence in Louisiana, to which he intends to return.

3. Fee Refund. If, after filing his application, a candidate is unable to sit for the CPA examination, he must so notify the agent of the board not later than seven working days prior to the first day of the examination; otherwise, the fee shall be forfeited. A service charge will be assessed on all refunds of examination fees.

C. Special Procedures. All examinations must be completed in the time allotted by the board. To comply with the requirements of the American with Disabilities Act (ADA) the board may authorize modification to the time allotted.

D. Board Responsibilities

1. Grade Decision. The board shall not be required to furnish the reason for any grades which it shall grant or for any decision which it may reach with respect to the examination process.

2. Lost Examinations. In the event that examinations are lost, any claim candidates may have against the State Board of Certified Public Accountants of Louisiana, its agents and employees will be limited to the examination fee paid.

E. Grades

1. Applicants shall each be given an identifying ID number and only this ID number shall be used on examination papers for identification purposes.

2. A candidate must sit for all the sections for which he is scheduled in order to receive his grades and to be able to sit for the next examination.

3. In order to pass the examination a candidate must receive a grade of at least 75 in each section.

4. The following rule shall apply for conditional credit:

a. if a grade of 50 or more is made in each section, a candidate who passes at least two sections at a single examination shall receive credit for the sections passed, conditioned upon his passing the remaining section or sections as set forth in §505.E.4.b;

b. a candidate who has received credit for passing at least two sections of the examination, as set forth in §505.E.4.a, shall be required to remove the condition in any of the next six consecutive examinations but shall receive no credit for passing a section or sections at any examination in which he makes a grade of less than 50 in any other section.

5. Grades below 40. Any candidate who makes a grade below 40 (39 or lower) in any section will not be allowed to take the next consecutive examination. This rule does not apply to conditioned candidates.

6. Transfer of Grades. Grades shall be accepted from other states when a candidate for transfer of grades has met all the requirements of Louisiana candidates except that he sat for the examination in another state.

a. Applicant must have completed the education requirements of §503 prior to sitting for the examination in the other state. An exception to this rule will be allowed for a bona fide resident of another state who took the exam in his state of residency which did not have the 150 hour requirement. Such applicants may complete their education requirements after sitting for the exam.

b. Applicant shall submit a completed initial application with an official transcript from an accredited college or university and a statement from an officer of the state board from which he is transferring as to dates of passing the examination and grades made.

c. An applicant for transfer of grades who has conditioned in another state must meet the conditional credit rules of §505.E.4 to retain his conditional credit and to remove his condition.

d. In addition to meeting the requirements for a transfer of grades, the applicant shall be required to pay a transfer fee at the time he request the transfer.

F. Each candidate shall be notified by mail, on the date specified by the American Institute of Certified Public Accountants, of the grades earned by him in each section of

the examination. No information concerning grades will be released until such date.

#### G. Cheating

1. Cheating by an applicant in applying for or taking the examination will invalidate any grade otherwise earned by a candidate on any part of the examination, and may warrant summary expulsion from the examination room and disqualification from taking the examination for a time period as prescribed by the board.

2. For purposes of this rule, the following actions, among others, may be considered cheating:

a. falsifying or misrepresenting educational credentials or other information required for admission to the examination;

b. communication between candidates inside or outside the examination room or copying another candidate's answers while the examination is in progress;

c. communication with others outside the examination room while the examination is in progress;

d. substitution of another person to sit in the examination room in the place of a candidate; or

e. reference to crib sheets, textbooks or other material inside or outside the examination room while the examination is in progress.

3. In any case where it appears to the board or its designee, while the examination is in progress, that cheating has occurred or is occurring, the board or its designee may either summarily expel the candidate involved from the examination or move the candidate to a position in the room away from other examinees where the candidates can be watched more closely.

4. Any person who receives from or discloses to another person any of the contents of a CPA examination which is classified as a nondisclosed examination shall be subject to disciplinary action by the board.

5. In any case where probable cause has been determined that a candidate has cheated on an examination, or where a candidate has been expelled from an examination, the board shall comply with the provisions of R.S. 37:81 to determine the facts, and penalty, if any. The penalty shall be in the sole discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71, et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1119 (September 1997), LR 26:

## Chapter 7. Qualifications; Application for CPA Examination

### §701. Application Forms

Application for examination and/or certification as a certified public accountant shall be made on the appropriate forms provided by the board. Reproduction of these forms shall not be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), LR 26:

### §703. Initial Application

A. First time or transfer candidates or applicants must complete an initial application form. An official transcript from each institution at which original credit toward the educational requirements was earned must accompany the initial application form. Official evidence of baccalaureate or higher degree conferral must be included, regardless of any other degrees the candidate has earned.

B. Candidates or applicants who have completed courses in fulfillment of the educational requirement in institutions outside Louisiana are required to submit course descriptions of all accounting and business courses not clearly identified by titles as listed in §503.

C. Candidates or applicants who have completed educational requirements at institutions outside the U.S. must have their credentials evaluated by the Foreign Academic Credentials Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, Promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1122 (September 1997), LR 26:

### §705. Originals or Certified Copies Required

All documents required to be submitted must be the original or certified copies thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

### §707. Rejection or Refusal of Application

The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form and received in the board's office; or for applications for the CPA examination, received in the office of the board's agent by the appropriate due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 26:

### §709. Fees

Each application for examination, certification, or firm permit shall be accompanied by a fee set by the board. In no event may a fee timely filed exceed \$250. Should such application be rejected, the fee less any service charge shall be refunded. If a Louisiana candidate requests that he be allowed to sit in a state that requires a proctoring fee, he shall be required to pay the proctoring fee. Additional information on fees is included in Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 26:

## **Chapter 9. Qualifications for Initial Certificate**

### **§901. Eligibility for an Initial Certificate; Experience Requirements**

A. To be eligible for initial certification, an applicant shall present proof, documented in a form satisfactory to the board, that he has obtained such professional experience as is prescribed by §903.

B. To be eligible for reinstatement of a certificate which has expired by virtue of nonrenewal, or which was registered in inactive status because an exemption from CPE had been granted, the applicant must satisfy the requirements of §1105.D.

C. In satisfaction of the experience requirement, the applicant must submit such substantiating written statements and documentation in such form as the board shall require, from employers or others who have actual knowledge of such facts. Complete applications are due as prescribed in §1105.A. Written statements confirming an applicant's experience must be submitted with the application. An application received without proper support, or support received without the application, is not acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:234 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 26:

### **§903. Qualifying Experience**

A. The experience required to be demonstrated for issuance of an initial certificate pursuant to R.S. 37:75(G) shall meet the requirements of this rule.

1. Experience may consist of providing any type of services or advice using accounting, attest, management advisory, financial advisory, tax, or consulting skills. Such experience shall be of sufficient depth and quality and have been supervised by an active certificate holder or one from another state who has significant exposure to and review of the applicant's work.

a. Evidence of the applicant's supervision by a certificate holder and experience shall be submitted to the board. Supervision shall be of sufficient duration as determined by the board and may be evidenced by:

i. supervision in using accounting, attest, management advisory, financial advisory, tax, or consulting skills by a certificate holder having a managerial level one or more positions above the applicant's level; or

ii. employment by a firm or organization using the services of outside CPAs during the term of the applicant's employment. The applicant must have been responsible for providing information, explaining systems and procedures, and/or preparing schedules and analysis; or

iii. such other forms of supervision or oversight as the board considers adequate.

2. The applicant shall have their experience verified to the board by a certificate holder or one from another state. Acceptable experience shall include employment in government, industry, academia, or public practice. The board shall look at such factors as the complexity and diversity of the work.

a. Complexity and diversity of experience includes:

i. responsibility and the use of professional judgment in accounting, attest, management advisory, financial advisory, tax, or consulting skills;

ii. employment as a teacher of subjects primarily in the accounting discipline for an accredited college or university as defined in §501.

(a). The applicant shall have taught courses for academic credit in at least three different areas of accounting above the introductory or elementary level. Examples of these areas are intermediate accounting, advanced accounting, governmental accounting, international accounting, accounting theory, cost or managerial accounting, income taxes, auditing, and accounting information systems.

(b). The applicant shall have taught an accumulated course load of 24 semester hours or its equivalent for a period of no less than one year in the four years immediately preceding the date of application.

3. Any certificate holder who has been requested by an applicant to submit to the board evidence of the applicant's experience and has refused to do so shall, upon request by the board, explain in writing or in person the basis for such refusal.

4. The board may require any certificate holder who has furnished evidence of an applicant's experience to substantiate the information.

5. Any applicant may be required to appear before the board or its representative to supplement or verify evidence of experience.

6. The board may inspect documentation relating to an applicant's claimed experience.

B. One year of experience may consist of full-time or part-time employment that extends over a period of no less than one year and no more than four years. Experience shall be obtained within the immediate four-year period preceding the application. Part-time employment shall consist of no fewer than 2,000 hours of performance of services as described in Paragraph 2 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 4:223 (June 1978), LR 6:7 (January 1980) and LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:617 (August 1989), LR 23:1122 (September 1997), LR 26:

## **Chapter 11. Issuance and Renewal of Certificate**

### **§1101. Certificate**

A. When an applicant has met all the requirements for certification, the board shall issue to him a certificate that he is a certified public accountant in the state of Louisiana. All such certificates shall be valid only when signed by the chairman and secretary of the board.

B. Prior to the issuance of his certificate, each such applicant shall be required to execute an oath as prescribed by the board. In addition, the board may require an examination in ethics.

C. R.S. 37:75(H) provides only for the issuance of the certificate for the year 1999. Any restriction in effect as of June 17, 1999 that had been imposed upon any individual as a result of a board proceeding, consent order or settlement agreement remains in effect. With respect to subsequent

years, certificates shall be renewed or reinstated in conformance with the requirements of R.S. 37:76 and related board rules.

D. R.S. 37:75(I) provides for the granting of a certificate under the act to individuals who, except for the experience requirement, met the requirements to become a CPA that existed at June 17, 1999. Accordingly, R.S. 37:75(I) pertains to individuals who, prior to June 18, 1999, the effective date of the act, previously held a valid certificate issued under former law. Such individuals are included as eligible to apply for a certificate under R.S. 37:75(I) irrespective of whether such individuals were currently registered in good standing as of the effective date of the act, but provided that any certificate or license that was not in good standing as of June 17, 1999, was unrelated to a suspension, restriction, revocation, or a relinquishment which resulted from a board disciplinary action, consent order, or settlement agreement.

1. Prior to obtaining a certificate under the act, individuals referenced by the R.S. 37:75(I) are required to renew and register their inactive status with the board annually and pay the annual renewal fee.

2. The experience required to be furnished to the board to be issued a certificate under the act must conform to all of the requirements of R.S. 37:75(G) and related board rules and must be submitted with an application form provided by the board for this purpose and with the applicable fee.

3. R.S. 37:75(I) is only available for an initial certificate after June 17, 1999 under the act. Subsequent to any issuance of a certificate under R.S. 37:75(I), renewals and applications for reinstatements of the certificate must conform to the requirements of R.S. 37:76 and related board rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1124 (September 1997), LR 26:

### **§1103. By Reciprocity**

#### **A. Definition**

*In Good Standing* means the applicant is in compliance with the rules and regulations of the appropriate licensing board, including payment of the annual registration fee, and any penalties and other costs attached thereto. In the case of board-imposed disciplinary or administrative sanctions, the applicant must have complied with all of the provisions of the appropriate licensing board order.

B. The board shall issue a certificate to an applicant pursuant to R.S. 37:76(C)(2) who holds a valid and in good standing certificate, license or permit issued by a substantially equivalent state as determined by the board or its designee. The applicant's experience shall be substantially equivalent to the requirements of R.S. 37:75(G) and the rules there under.

1. Verification of substantial equivalency under R.S. 37:94(A)(1) and R.S.37:94(A)(2) may be made by the board or its designee.

2. Any individual entering this state under provisions of R.S. 37:94 must notify the board of their intent no less frequently than annually and pay any designated fee.

C. For those applicants who do not qualify for reciprocity under the substantial equivalency standard, the board shall issue a certificate to a holder of a valid and in good standing certificate, license or permit issued by another state upon showing that:

1. the applicant possesses a baccalaureate degree or higher and satisfies the educational requirements of §503; and

2. the applicant has successfully completed the Uniform Certified Public Accountant examination. Successful completion of the examination means that the applicant passed the examination in accordance with the rules of the other state at the time it granted the applicant's initial certificate and in the opinion of the board such rules for examination are substantially equivalent to Louisiana's examination rules;

3. the scores achieved by the applicant on all examinations are certified to the board by the state which issued the applicant's original certification; and

4. the applicant has no less than four years experience as described in R.S. 37:75 during the ten years immediately preceding the date on which the application for reciprocity certification is received by the board;

5. if the applicant's initial certificate, license, or permit was issued more than four years prior to the date of application, he/she must have fulfilled the continuing education requirements as described in §1301.A.

D. An applicant otherwise eligible for reciprocity certification under §1103.C, except for possession of a baccalaureate degree, or the credit for not less than 150 hours of university or college education, shall nonetheless be eligible for reciprocity certification by the board, provided that the applicant's original, initial certification as a certified public accountant by any state was issued on or before September 1, 1975, or the applicant has been in active, continuous practice as a certified public accountant for not less than four years during the 10 years immediately preceding the date on which the applicant's application for reciprocity certification is received by the board.

E.1. Applicants for reciprocal certificates shall not be required to reside or have a place for the regular transaction of business in Louisiana, but shall be required to take the CPA oath.

2. A CPA who has established a principal place of business in Louisiana must obtain a reciprocal certificate. Principal place of business is defined as a primary location in Louisiana where the applicant conducts his or her practice or business activity.

3. Complete applications for reciprocal certificates must be received in the board's office 30 days prior to a regular board meeting (§309).

#### **F. Foreign Credentials - Reciprocity Based on Equivalent Experience**

1. The board may designate a professional accounting credential issued in a foreign country as substantially equivalent to a CPA certificate.

a. The board may rely on the International Qualifications Appraisal board for evaluation of foreign credential equivalency.

b. The board may accept a foreign accounting credential in partial satisfaction of its domestic credentialing requirement if:

i. the holder of the foreign accounting credential met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic candidates; and

ii. the foreign credential is valid and in good standing at the time of application for a domestic credential.

2. The board may satisfy itself through qualifying examination(s) that the holder of a foreign credential deemed by the board to be substantially equivalent to a CPA certificate possesses adequate knowledge of U.S. standards and the board's regulations. The board may rely on the National Association of State Boards of Accountancy, the American Institute of Certified Public Accountants, or other professional bodies to develop, administer, and grade such qualifying examination(s). The board will specify the qualifying examination(s) and process by policy.

3. An applicant for renewal of a CPA certificate originally issued in reliance on a foreign accounting credential shall:

a. apply for renewal at the time and in the manner prescribed by the board for all other certificate renewals;

b. pay such fees as are prescribed for all other certificate renewals.

4. If the applicant has a foreign credential in effect at the time of the application for renewal of the CPA certification, he/she must present documentation from the foreign accounting credential issuing body that the applicant's foreign credential has not been suspended or revoked and the applicant is not the subject of a current investigation. If the applicant for renewal no longer has a foreign credential, the applicant must present proof from the foreign credentialing body that the applicant for renewal was not the subject of any disciplinary proceedings or investigations at the time that the foreign credential lapsed; and either show completion of continuing professional education substantially equivalent to that required under §1301.A. within the three year period preceding renewal application, or petition the board for complete or partial waiver for the CPE requirement based on the ratio of foreign practice to practice in the State.

5. The holder of a CPA certificate issued in reliance on a foreign accounting credential shall report any investigation undertaken, or sanctions imposed, by a foreign credentialing body against the CPA's foreign credential.

6. Suspension or revocation of, or refusal to renew, the CPA's foreign accounting credential by the foreign credentialing body may be evidence of conduct reflecting adversely upon the CPA's fitness to retain the certificate and may be a basis for board action.

7. Conviction of a felony or any crime involving dishonesty or fraud under the laws of a foreign country is evidence of conduct reflecting adversely on the CPA's fitness to retain the certificate and is a basis for board action.

8. The board shall notify the appropriate foreign credentialing authorities of any disciplinary actions imposed against a CPA.

9. The board may participate in joint investigations with foreign credentialing bodies and may rely on evidence supplied by such bodies in disciplinary hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974,

promulgated LR 6:7 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 23:1121 (September 1997), LR 26:

**§1105. Certificate application, Annual renewals, Inactive registration, Reinstatement, Notification under substantial equivalency**

**A. Applications**

1. Applications for initial or reciprocal certificates pursuant to R.S. 37:76(F) shall be made on an original form provided by the board, and shall be submitted on or before the last day of the month preceding the month in which a regularly scheduled meeting of the board is held in order for such application to be considered by the board at that meeting.

2. Applications shall contain all of the information required by the board including but not limited to information regarding the satisfaction and verification of the experience requirements of R.S. 37:75(G) and other requirements as required by the act or by the board.

**B. Renewals and current year reinstatement - Certificates**

1. Each certified public accountant shall renew his certificate annually on or before the last day of December preceding the year for which renewal is applicable.

2. The board shall mail the necessary forms for renewal of certificates to the last known address of each certified public accountant on or before the first day of December each year.

3. Certificates expire on the last day of each calendar year.

4. The board shall mail a notice of default to the last known address of each certified public accountant who fails to renew his certificate on or before the renewal date provided in §1105.B.

5. Application for annual renewal of certified public accountant certificates shall be made on forms furnished by the board and shall be accompanied by renewal fees fixed by the board. The fee for annual renewal of a certificate shall not exceed \$100. Reproduction of renewal forms shall not be accepted.

6. The board may reinstate any certificate which has expired because of nonrenewal in the current year, upon payment of the renewal fee and such penalty fee as may be prescribed by the board, provided that the applicant for such renewal is otherwise completely qualified for certification.

7. A delinquent renewal fee equal to the current renewal fee shall be assessed against those certified public accountants who have not renewed prior to February 1<sup>st</sup>; and a reinstatement renewal fee equal to twice the current renewal fee shall be assessed against those persons whose certificates have expired for failure to register prior to March 1<sup>st</sup>.

8. A certified public accountant whose certificate has expired and has not been reinstated prior to April 16<sup>th</sup> of the current year shall submit an application, subject to board approval, for reinstatement of a current year certificate. In addition to the renewal fee and the other renewal fees assessed in Paragraphs 6 and 7 above, the board may assess an additional fee within the limits prescribed by law.

9. In addition to the above fees, a fee may be assessed against those certified public accountants who have received three suspensions within the previous six years.

10. For good cause, the board may waive or suspend in whole or in part any of the fees provided for in this Section.

11. Certified public accountants who have not timely renewed their certificates are in violation of R.S. 37:83 and therefore may be subject to the provisions of R.S. 37:81.

12. Failure to Timely Remit or Respond

a. No certificate of any certified public accountant who has failed to timely remit full payment of any fees, fines, penalties, expenses, or reimbursement of costs incurred by the board, which the certified public accountant owes the board or has been ordered to pay to the board shall be annually renewed, or reinstated.

b. The board may refuse to renew, or to reinstate, any certificate of any certified public accountant who has failed to comply with §1707.H.

C. Annual registration of CPA Inactive status

1. Each person entitled to use the designation "CPA inactive" under R.S. 37:76(D)(2) and R.S. 37:75(I) shall register such "CPA inactive" status annually on or before the last day of December preceding the year for which renewal is applicable.

2. Application for annual registration of "CPA inactive" status shall be made on forms furnished by the board and shall be accompanied by renewal fees fixed by the board. The fee for the annual registration shall not exceed \$60. Reproduction of renewal forms shall not be accepted.

3. The board shall mail the necessary annual registration forms to the last known address of each "CPA inactive" registrant the first day of December each year.

4. Annual registration expires on the last day of each calendar year.

5. The registrant shall affirm upon each annual registration form that he will abide by the applicable statutes and rules of the board governing the use of the designation "CPA inactive".

6. The board may reinstate the "CPA inactive" registration of any person upon the payment of the current year registration fee plus the registration fees for all years since the registrant was last registered.

D. Reinstatement of Certificate of Certified Public Accountant

1. An individual whose certificate has expired by virtue of nonrenewal, or who was registered in inactive status because an exemption from CPE had been granted in a preceding year, shall present proof in a form satisfactory to the board that he has:

a. satisfied the experience requirements prescribed in R.S. 37:75(G) within the four years immediately preceding the date of the application for reinstatement; and,

b. satisfied the requirements for continuing professional education for the preceding reporting period as specified in §1301.A.

2. Continuing education courses used to reinstate a certificate under Subsection 1.b above may be used to satisfy the requirements of either the preceding or current CPE reporting period but not both periods.

3. Applications for reinstatement of certificates pursuant to R.S. 37:76(F) shall:

a. be made on a form provided by the board;

b. be submitted on or before the last day of the month preceding the month in which a regularly schedule

meeting of the board is held in order for such application to be considered by the board at that meeting; and

c. contain all of the information required by the board including but not limited to information regarding the satisfaction and verification of the experience and continuing education requirements referred to in Subsection 1.(b).

E. Notification of practice under substantial equivalence

1. Prior to practicing in Louisiana, an individual holding a valid CPA certificate or license issued by another state shall file notice with and upon a form provided by the board. Such person who satisfies the requirements of R.S. 37:94 and board rules regarding substantial equivalency will be granted the privilege to practice as a CPA in Louisiana. Individuals intending to practice in Louisiana under R.S. 37:94 shall annually file such notice of intent to practice with the board.

2. The initial notice and each subsequent notice shall be accompanied by the fee of \$75.

3. An individual CPA granted practice rights under this Subsection may offer or perform non-attest services in Louisiana in his own name as an unincorporated sole practitioner.

4. If an individual CPA granted rights under this Subsection offers or performs attest services, or offers or performs other professional services through any other form of practice or legal entity that would otherwise be eligible and required to have a CPA firm permit in Louisiana, such entity may be granted a permit to practice in accordance with this Subsection. Qualifications and requirements for a permit under this Subsection include the following:

a. the firm's name, address and other required information must be included in the notices required under this Subsection;

b. the firm may not have an office or physical address in Louisiana;

c. the firm has and maintains a valid permit issued by another state that was issued by that state under requirements that are substantially equivalent to Louisiana's requirements;

d. if attest services will be offered or performed, the firm must confirm that it is subject to a peer review program acceptable to the board;

e. all individual CPAs in the firm who are responsible for professional services in Louisiana have also individually obtained practice rights in Louisiana;

f. an individual CPA with practice rights shall serve as the firm's designated licensee;

g. the practice rights granted to the firm may be suspended, restricted, or revoked by the board if:

i. the rights granted to the individual CPA(s) under this Subsection expire, are restricted, suspended or revoked for cause;

ii. the firm fails to comply with the act or the board's rules;

h. no firm permit or renewal fees, except for the fees for individual CPAs provided for in this Subsection, shall be assessed for permits granted under this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974,

promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:

#### **§1107. Change in Address or Practice Status**

All certified public accountants, individuals registered in inactive status, and individuals who have the privilege to practice under substantial equivalency shall promptly notify the board in writing within thirty (30) days of any change in mailing address or practice status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1125 (September 1997), LR 26:

### **Chapter 13. Maintenance of Competency; Continuing Professional Education (CPE)**

#### **§1301. Basic Requirements**

A. Each certificate holder shall participate in at least 120 hours of continuing professional education every three years. The hours of a certificate holder to whom §1301.E.2 applies shall be reduced pro rata for the compliance period containing his effective date.

1. Certificate holders who participate in attest engagements shall complete at least 20 percent of the required hours in the subject area described in §1307.A.1 in fulfilling the above requirements, effective for the compliance period beginning January 1, 2001. Certificate holders participating in attest engagements include those responsible for conducting substantial portions of the procedures and those responsible for planning, directing, or reporting on attest engagements. Persons who "plan, direct, and report" generally include the in-charge accountant, the supervisor or manager, and the firm owner who signs or authorizes someone to sign the attest engagement report on behalf of the firm.

2. All certificate holders shall complete at least two hours of Professional Ethics that include a review of the State Board's Rules of Professional Conduct (LAC 46:XIX). In order to qualify, the contents of an Ethics course must have been pre-approved by the board.

3. Personal development hours cannot exceed twenty-five percent of the total qualifying CPE.

4. Each certificate holder shall triennially, when making application for certificate renewal, submit requested information on the prescribed form including a signed statement confirming the number of continuing education hours in which the certificate holder has participated during the reporting period.

B. Exemption. The board may grant an exemption from CPE in accordance with R.S. 37:76(D)(2). In order to be granted an exemption, the certificate holder must register in inactive status and follow the provisions of §1707.C.

C. An individual who held a license on June 17, 1999 or was issued a certificate on or after June 18, 1999 who wishes to reenter practice after having allowed such license or certificate to lapse must present proof, documented in a form satisfactory to the board, that he has satisfied the requirements for continuing professional education for the preceding period as specified by §1301.A.

D. The board may at its sole discretion grant extensions of time or waivers to complete the required continuing education requirements for hardship situations and for medical reasons.

E. Effective Date

1. As to any certificate holder who was licensed as of January 1, 1998, the effective date of these requirements was January 1, 1998; except for §1301.A.1, which will be effective January 1, 2001.

2. As to any individual who obtains an initial certificate, the effective date of these requirements shall be January 1, of the year after his initial certificate was issued.

F. Compliance Period

1. The first compliance period for continuing professional education was the three-year period ended December 31, 1982, and subsequent compliance periods shall end on December 31 each third year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 23:1116 (September 1997), LR 26:

#### **§1303. Standards for Programs**

A. Program Development

1. The program shall contribute directly to the professional competence of the participants.

2. The stated program objectives shall specify the level of knowledge the participant should have obtained or level of knowledge he should be able to demonstrate upon completing the program.

3. The education and/or experience prerequisites for the program should be stated.

4. Programs shall be developed by individual(s) qualified in the subject matter.

5. Program content shall be current.

6. A program shall be reviewed by an individual(s) qualified in the subject matter and knowledgeable in instructional design, other than the preparer(s).

B. Program Presentation

1. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation, teaching methods, and continuing professional education credit.

2. Instructors, lecturers or speakers should be qualified with respect to program content and teaching method used.

3. The number of participants and physical facilities should be consistent with the teaching method(s) specified.

4. Written evaluations shall be solicited from participants for each program, and summarized to provide an effective means for evaluating program quality, and retained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 23:1116 (September 1997), LR 26:

#### **§1305. Programs which Qualify**

A. The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which

contributes directly to the professional knowledge and professional competence of an individual certificate holder. Formal programs of learning are those programs that are designed, and primarily intended, as educational activities, and comply with all CPE standards. Magazines and reference materials are not designed as educational programs nor do they comply with CPE standards. Accordingly, examinations on magazine articles or reference materials will not qualify for credit unless a formal program of learning was developed in addition to the examination. CPE credit will not be allowed for programs which have content that is in violation or is not in compliance with the act or rules of the board.

B. Continuing education programs qualify if they meet the above standards and if:

1. a written outline of the program is prepared in advance and preserved;
2. the program is at least one hour (50 minute period) in length; and
3. a record of registration and attendance or test results is maintained.

C. The following are deemed to be qualifying programs:

1. Accredited University or College Courses as defined in §501. Credit and non-credit courses earn continuing education credit as set forth in §1309.A.

2. Formal correspondence or other individual study programs, (including text books, audio or visual tapes, computer disc, CD-ROM, or internet based study programs), which require registration and provide evidence of satisfactory completion as set forth in §1309.B.

3. Formal live classroom study programs, including educational programs of recognized national and state professional organizations.

4. Technical sessions at meetings of recognized national and state professional organizations and their chapters.

5. Formal organized in-firm educational programs.

D. The board may look to recognized state or national professional organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

E. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 17:1068 (November 1991), LR 23:1118 (September 1997), LR 26:

### **§1307. Subjects which Qualify**

A. The following general subject matters are acceptable as long as they contribute to the professional knowledge and professional competence of the individual certificate holder and are relevant to the services rendered or to be rendered by the individual certificate holder in public practice, industry, academia or government.

1. Accounting and Auditing. This field of study includes accounting and financial reporting subjects, pronouncements of authoritative accounting principles

issued by the standard-setting bodies and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and the reporting on the results of audit findings, compilations, and reviews. It also includes assurance services that relate to standards for attest engagements.

2. Consulting. This field of study deals with all advisory services provided by professional accountants. Services provided that encompass those for management such as designing, implementing, and evaluating operating systems for organizations as well as business advisory services and personal financial planning. The systems include those dealing with planning, organizing and controlling any phase of individual financial activity or business activity. Subjects may include designing and implementing a computer system to process the financial and management operations of a business; litigation support services and the related fields of law; personal financial planning services; investment planning for individuals or organizations; and management advisory services. This Subsection is primarily for consultants in public practice; however, internal consultants employed by a business entity providing advisory services within the entity may also use these subjects.

3. Taxation. This field of study includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising on tax saving opportunities are also part of tax planning.

4. Management. This field of study considers the management needs of individuals in public practice, industry, and government. Acceptable subjects for individuals in public practice concentrate on the practice management area, such as organizational structures, marketing services, and administrative practices. For individuals in industry or government, there are subjects dealing with the financial management of the organization, including information systems, budgeting, asset management, as well as buying and selling businesses, contracting for goods and services, cost analysis and foreign operations. In general, the emphasis in this field is on the specific management needs of certificate holder's and not on general management skills.

5. Specialized Knowledge and Applications. This field of study treats subjects targeted to specialized industries, such as not-for-profit organizations, health care, oil and gas. An industry is specialized if it is unusual in one or more of the following ways: form of organization, economic structure, legislation of regulatory requirements, marketing or distribution, terminology, technology; and either employs unique accounting principles and practices, encounters unique tax problems, requires unique advisory services, or faces unique audit issues. This area applies to certificate holders in the three employment areas, i.e., public practice, industry, and government. A certificate holder would use this classification for courses not already

reportable under categories listed in §1307.A.1 - 4, such as Medicare cost reporting or rate regulations in the telephone and utility industry.

6. Personal Development. Personal Development is the field of study which includes self-management and self-improvement both inside and outside of the business environment. It includes issues of quality of life, interpersonal relationships, self-assessment, and personal improvement. Personal Development courses are intended to be more of a self-improvement category, as compared to courses that are directly related to the certificate holder's job duties or job requirements. Courses above the basic skill level that otherwise might qualify as Personal Development courses may be claimed in the management area or the consulting area if they relate to the certificate holder's job duties or job requirements.

7. Professional Ethics. Professional Ethics includes the study of the codes of professional ethics applicable to all CPA registrants and their effect on business decisions.

#### B. Special rules

1. For purposes of categorizing courses, a course may be categorized in its entirety based on the majority of its content.

2. Courses which have product or service sales as their underlying content shall not qualify for CPE credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 23:1117 (September 1997), LR 26:

### §1309. Credit Hours Granted

#### A. Class Hours

1. Only class hours or the equivalent (and not student hours devoted to preparation) will be counted.

2. Continuing education credit will be given for whole hours only, with a minimum of 50 minutes constituting one hour. As an example, 100 minutes of continuous instruction would count for two hours; however, more than 50 minutes but less than 100 minutes of continuous instruction would count only for one hour. For continuous conferences, conventions and other programs when individual segments are less than 50 minutes, the sum of the segments will be considered equal to one total program.

3. Credit courses at accredited universities or colleges shall earn 15 hours of continuing education for each semester hour of credit. A quarter hour credit shall equal 10 hours.

4. Continuing education credit allowable for noncredit short courses at accredited universities or colleges shall equal time in class in accordance with §1309.A.2.

B. Individual Study Program. The amount of credit to be allowed for correspondence and formal individual study programs is to be recommended by the program developer. These programs shall be pre-tested by the developer to determine the average completion time. Credit will be allowed in the period in which the course is completed as indicated on the certificate of completion.

1. Noninteractive self-study programs shall receive CPE credit equal to one-half the average completion time.

2. Interactive self-study programs shall receive CPE credit equal to the average completion time provided the course developer is registered as an *interactive self-study course* developer with either the AICPA, NASBA, or a State Society of CPAs, and the developer confirms that the course is an *interactive self-study course*.

a. An interactive self-study program is one which simulates a classroom learning process by providing ongoing responses and evaluation to the learner regarding his or her learning progress. These programs guide the learner through the learning process by:

i. requiring frequent student response to questions that test for understanding of the material presented;

ii. providing evaluative responses and comments to incorrectly answered questions; and

iii. providing reinforcement responses and comments to correctly answered questions.

b. Ongoing responses, comments, and evaluations communicate the appropriateness of a learner's response to a prompt or question. Such responses, comments, and evaluations must be frequent and provide guidance or direction for continued learning throughout the program by clarifying or explaining assessment of inappropriate responses, providing reinforcement for appropriate responses, and directing the learner to move ahead or review relevant material. It is the response of the learner that primarily guides the learning process in an interactive self-study program. Not all technology based self-study programs constitute interactive programs. Technology based self-study programs must meet the criteria set forth in the definition of interactive self-study programs, as must other self-study programs developed using different modes of delivery.

3. CPE program developers shall keep appropriate records of how the average completion time of self-study programs was determined.

#### C. Service as Lecturer or Speaker

1. Credit for one hour of continuing professional education will be granted for each hour completed as a lecturer or speaker to the extent it contributes directly to the individual's professional knowledge and competence and provided the program would qualify for credit under these rules. Credit for such service will be awarded on the first presentation only, unless a program has been substantially revised.

2. In addition, a lecturer or speaker may claim up to two hours of credit for advance preparation for each teaching hour awarded in §1309.C.1, provided the time is actually devoted to preparation.

3. The maximum credit for teaching and preparation, cannot exceed 50 percent of the three-year requirements under these rules.

D. Writing of Published Articles, Books, CPE programs, etc.

1. Credit for writing published articles, books, and CPE programs will be awarded in an amount determined by the board representative provided the writing contributes to the professional competence of the certificate holder. The board and author shall mutually approve this representative. CPAs requesting this service will be charged a fee; the fee is to be negotiated and agreed upon prior to the engagement.

2. The maximum credit for preparation of articles and books cannot exceed 25 percent of the three-year requirement under these rules.

3. Credit, if any, will be allowed only after the article or book is published.

E. Committee Meetings, Dinner and Luncheon Meetings, Firm Meetings

1. Credit will be awarded for participation in committee meetings, dinner and luncheon meetings, etc. provided the program portion thereof meets the other requirements of these rules.

2. Credit will be awarded for firm meetings or meetings of management groups if they meet the requirements of these rules. Portions of such meetings devoted to administrative and firm matters cannot be included.

F. CPE for completion of exams

1. CPE credit may be allowed for the successful completion of exams for Certified Management Accountant (CMA), Certified Information Systems Auditor (CISA), Certified Financial Planner (CFP), as well as other similar exams.

2. Credit will be awarded at a rate of 5 times the length of each exam taken and limited to 50 percent of the three-year requirement.

G. CPE Credit for Reviewers. Credit will be granted for actual time expended reviewing reports for the board's positive enforcement programs as determined by the board and approved by the board's practice monitoring administrator provided the reviewer completes and returns the assigned checklist(s), in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17:1068 (November 1991), LR 23:1118 (September 1997), LR 26:

### **§1311. Maintenance of Records and Control**

A. Participants in formal CPE programs shall retain the documentation of their participation in CPE programs for a period of five years after the end of the calendar year in which the program is completed. Participants in formal CPE programs shall also retain advance materials, which should include the requirements set forth in §1303.B.1, and other promotional material which reflects the content of a course and the name of the instructor(s) in the event the participant is requested by the board to substantiate the course content.

B. Acceptable evidence of completion includes, but is not limited to, the following:

1. for group programs, a certificate of attendance or other verification supplied by the sponsor which includes:

- a. sponsorship organization;
- b. location of course;
- c. title and/or description of content;
- d. dates attended; and
- e. the qualifying hours recommended by the course sponsor;

2. for individual study programs, a certificate supplied by the sponsor after satisfactory completion of a workbook, an examination, or an interactive course that confirms the name of the sponsor, the title and/or description of the course contents, the date of completion and the qualifying hours recommended by the course sponsor;

3. for a university or college course that is successfully completed for credit, an official transcript reflecting the grade earned;

4. for instruction credit, evidence obtained from the sponsor of having been the seminar lecturer or speaker at a program in addition to the items required by §1311.B.1; and

5. for published articles, books, or CPE programs, evidence of publication.

6. for completion of exams, evidence of satisfactory completion and qualifying hours of length of exam taken.

C. Sponsors shall furnish a record of attendance or completion to participants, which includes the requirements set forth in §1311.B and retain same information.

D. Practitioners, partners, members, or shareholders and employees of a firm of certified public accountants will not be required to maintain the above records personally if the firm has a policy of maintaining such records for its members and professional employees and does maintain the records required herein for the required time and reports such information to each person at least once each year.

E. Each sponsoring organization shall maintain records of programs sponsored which shall show:

1. that the programs were developed and presented in accordance with the standards set forth in §1303-1305. If a program is developed by one organization and sponsored by another, the sponsoring organization shall not be responsible for program development standards and related record maintenance if:

a. it has reviewed the program and has no reason to believe that program development standards have not been met; and

b. it has on record certification by the developing organization that the program development standards have been met and that the developing organization will maintain the required records relative thereto.

F. The CPE program sponsor shall maintain records and information required under these rules for a period of five years after the end of the calendar year in which the CPE course was completed.

G. Records required under this rule shall be maintained for five years and shall be made available to the board or its designee(s) for inspection at the board's request.

H. Failure of a CPE program sponsor to comply with the CPE standards shall be cause for the board to deny credit for courses offered by the CPE sponsor until such time as the CPE sponsor can demonstrate to the board that the compliance standards are being met.

I. The board specifically reserves the right to approve or disapprove credit for all continuing education under this state board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:5

(January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 23:1118 (September 1997), LR 26:

**Chapter 15. Firm Permits to Practice; Attest Experience; Peer Review**

**§1501. CPA Firm Permits; Attest Experience; Application, Renewal, Reinstatement**

A. Any firm which provides attest services or which uses the title "CPA", "CPAs", "CPA firm", "Certified Public Accountant", "firm of Certified Public Accountants", or similar such designations must obtain and hold a valid and current firm permit issued by the board under R.S. 37:77(A). The use of any of the above titles or designations anywhere on firm letterhead, business cards, electronic correspondence, advertisements or publications, promotional materials, or any other publicly disseminated medium by a firm not holding a valid and current firm permit is not allowed if it implies the existence of an entity that holds a current and valid firm permit issued by the board under the provisions of R.S. 37:77(A).

1. The board may require a firm applying for issuance, renewal or reinstatement of a firm permit to provide any and all information and/or documentation that the board deems appropriate and necessary to ensure the firm's compliance with all provisions of the act.

2. Any CPA firm organized as and/or represented as a professional accounting corporation is considered to be using the title "firm of certified public accountants" and therefore must hold a firm permit, pursuant to R.S. 37:77(A).

3. "Active individual participants" as referred to in R.S. 37:77(C)(2)(b) means natural persons, firms, associations, partnerships, corporations, or other business organizations or entities, in which all owners of such entities must provide personal services in the CPA firm or its affiliated entities in the nature of management, performance of services for clients, performance of services which assist the certificate holders within the firm in providing professional services, or similar activities; and,

4. A person or entity which makes or holds a passive investment in a CPA firm or its affiliated entities for the purposes of receiving income from the firm or its affiliated entities shall not constitute "active individual participation" as referred to in R.S. 37:77(C)(2)(b).

5. A certificate holder responsible for supervising attest services, or who signs or authorizes someone to sign accountant's reports on behalf of the firm, shall meet the experience requirements set out in AICPA professional standards.

a. Until the time as the AICPA promulgates such professional standards, the requisite experience applicable to certificate holders and firms who are issued certificates or permits after June 18, 1999 is as follows:

i. at least one year (i.e., 2,000 hours) experience in audit, review, or compilation engagements in which the individual was directly supervised by an active certificate holder who had previously met this same requirement;

ii. it is the responsibility of the firm and the certificate holder to determine that this experience requirement has been met.

6. All firms holding a valid registration as a certified public accounting firm June 18, 1999 shall be deemed to have met the initial firm permit requirements.

**B. Firm Permits**

1. Applications by firms for initial issuance and for renewal of permits pursuant to R.S. 37:77 shall be made on a form provided by the board. Applications will not be considered filed until the applicable fee, all requested information, and the required documentation prescribed in these rules are received.

2. A firm registered pursuant to R.S. 37:77 shall file with the board a written notification of any of the following events concerning the practice of public accountancy within this State within 30 days after its occurrence:

- a. change in the firm's designated licensee;
- b. formation of a new firm;
- c. addition of a new partner, member, manager or shareholder;
- d. any change in the name of a firm;
- e. termination of the firm;
- f. change in the management of any office in this State;
- g. establishment of a new office location or the closing or change of address of an office location in this State;

h. the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the act or any rules or regulations adopted by the board.

3. In the event of any change in the legal form of a firm, such new firm shall within 30 days of the change file an application for an initial permit in accordance with board rules and pay the fee required by the rules.

4. Samples of original letterhead must also be included with permit and renewal applications. Names of licensed partners, shareholders, members, managers and employees, and names of non-licensee owners, may be shown on a firm's stationery letterhead. However, names of licensed partners, shareholders, members and managers shall be separated from those of licensed employees by an appropriate line. Licensees shall be clearly identified and the names of non-licensee owners shall be separated from the name of licensees by an appropriate line.

5. Any firm which falls out of compliance with the provisions of R.S. 37:77 due to changes in firm ownership or personnel after receiving, renewing, or reinstating a firm permit shall notify the board in writing within thirty days of the occurrence of changes which caused the firm to fall out of compliance with R.S. 37:77.

a. Such notification shall include an explanation as to how and why the firm is not in compliance and the date upon which the firm fell out of compliance with R.S. 37:77.

b. The firm shall also provide any additional information or documentation the board may request concerning the firm's noncompliance with R.S. 37:77.

6. Within thirty days of written notification to the board that the firm is not in compliance with R.S. 37:77, the firm shall notify the board in writing that the firm has taken corrective action to bring the firm back into compliance.

a. Such notification shall include a description of the corrective action taken, and the dates upon which the corrective action was taken.

b. The firm shall also provide any additional information or documentation the board may request

concerning the corrective actions taken to ensure the firm's compliance with R.S. 37:77.

7. For good cause shown, the board may grant additional time for a firm to take corrective action to bring the firm into compliance with R.S. 37:77.

8. Any firm permit suspended or revoked for failure to bring the firm back into compliance within the time period described above, or within the additional time granted by the board, may be reinstated by the board upon receipt of written notification from the firm that the firm has taken corrective action to bring the firm back into compliance. Such notification shall include a description of the corrective action taken, the dates upon which the corrective action was taken, and any additional information or documentation the board may request concerning the corrective actions taken.

9. The board may impose additional requirements at its discretion, including but not limited to monetary fees, on any firm as a condition for reinstatement of a firm permit suspended or revoked for failure to bring the firm into compliance with R.S. 37:77.

10. At its discretion, the board may also take action against the CPA certificate of the firm's designated licensee for failure to provide written notification to the board required in this Section.

#### C. Firm Permit Renewals

1. Firm Permit renewals shall be filed in accordance with certificate renewals, i.e., renewals are due by December 31st, delinquent if not renewed prior to February 1st; and, expired if not renewed prior to March 1st.

2. Delinquent fees for firm permit renewals shall be \$15 per owner, partner, member or shareholder if not renewed prior to February 1st; \$30 if not renewed prior to March 1st.

D. An annual renewal fee to be set by the board, based on the total number of owners, partners, members and/or shareholders in the firm who are not licensed to practice in Louisiana but not to exceed \$15 per owner, partner, member or shareholder with a maximum of \$5,000 per firm if timely filed, shall be paid by each firm that files in accordance with the provisions of §1501.C-E.

#### E. Reinstatement of Firm Permits

1. To reinstate a firm permit which has been expired for a year or more due to non-renewal, the firm shall be required to file an initial application for a firm permit and pay the applicable application fee. The firm shall also be required to pay applicable delinquent fees.

2. For good cause shown, the board may waive in whole or in part the reinstatement fees provided for in this Section.

3. In addition to reinstatement fees, an additional fee may be assessed against those CPA firms whose firm permits expired or were cancelled pursuant to this Section three times within six years.

4. In addition to the above fees, an additional reinstatement fee may be assessed against those CPA firms which continued to practice as a CPA firm after the expiration or cancellation of the firm permit pursuant to this Section. Such fee shall be determined by the length of the period of time the firm has practiced without a permit times the annual renewal fee including additional for delinquency each year.

5. No firm permit shall be renewed or reinstated by the board if the firm applying for renewal or reinstatement has failed to remit full payment of any fees, fines, penalties, expenses, or reimbursement of costs incurred by the board, which the firm owes the board or has been ordered to pay to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:

#### §1503. Practice Monitoring Programs

A. The board hereby establishes the Positive Enforcement Program (PEP). The purpose of the program is to improve the quality of financial reporting and to assure that the public can rely on the fairness of presentation of financial information on which CPA firms issue reports.

1. Each licensee or CPA firm, which performs attest services in Louisiana, shall undergo a peer review or a review of working papers and/or reports together with their accompanying financial statements and disclosures, under the board's Positive Enforcement Program at least once each three years.

##### 2. Positive Enforcement Program

a. A qualified reviewer(s) engaged by the board will conduct a periodic review on behalf of and as agent of the board and report the findings to the licensee and the board. The accounting and auditing engagements to be reviewed include, but are not limited to: compilations, reviews, audits, and examinations of prospective financial information.

b. Upon notification of selection, the CPA firm will submit a list of accounting and auditing engagements performed in the area of compilations, reviews, audits, and examinations of prospective financial information including a breakdown by industry and licensee responsible in that firm during the three year period immediately preceding the renewal of the CPA firm permit.

c. The board reviewer(s) will determine, from the list of accounting and auditing engagements, which reports, together with their accompanying financial statements and disclosures, are to be submitted.

d. The board reviewer(s) may also request the submission of working papers developed by the CPA firm in connection with the issuance of any of the reports selected.

e. Any CPA firm which shall have its working papers reviewed by the board pursuant this Subsection shall be charged reasonable travel expenses and a per diem; provided that the aggregate amount of such reimbursable expenses shall not exceed the sum of \$1,000 as to any CPA firm within any three-year period. This limitation shall not apply to approved sponsoring organizations.

3. Confidentiality. Reports submitted to the board pursuant to §1503.B, and comments of reviewers and of the board on such reports of workpapers relating thereto, shall be preserved in confidence except that they may be communicated by the board to the licensees who issued the reports.

#### 4. Exemptions

a. The requirements of §1503.B shall not apply with respect to any CPA firm which within the three years immediately preceding the renewal of the CPA firm permit had been subjected to and completed a professional peer review approved by and acceptable to the board and conducted pursuant to standards not less stringent than peer review standards applied by the American Institute of Certified Public Accountants. A CPA firm that obtains their initial firm permit from the board must have been subjected to and completed a professional peer review within eighteen months.

b. A CPA firm which is a member of the Securities and Exchange Commission Practice Section or the Private Companies Practice Section of the American Institute of Certified Public Accountants Division for CPA Firms shall furnish a copy of the CPA firm's most recent peer review report to the board within ninety days of the peer review report's issuance to qualify for an exemption from the requirements of §1503.B.

c. A CPA firm which is not a member of the Securities and Exchange Commission Practice Section or the Private Companies Practice Section of the American Institute of Certified Public Accountants Division for CPA Firms shall have the American Institute of Certified Public Accountants or its designee certify to the board, the CPA firm's participation in an acceptable peer review program and the dates of the CPA firm's most recent peer review should the CPA firm seek exemption from the board's requirements of §1503.B.

5. If a CPA firm has not provided evidence pursuant to the terms of §1503.D, then §1503.B will apply.

6. No CPA or CPA firm shall be required to become a member of any organization in order to comply with the provisions of §1503.

#### 7. Peer Review Oversight Committee (PROC)

a. The board shall appoint a Peer Review Oversight Committee (PROC) whose function shall be the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on peer reviews. The PROC shall consist of three members, none of whom are current members of the State Board of Certified Public Accountants of Louisiana. These members shall be a licensee holding an active CPA certificate in good standing, and possess accounting, attest and peer review experience deemed sufficient by the board.

b. Responsibilities. At least one member of the PROC will attend all meetings of the Society of Louisiana Certified Public Accountants Peer Review Committee (PRC), or any successor thereof, and report periodically to the board on whether the PRC is meeting the requirements of these rules.

c. Compensation. Compensation of PROC members shall be set by the board.

#### d. Duties of the PROC.

i. The PROC will observe the plenary sessions of the PRC which include the assignment of reviews to committee members and the summary meeting where the conclusions of the review committee members are discussed;

ii. may periodically review files of the reviewers; and

iii. may observe the deliberations of the PRC and report their observations to the board; and

iv. make recommendations relative to the operation of the program; and

v. consider such other matters and perform such other duties regarding the peer review programs as may be necessary from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1071 (November 1991), LR 23:1125 (September 1997), LR 26:

### Chapter 17. Rules of Professional Conduct

#### §1700. General

##### A. Preamble

1. The services usually and customarily performed by those in the public practice of accountancy involve a high degree of skill, education, trust, and experience which are professional in scope and nature. The use of professional designations carries an implication of possession of the competence associated with a profession. The public, in general, and the business community, in particular, rely on this professional competence by placing confidence in reports and other services of accountants. The public's reliance, in turn, imposes obligations on persons utilizing professional designation, both to their clients and to the public in general. These obligations include maintaining independence of thought and action; continuously improving professional skills; observing, where applicable, generally accepted accounting principles and generally accepted auditing standards; promoting sound and informative financial reporting; holding the affairs of clients in confidence; upholding the standards of the public accountancy profession; and maintaining high standards of personal and professional conduct in all matters affecting fitness to practice public accountancy.

2. The board has an underlying duty to the public to insure that these obligations are met in order to achieve and maintain a vigorous profession capable of attracting the bright, young minds essential for adequately serving the public interest.

3. These rules of professional conduct are intended to have application to all kinds of professional services performed for the public in the practice of public accountancy, including but not limited to services relating to auditing; accounting; review and compilation services, tax services; management advisory and consulting services; and financial planning, and intended to apply as well to all certificate holders, whether or not engaged in the practice of public accounting, except where the wording of one of these rules of professional conduct clearly indicates that the applicability is more limited.

4. In the interpretation and enforcement of these rules, the board may consider relevant interpretations, rulings, and opinions issued by the boards of other jurisdictions and appropriate committees of professional organizations, but will not be bound thereby.

B. Definitions. The following terms have meanings which are specific to §1701.A.

*Attest Client* an entity for which an attest engagement is either performed or to be performed, including without limitation:

- a. the entity;
- b. its principal owners (those having 20% or more of direct ownership); and
- c. affiliated persons, including without limitation, affiliated entities, principals, officers, directors, management and audit committee members, who are in a position to control, engage, terminate or otherwise influence an attest engagement, or whose representations are relied upon during the engagement.

*Audit Sensitive Activities* those activities normally an element of or subject to significant internal accounting controls. For example, the following positions, which are not intended to be all-inclusive, would normally be considered audit sensitive, even though not positions of significant influence: a cashier, internal auditor, accounting supervisor, purchasing agent, or inventory warehouse supervisor.

*Close Relatives* nondependent children, stepchildren, brothers, sisters, grandparents, parents, parents-in-law, and their respective spouses; and, brothers and sisters of a spouse.

*Grandfathered Loans* those loans which were made under normal lending procedures, terms, and requirements by a financial institution before January 1, 1992, or prior to its becoming a client for which independence was required. Such loans must not be renegotiated after independence became required and must be kept current as to all terms. Such loans shall be limited to:

- a. loans obtained by the licensee which are not material in relation to the net worth of the borrower; or
- b. home mortgages; or
- c. any other fully secured loan, except one secured solely by a guarantee of the licensee.

*Licensee* the holder of a certificate of certified public accountant

- a. the term includes:
  - i. the licensee's firm;
  - ii. the firm's proprietors, partners, officers, shareholders, members or managers;
  - iii. employees or contractors participating in the engagement, except those who perform only routine clerical functions;
  - iv. employees or contractors with a managerial position located in an office participating in a significant portion of the engagement; and
  - v. entities owned by or whose operating, financial, or accounting policies can be controlled by one or more of the persons described in §1700.B.5.a.ii - iv, or by two or more such persons if they choose to act together;
- b. the term also includes employees and contractors of the certificate holder or his firm who provide services to clients and are associated with the client in any capacity described in §1701.A.1.b, if the individuals are located in an office participating in a significant portion of the engagement;
- c. the term does not include such an individual solely because he was formerly associated with the client in any capacity described in §1701.A.1.b, if such individual has disassociated from the client and does not participate in the engagement for the client covering any period of his association with the client;
- d. in addition, the term may include the following relatives of the certificate holder or of the individuals

described above: spouses, dependents, descendants, *close relatives*, persons living in a household with the certificate holder, or a former proprietor, partner, shareholder or member of the certificate holder's firm.

*Period of Professional Engagement* the period during which professional services are provided, with such period starting when the licensee is engaged or begins to perform professional services requiring independence and ending with the notification of the termination of that professional relationship by the licensee or by the client.

*Permitted Personal Loans*

- a. automobile loans and leases collateralized by the automobile;
- b. loans of the surrender value of an insurance policy;
- c. borrowing fully collateralized by cash deposits at the same institution;
- d. credit cards and cash advances on checking accounts with an aggregate unpaid balance of \$5,000.00 or less, provided that these are obtained from a financial institution under its normal lending procedures, terms, and requirements and are at all times kept current as to all terms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:

### **§1701. Independence, Integrity and Objectivity**

#### **A. Independence**

1. A licensee shall not issue a report on the financial statements of an *attest client* or in connection with any attest engagement for an *attest client*, in such a manner as to imply that he is acting as an independent public accountant with respect thereto, nor shall he perform any other service in which independence is required under professional standards, unless he is independent. Independence shall be considered to be impaired if, for example:
  - a. during the period of his professional engagement or at the time of issuing a report, the licensee:
    - i. had or was committed to acquire any direct or material indirect financial interest in the *attest client*; or
    - ii. was a trustee of any trust or executor or administrator of any estate if such trust or estate had, or was committed to acquire, any direct or material indirect financial interest in the *attest client*; or
    - iii. had any joint, closely-held business investment with the *attest client* or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the licensee or the *attest client*; or
    - iv. had any loan to or from the *attest client* or any officer, director, or principal stockholder thereof other than permitted personal loans and grandfathered loans.
  - b. during the period covered by the financial statements, during the period of the professional engagement, or at the time of issuing a report, the licensee:
    - i. was connected with the *attest client* as a promoter, underwriter, or voting trustee, a director or officer, or in any capacity equivalent to that of an owner, a member of management, or of an employee; or
    - ii. was a trustee for any pension or profit sharing trust of the *attest client*; or
    - iii. receives a commission or had a commitment to receive a commission from the *attest client* or a third party

with respect to services or products procured for the *attest client*, including any related pension or profit-sharing trust, in violation of R.S. 37:83(K); or

iv. receives a contingent fee or had a commitment to receive a contingent fee from the *attest client* or a third party with respect to professional services performed for the *attest client*, including any related pension or profit-sharing trust, in violation of R.S. 37:83(L).

2. With respect to close relatives of the licensee, independence may be impaired depending on the nature of the relationships, the strength of the family bond which depends on the degree of closeness, the employment or audit sensitive activities of the individuals, or whether the individuals have significant influence over the engagement or the enterprise, as applicable to the circumstances.

3. The foregoing examples are not intended to be all inclusive.

#### B. Integrity and Objectivity

1. A licensee in the performance of professional services shall neither knowingly misrepresent facts nor subordinate his judgment to that of others. He shall be objective and shall not place his own financial interests nor the financial interests of a third party ahead of the legitimate financial interests of the client or the public in any context in which the client or the public can reasonably expect objectivity from one using the CPA title.

2. If the licensee uses the CPA title in any way to obtain or maintain a client relationship, the board will presume the reasonable expectation of objectivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1114 (September 1997), LR 26:

### §1703. Competence and Professional Standards

#### A. Definition

*Professional Standards* include but are not limited to those standards defined by Statements on Auditing Standards (SAS); Statements on Standards for Accounting and Review Services (SSARS); Statements on Standards for Consulting Services (SSCS); Statements on Standards for Attestation Engagements (SSAE); and Standards for Performing and Reporting on Peer Reviews or Quality Reviews issued by the American Institute of Certified Public Accountants; and Governmental Auditing Standards issued by the Comptroller General of the United States.

B. Competence. A licensee shall not undertake any engagement for performance of professional services which he cannot reasonably expect to complete with due professional competence.

C. Professional Standards. A licensee shall not act or imply that he is acting as a CPA by permitting association of his name or firm's name, issuing a report, or expressing an opinion, in connection with financial statements, elements thereof, or the written assertions and representations of a client, or by the performance of professional services, unless he has complied with applicable professional standards. This rule does not apply in any instance in which such compliance would otherwise be prohibited by the act or by rule of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1115 (September 1997), LR 26:

### §1705. Responsibilities to Clients

A. Confidential Client Information. A licensee shall not, without the consent of his client, disclose any confidential information pertaining to such client obtained in the course of performing professional services.

1. This rule does not:

a. relieve a licensee of any obligations under §1705.B and C; or

b. affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court; or

c. prohibit disclosures in the course of a peer review or for the purpose of assuring quality control of a licensee's professional services; or

d. preclude a licensee from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board; or

e. prohibit disclosures required by the standards of the public accounting profession in reporting on the examination of financial statements.

2. Members of the board, their duly authorized agents, and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to a duly authorized investigative or disciplinary body of the kind referred to above.

B. Records. A licensee shall furnish to his client or former client upon request:

1. a copy of a tax return of the client; and

2. a copy of any report, or other document, issued by the licensee to or for such client; and

3. any accounting or other records belonging to, or obtained from, or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee may make and retain copies of such documents when they form the basis for work done by him; and

4. a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client;

5. examples of records described in this Section include but are not limited to computer generated books of original entry, general ledgers, subsidiary ledgers, adjusting, closing and reclassification entries, journal entries and depreciation schedules, or their equivalents.

6. The information should be provided in the medium in which it is requested if it exists in that format (for example electronic or hard copy). The licensee is not required to convert information to another format.

7. The requested information shall be furnished by the licensee to the client in a timely manner.

8. A licensee is not required to retain any documents beyond the period prescribed in R.S. 37:89.

C. The nonpayment of professional fees and/or out-of-pocket expenses shall not be a basis for failure to furnish the records referred to in §1705.B.3, 4 and/or 5. A licensee shall be permitted to collect in advance of issuance a reasonable fee for time and expenses of issuing or reproducing documents referred to in §1705.B.1, 2, 4 and 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1067 (November 1991), LR 23:1115 (September 1997), LR 26:

### **§1707. Other Responsibilities and Practices**

A. Conduct reflecting adversely upon the licensee's fitness to perform services, within the meaning of R.S. 37:79(A)(8), includes but is not limited to the following:

1. adjudication as mentally incompetent;
2. fiscal dishonesty of any kind;
3. presenting as one's own a certificate, registration or firm permit issued to another;
4. concealment of information regarding violations by other licensees of the act or the rules there under when questioned or requested by the board;
5. willfully failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of such a report or record, or inducing another person to impede or obstruct such filing by another; and the making or filing of such a report or record which one knows to be false;
6. knowingly participating in the preparation of a false or misleading financial statement or tax return;
7. failure to comply with a final order of any state or federal court;
8. repeated failure to respond to a client's inquiry within a reasonable time without good cause;
9. false communication to the board;
10. willfully causing a breach in the security of the CPA examination;
11. conduct that brings dishonor, or is detrimental, to the profession.

B. Acting Through Others. A CPA or CPA firm shall not permit others to carry out on his behalf or on the firm's behalf, either with or without compensation, acts which, if carried out by the CPA or CPA firm, would place him or the CPA firm in violation of the rules of professional conduct, professional standards, or any provisions of the act.

C. Use of the "CPA inactive" designation

1. Certificate only holders under prior law. Prior to applying for and obtaining a certificate under R.S. 37:75(I), individuals who annually register in inactive status may use the "CPA inactive" designation in connection with an employment position held in industry, government or academia, or in personal correspondence. However, the use of such designation is further subject to the following limitations:

a. until December 31, 2003, any such individual who offers to perform or performs, for the public, professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation "CPA" or "CPA inactive" in connection with such services; and,

b. beginning January 1, 2004, any such individual who offers to perform or performs, for the public, professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation CPA or "CPA inactive" in connection therewith or in any other manner or in connection with any employment.

2. Certificate holders subject to CPE exemption:

a. Individuals granted an exception to continuing education requirements under R.S. 37:76(D)(2) shall not perform or offer to perform for the public one or more kinds of services involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills and must place the word "inactive" adjacent to their CPA title on any business card, letterhead, or any other document or device.

b. Any individual referenced in R.S. 37:76(D)(2) who after being granted an exemption under that Section offers to perform or performs for the public professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation "CPA inactive" in connection therewith or in any other manner or in connection with any employment.

D. Firm Name

1. The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a firm. If the name includes the designation "and Company" or "and Associates" or "Group" or abbreviations thereof, there must be at least two licensees involved in the practice, who may be either partners, shareholders, members or employees of the firm. However, names of one or more past partners, shareholders, or members may be included in the firm name of a successor firm.

2. A partner, member or shareholder surviving the death or withdrawal of all other partners, members or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner, sole member or sole shareholder.

3. A CPA firm name is misleading within the meaning of R.S. 37:83(G) if, among other things:

- a. The CPA firm name implies the existence of a corporation when the firm is not a corporation; or
- b. The CPA firm name includes the name of a person who is not a CPA.

4. A firm name not consisting of the names of one or more present or former partners, members, or shareholders may not be used by a CPA firm unless such name has been approved by the board as not being false or misleading.

E. Form of Practice. A licensee may practice public accountancy in a proprietorship, a partnership, a limited liability partnership, a limited liability company, a

professional corporation organized in accordance with the Louisiana Professional Accounting Corporations Law or similar law of another state, or any other organization or entity which may be authorized by law.

#### F. Advertising

1. Licensees shall have a right to advertise. However, a licensee shall not use or participate in the use of any public communication, written or verbal, having reference to professional services performed by the licensee, which contains a false, fraudulent, misleading, deceptive or unfair statement or claim, nor any form of communication having reference to the professional services of the licensee which is accomplished or accompanied by coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious, or harassing conduct. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

- a. contains a misrepresentation of fact; or
- b. is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
- c. contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality; or
- d. is intended or likely to create false or unjustified expectations of favorable results; or
- e. implies educational or professional attainments or licensing recognition not supported in fact; or
- f. states, implies, or claims that the licensee has received formal recognition as a specialist or expert or has any specialized expertise in any aspect of the practice of public accountancy without stating from whom the recognition has been received; or
- g. states or implies that the licensee's ingenuity and/or prior record are principal factors likely to determine the results of the services rather than the merit of the facts involved, or contains statistical data or information so as to reflect past performance or predict future success; or
- h. represents that professional services can or will be completely performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or
- i. contains other representations or implications beyond those set forth in §1707.F.2 that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived; or
- j. implies the ability to influence any court, tribune, regulatory agency or similar body or any official thereof; or
- k. makes comparison with other CPAs;
- l. is undignified; or
- m. incorporates, refers to, or directly links to presentations which bring dishonor to the profession.

2. As an example, a licensee may use or participate in the use of a public communication which states in a dignified manner the following information about the licensee and any associated licensees:

- a. name, firm name, address, telephone numbers, office hours, and telephone answering hours;
- b. biographical and educational background;
- c. professional memberships and attainments;
- d. description of services offered;

e. the limitation of practice to certain areas of service;

f. the opening or change in location of any office and changes in personnel;

g. fees charged for the initial consultation, for specific services of average complexity, and hourly rates. Quoted fees must be adhered to for a reasonable period not less than thirty days after the publication.

#### G. Written Advertisements, Solicitations and Other Public Communications

1. A licensee shall have the right to mail or deliver advertisements, solicitations and other public communications, subject to the following provision:

a. a licensee shall not mail or deliver any advertisement, solicitation or other public communication if such advertisement, solicitation or other public communication would violate §1707.F.

2. For purposes of these rules, a *public communication* shall be deemed to include newsletters, brochures, magazines, books, announcements, notices, reports, notes, journals, letters, cards, inquiries, tapes, recordings, electronic communications, internet websites, and any other type of information or materials mailed, delivered or disseminated in any manner to one or more addresses who are not clients of the licensee at the time of such mailing, delivery, or dissemination. Materials disseminated only to clients of the licensee shall not be deemed to be a public communication.

3. Advertisements and public communications of any type may not contain any materials considered to be obscene, pornographic, or offensive.

4. All internet advertisements, websites or public communications which in any manner identifies the sponsor or participant as a CPA, certified public accountant, PA, public accountant, CPA firm, or professional accounting corporation is considered to be an advertisement or public communication by the CPA or CPA firm and must be in compliance with all rules adopted by the board and all provisions of the act.

H. Communications. A holder of a certificate or firm permit, or an individual in inactive status shall, when requested, respond to communications from the board in the manner requested by the board within 30 days of the mailing of such communications by certified mail, or by such other delivery methods available to the Board.

I. Applicability. All of the rules of professional conduct shall apply to and be observed by Louisiana licensees and CPAs licensed in other states who may be granted rights under the substantial equivalency provisions of R.S. 37:94. Notwithstanding anything herein to the contrary, they shall also apply to and be observed by individuals registered in inactive status, where applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1115 (September 1997), LR 26:

**Chapter 19. Investigations; Hearings; Suspension, Revocations or Restrictions; Reinstatements**

**§1901. Charges in Writing; Investigative files**

A. Charges against holders of CPA certificates and/or firm permits shall be made in writing, signed by the persons preferring the charges and addressed or delivered to the board. The board's investigative staff may establish or open an investigative file upon receipt of such charges.

B. Investigative files may be established or opened by any member of the board or other person who has been designated as investigating officer in accordance with §1903, for the purpose of investigating any potential violations of the rules, regulations or statutes, which the board is authorized to enforce, whether as a result of charges made in accordance with §1901.A or otherwise initiated by the investigating officer. Any investigating officer may engage the assistance of counsel as he deems necessary and appropriate. Such counsel may also later serve as complaint counsel if an adjudicative proceeding is scheduled, but may not act as independent counsel in the same matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

**§1903. Investigating Officer**

All charges shall be referred to the members of the board or other persons designated as investigating officers, who are appointed by the chairman of the board. The investigating officer is the person who determines preliminary "probable cause" on behalf of the board, as referred to in R.S. 37:81(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

**§1905. Investigations**

A. Investigations shall generally be conducted by board staff on behalf of the investigating officer, but the investigating officer may engage other investigators, inspectors, special agents, or any other personnel he may deem necessary and appropriate to conduct the investigation. All correspondence and information submitted in the course of the investigation shall be addressed or delivered to the board's office, unless otherwise authorized by the investigating officer.

B. Information provided or obtained in the course of an investigation shall be reviewed by the investigating officer for a determination of "probable cause" or "no probable cause".

C. Some allegations may be settled informally by the investigating officer and the individual when the investigating officer ascertains that the matter does not rise to the level requiring formal disposition. These matters may be resolved by the individual's compliance with directives which will bring the individual in compliance with applicable rules or statutes, or by other means deemed

appropriate by the investigating officer. Upon resolution of such matters, the investigating officer shall report to the board the action taken to settle the matter, and shall report "no cause for further action".

D. If the investigating officer determines that "probable cause" exists, a written notice shall be mailed to the respondent in accordance with R.S. 49:961(C) of the Louisiana Administrative Procedures Act, affording the respondent an opportunity to demonstrate that he is not in violation of applicable rules, regulations and/or statutes.

1. The notice shall inform the respondent that the investigating officer has preliminarily concluded that "probable cause" exists. The notice shall also contain the alleged facts of the case and a citation of the rules, regulations and statutes the respondent is alleged to have violated, and may contain any other information the investigating officer deems appropriate.

2. The notice shall be mailed to the respondent by certified mail, or such other delivery methods available to the board, to the respondent's address last known to the board or to the respondent's registered agent for service of process.

3. The respondent will be given no less than fifteen days after the date of the notice to submit a written response to the board's office. For good cause shown, the investigating officer may grant additional time for the respondent to respond to the notice.

4. The investigating officer shall consider the respondent's response to the notice, if any, before making a final determination as to "probable cause" or "no probable cause".

E. When a final determination of a "probable cause" is made by the investigating officer and reported to the board, an administrative complaint shall be filed with the board's office. The administrative complaint shall be signed by the investigating officer, and shall include the alleged facts of the case and a citation of the rules, regulations and statutes the respondent is alleged to have violated. A notice of the time and place of hearing and a copy of the administrative complaint shall be served upon the respondent in accordance with R.S. 37:81.

F. The board may make informal disposition by default, consent order, agreement, settlement or otherwise, of any matter under investigation or any pending adjudication. Such informal disposition shall be considered by the board only upon the recommendation of the investigating officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

**§1907. Completion of Investigation**

Upon completion of each investigation, the investigating officer shall report to the board a finding of "probable cause" or "no probable cause" with respect to a violation by a CPA of a statute or rule enforced by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), LR 26:

### **§1909. Hearing**

A. The right to examine reports, if any, and evidence, referred to in R.S. 37:81.B, may be exercised by the respondent or the respondent's attorney by submitting a written request to the board's office.

1. A copy of any written materials which will be presented as evidence at the administrative hearing, and if requested the names of individuals who may testify at the hearing, shall be mailed to the person making such written request referred to above, or shall be furnished in person at the board's office if requested, as promptly as possible if available at the time of the request, but shall be provided no later than fifteen working days prior to the date of hearing.

2. Failure to provide the information no later than fifteen working days prior to the date of hearing, after having received a written request referred to herein, shall be grounds for the board to consider a continuance of the hearing if requested by the respondent, but shall not be grounds for dismissal of the charges against the respondent. If no written request is submitted, the board shall not be obligated to consider or grant a continuance of the hearing.

B. In the same manner that the respondent is afforded the right to obtain and examine information and evidence in the preceding Section, complaint counsel shall have the right to obtain and examine information and evidence of the respondent or the respondent's attorney.

C. Hearings shall be conducted in closed session, and shall be conducted by and under the control of the chairman of the board, or a presiding officer appointed by the chairman.

D. In any investigation or pending adjudication proceeding, no party shall serve on any other party more than 25 interrogatories. Each sub-part of an interrogatory shall count as an additional interrogatory. The chairman or presiding officer may, in his discretion, allow more than 25 interrogatories upon receipt of a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

E. Objections to interrogatories, and objections to answers to interrogatories, shall set forth in full, immediately preceding each answer or objection, the interrogatory or answer to which objection is being made.

F. Subpoenas issued by the board pursuant to R.S. 37:80(B) shall be signed and issued by the executive director of the board, or in his absence a designee of the board. Subpoenas shall be issued upon request of the respondent, complaint counsel, or an investigating officer. The issuance of subpoenas is governed by R.S. 49:956 of the Louisiana Administrative Procedures Act.

G. In any case of adjudication noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the chairman or presiding officer may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel, if any, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

H. Motions for continuance of hearing, for dismissal of proceeding, and all other prehearing motions shall be filed not later than 10 days prior to the date of the hearing. Any response or opposition to any prehearing motion shall be filed within 5 days of the filing of such prehearing motion.

For good cause shown, the chairman or presiding officer may waive or modify these requirements. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor.

I. Notwithstanding the provisions of the preceding Section, a continuance of a hearing shall automatically be granted by the executive director of the board upon receipt of written notice from respondent and complaint counsel, or respondent and investigating officer, that both parties mutually agree to a continuance of the hearing. Such written notice shall not be required to be filed within the time period prescribed in the preceding Section.

J. All pleadings, motions, or other papers filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon complaint counsel, if filed by or on behalf of the respondent, or upon the respondent or the respondent's counsel if filed by complaint counsel.

K. Any prehearing motion, other than a mutually agreed upon request for continuance as referred to in §1909.I, shall be referred for decision to the chairman or presiding officer for ruling. The chairman or presiding officer, in his discretion, may refer any prehearing motion to the entire board for disposition.

L. Prehearing motions shall be ruled upon on the basis of the written information provided, without oral arguments. However, if the chairman or presiding officer refers the prehearing motion to the entire board for disposition, he may grant an opportunity for oral argument before the entire board, upon written request of respondent or of complaint counsel and on demonstration that there are good grounds therefor.

M. The order of proceedings at a hearing shall be as follows, but may be changed at the discretion of the chairman or presiding officer:

1. statement and presentation of evidence supporting the administrative complaint by complaint counsel, or the investigating officer, or any person designated by the investigating officer;
2. statement and presentation of evidence of the respondent as stipulated in R.S. 37:81(C);
3. rebuttal in support of the complaint;
4. surrebuttal evidence of the respondent;
5. closing statements;
6. board decision. The time in which the Decision will be rendered is at the discretion of the board.

N. Any person testifying at a hearing shall be required to testify under oath, or by affirmation subject to the penalties of perjury.

O. The chairman or presiding officer, board members, the respondent and his attorney, and complaint counsel or person presenting the case for the investigating officer, shall have the right to question or examine or cross-examine any witnesses.

P. All evidence presented at a hearing will be considered by the board unless the chairman or presiding officer determines that it is irrelevant, immaterial or unduly repetitious. Evidence may be received provisionally, subject to a later ruling by the chairman or presiding officer. The chairman or presiding officer may in his discretion consult

with the entire board in executive session or with independent board counsel in making determinations on evidence.

Q. The Final Decision of the board in an adjudication proceeding shall be in writing and shall include findings of fact and conclusions of law, and shall be signed by the chairman or presiding officer on behalf of and in the name of the board. Upon issuance of a final decision, a certified copy shall be served upon the respondent and the respondent's counsel, if any, in the same manner of service prescribed with respect to administrative complaints in R.S. 37:81.

R. In addition to the actions the board may take prescribed in R.S. 37:79 and R.S. 37:81(K), the board may order the publication of any action taken against a respondent. If a petition for review has been filed by the respondent, publication shall await the resolution of such review. If the resolution is in favor of the respondent, no publication shall be made.

S. Information concerning any board action against a respondent may be forwarded to the National Association of State Boards of Accountancy (NASBA) Enforcement Information Exchange System for inclusion in their database and reports of disciplinary actions, unless a petition for review has been filed by the respondent in which case the forwarding of information to NASBA shall await the resolution of such review. If the resolution is in favor of the respondent, no information shall be forwarded to NASBA.

T. Rehearings may be granted by the board as specified in R.S. 49:959 of the Louisiana Administrative Procedures Act.

U. Any matters concerning hearings, rehearings, or Decisions or Orders by the board, not addressed by the act or these rules shall be governed by applicable provisions of the Louisiana Administrative Procedures Act.

V. Any licensee whose certificate or firm permit issued by the board is subsequently suspended or revoked may be required within 30 days to return such certificate, registration or firm permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

#### **§1911. Reinstatement of Licenses (After Revocation, Suspension, Refusal to Renew)**

A. Upon receipt by the board of a written request for reissuance of a certificate or firm permit which has been revoked by the board, or issuance of a new certificate or firm permit under a new number to a person or firm whose certificate or firm permit has been revoked, or for termination of a suspension of a certificate or firm permit suspended by the board, the board shall specify the time period and the manner in which such application shall be considered, pursuant to R.S. 37:82(B). The application shall include any and all information the board deems appropriate.

B. The board may, at its sole discretion, impose appropriate terms and conditions for reinstatement of a certificate, registration or firm permit or modification of a suspension, revocation or probation.

C. No application for reinstatement will be considered while the applicant is under sentence for any criminal

offense, including any period during which the applicant is on court-imposed probation or parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:

### **Chapter 21. Petitions for Rulemaking**

#### **§2101. Scope of Chapter**

The rules of this Chapter prescribe the procedures by which interested persons may petition the State Board of Certified Public Accountants of Louisiana to exercise its rulemaking authority under the act by the adoption, amendment or repeal of administrative rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

#### **§2103. Definitions as Used in this Chapter**

*Interested Person* a person who or which:

1. holds or has applied for any certification, license or firm permit issued by the board; or
2. is subject to the regulatory jurisdiction of the board; or
3. is or may be affected by the practice of CPAs or CPA firms in the state of Louisiana.

*Person* an individual natural person, partnership, corporation, company, association, governmental subdivision or other public or private organization or entity.

*Rulemaking* the process by which the board exercises its authority under the laws of the state of Louisiana, including the act, R.S. 37:71-95, and the Administrative Procedure Act, R.S. 49:950 et seq., to formulate, propose and adopt, amend or repeal and promulgate administrative rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:

#### **§2105. Authorization**

An interested person, individually or jointly with other interested persons, may, in accordance with the provisions of this Chapter, petition the board for the adoption, amendment or repeal of administrative rules and regulations within the rulemaking authority of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

#### **§2107. Petitions for Rulemaking**

A. General Form. A petition for rulemaking must be made and submitted to the board in writing, legibly printed or typed in ink.

B. Title and Signature. A petition for rulemaking shall be plainly and prominently titled and styled as such and shall be manually signed by an individual petitioner, by an authorized officer or representative of the petitioner, or by an attorney at law representing the petitioner. The full name, title or office, if any, address and telephone number of a person signing a petition for rulemaking shall be printed or typed under the person's signature. Where a person signs a

petition for rulemaking in a representative capacity, the petitioner or petitioners represented by the signature must be clearly identified.

C. Required Contents. A petition for rulemaking shall:

1. clearly identify each petitioner by name and address of residence or principal place of business;

2. describe the legal status or nature of the petitioner to establish that the petitioner is an interested person, within the meaning of §2103 of this Chapter;

3. in the case of a petition for adoption of a new rule, set forth a concise statement of the substance, nature, purpose and intended effect of the rule which the petitioner requests that the board adopt and citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;

4. in the case of a petition for amendment of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board amend, together with a concise statement of the manner in which it is proposed that the rule or rules be amended, the purpose and intended effect of the requested amendment, and citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;

5. in the case of a petition for repeal of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board repeal, together with a concise statement of the purpose and intended effect of such repeal;

6. a. provide an estimate of the fiscal and economic impact of the requested rulemaking on:

i. the revenues and expenses of the board and other state and local governmental units;

ii. costs and/or benefits to directly affected persons;

iii. competition and employment in the public and private sectors; or

b. provide a statement that the petitioner has insufficient information or is otherwise unable to provide a reasonable estimate of such fiscal and economic impact;

7. set forth a concise statement of the facts, circumstances, and reasons which warrant exercise of the board's rulemaking authority in the manner requested; and

8. in the case of a petition for exercise of the board's emergency rulemaking authority under R.S. 49:953(B), a statement of the facts and circumstances supporting a finding by the board that an imminent peril to the public justifies the adoption, amendment or repeal of a rule upon shorter notice than that provided by R.S. 49:953(A).

D. Permissible Contents. In support of petitions for the adoption of a new rule or amendment of an existing rule, the board encourages, but does not require, the submission of a verbatim text of the rule proposed for adoption or amendment, prepared in the form prescribed by Title 1 of the *Louisiana Administrative Code* and as otherwise prescribed by the Office of the State Register. A petition for rulemaking may also be accompanied by such other information and data, in written or graphic form, as the petitioner may deem relevant in support of the petition for rulemaking.

E. Submission and Filing. Two copies of a petition for rulemaking, together with all supporting exhibits, if any,

shall be filed with the board by delivery or mailing thereof to the board's executive director at the offices of the board.

F. Nonconforming Petitions. The board may refuse to accept for filing, or may defer consideration of, any petition for rulemaking which does not conform to the requirements of this Section.

G. Public Record. A petition for rulemaking shall be deemed a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

#### **§2109. Board Consideration**

A. Consideration by the board. A petition for rulemaking may be considered and acted on by the board at any regular or special meeting of the board. Within the time prescribed by §2111 for disposition of a petition for rehearing, the board may request additional information from the petitioners or interested persons other than the petitioners as it may deem relevant to its consideration of the petition.

B. Oral Presentations. Within the time prescribed by §2111 for disposition of a petition for rehearing, the board may, on its own initiative or at the request of the petitioner or any other interested person, permit petitioners and other interested persons to appear before the board to make an oral presentation of information, data, views, comments and arguments, in support of or opposition to the rulemaking requested by petitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

#### **§2111. Disposition of Petitions for Rulemaking**

A. Form of Determination. The board may grant or deny a petition for rulemaking, in whole or in part. The board's determination with respect to a petition for rulemaking shall be stated in writing and served on the person signing the petition. If the board denies a petition for rulemaking, in whole or in part, its determination shall state the reasons for the board's denial of the petition. If the board grants a petition for rulemaking, in whole or in part, it shall promptly thereafter initiate rulemaking proceedings in accordance with R.S. 49:953. Nothing herein shall be construed to require that the board, in granting a petition for the adoption or amendment of a rule, adopt or employ the specific form or language requested by the petitioner, provided that the rule or amendment proposed by the board gives effect to the substance and intent of the rule or amendment requested by the petitioner.

B. Time for Determination. The board will render its determination with respect to a petition for rulemaking:

1. within 90 days of the date on which a complete petition for rulemaking conforming to the requirements of §2107 hereof is filed with the board; or

2. within 60 days of the date on which, at the request of the petitioner, the board entertains an oral presentation by the petitioner, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1128 (September 1997).

### §2113. Construction and Effect

A. Board Discretion in Rulemaking. The provisions of this Chapter are intended to provide an orderly and reasonable means for interested persons to petition the board to exercise its rulemaking authority under law and to provide for board consideration of such petitions. Petitions for rulemaking are addressed to the board's discretion as to the necessity or appropriateness of the adoption, amendment or repeal or a rule in the discharge of its licensing and regulatory responsibilities under the act. Nothing in the rules of this Chapter, accordingly, shall be deemed to create any right or entitlement in any person to require the board to exercise its rulemaking authority.

B. Nature and Effect of Determination. The board's disposition of a petition for rulemaking by a determination made under §2111.A does not constitute, and shall not be deemed to constitute, a "decision" or "order" within the meaning of R.S. 49:951(A)(3) or a declaratory order or ruling within the meaning of R.S. 49:962, and the procedures prescribed by this Chapter do not constitute an adjudication within the meaning of R.S. 49:951(A)(1). A determination by the board with respect to a petition for rulemaking, accordingly, is final and not subject to judicial review or other appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1128 (September 1997), LR 26:

Interested persons may submit written comments through June 20, 2000 to the following address: Michael A. Henderson, CPA, Executive Director, State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130.

A public hearing on the proposed rules will be held on June 29, 2000 at the Board's offices at 601 Poydras Street, Suite 1770, New Orleans, LA 70130, at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the hearing.

Michael A. Henderson  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Certified Public Accountants

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs or savings to state or local governmental units are anticipated as a result of implementation of the proposed rule changes other than one-time costs for printing, publication, and dissemination. Revisions in agency forms and additional documentation are done internally and have essentially been completed as a result of the Louisiana Accountancy Act which was enacted in June 1999. The revised rules will not cause a

change in Board staffing requirements. There are no other expected material expenditures for fees, equipment or other charges.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No material effect on revenue to state or local governmental units is anticipated as a result of implementation of the revised rules.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No effect on costs or economic benefits to directly affected persons or non-governmental groups is anticipated as a result of implementation of the revised rules. The rules are primarily being revised because of the change in the accountancy law. The Louisiana Accountancy Act made changes that may affect costs and economic benefits to CPAs and CPA candidates. For example, the Act lessened the requirements for the type and length of qualifying experience necessary to qualify to practice as a CPA. Formerly, two years of public accounting or four years of other CPA supervised experience in financial reporting using generally accepted accounting principles was required. Under the Act, one year is required in industry, governmental, academic, or public practice under CPA supervision in which the applicant utilized skills in accounting, attest, advisory, consulting, or tax. However, other experience is required for CPAs who sign reports on financial statements or supervise attest engagements. In addition, the Act broadened the type of continuing professional education (CPE) that is required for certificate renewal. CPE may now relate to the job duties of the CPA. Under prior law, CPE had to relate to public accounting. Also, the Act allows the Board to recognize out of state CPAs' practice rights in Louisiana if the licensing state issued a certificate on a basis substantially equivalent to Louisiana, which will expedite the issuance of practice rights to certain CPAs whose offices are not located in Louisiana.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment that will directly result from the implementation of the revised rules. The rules are primarily being revised because of the change in the accountancy law. The Louisiana Accountancy Act made certain changes that may affect competition and employment. For example, the Act allows CPA firms to have up to 49% of non-CPA ownership. Under prior law, 100% of CPA ownership was required. Because of this change, CPA firms may be able to attract and permanently retain professionals who are not CPAs; broaden services; and, compete in other markets. In addition, the payment and receipt of commissions and contingent fees are permissible with respect to recommendations and services provided to non-attest clients. Under prior law and rules, these fees were prohibited. As such, CPAs may increasingly compete in fields in which these forms of compensation are commonly utilized, e.g., securities trading and insurance.

Michael Henderson  
Executive Director  
0005#033

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Economic Development Board of Examiners of Interior Designers

Composition and Operation of the Board  
(LAC 46: XLII.Chapter 1)

#### TITLE 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS PART XLIII. INTERIOR DESIGNERS

##### Chapter 1. Composition and Operation of the Board.

###### §101. Name

The name of this board shall be the Louisiana State Board of Examiners for Interior Designers, hereinafter called the "Board", as provided for by Act 227 of the 1984 Regular Legislative Session, hereinafter called the "Act."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

###### §103. Membership

All appointments to membership on the board shall be made by the governor of the State of Louisiana as provided for by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

###### §104. Elections

A. The board shall select annually from among its members a chairman, vice-chairman, and secretary *and treasurer*. The election of officers will be held each year at the last meeting scheduled before the beginning of the fiscal year on July 1.

B. If an officer resigns or is unable to serve, an election to replace that officer shall be held at the next regularly scheduled meeting after the officer leaves his office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11: (April 1985), LR 26:

###### §105. Meetings

The board shall have at least two meetings per year for the purpose of examining candidates for registration as interior designers. The board may hold such other meetings and hearings as required for the proper performance of its duties under the Act. The board may receive per diem for only eight meetings per year, pursuant to the Act. The limitation does not prohibit any board member's right to receive per diem granted by Section 109, except as to regularly scheduled meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3175.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

###### §107. Order of Business

The order of business at any meeting shall be established by the chairman and conducted in accordance with "Robert's Rules of Order", except that all board members vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

###### §109. Expenses of the Board

Members of the board shall receive no compensation for their services but shall receive the same per diem and mileage as is provided by law for the members of the legislature for each day the board conducts business. Out of the funds of the board each board member shall be compensated at the legislative per diem rate for each day in attending board meetings and hearings, attending NCIDQ meetings, issuing certificates and licenses, reviewing examinations, necessary travel, and discharging other duties, responsibilities and powers of the board. In addition, out of said funds each board member shall be reimbursed actual travel, meals, lodging, clerical and other incidental expenses incurred while performing the duties, responsibilities, and powers of the boards, including but not limited to performing the aforesaid specific activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3175.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

###### §111. Financial Operation of the Board.

Payments out of the board's fund shall be made only upon orders of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

###### §113. Quorum

A quorum of the board as stated by the Act shall consist of four members of the board, but no action shall be taken without at least four votes in accord.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173(F).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

###### §115. Subcommittees

The chairman shall appoint members to subcommittees as needed to fulfill the duties of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

###### §117. Staff

The board may, at its discretion, employ an executive assistant, legal counsel, and such other assistants and clerical staff as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

**§118. National Council of Interior Design Qualification**

A. The board may maintain membership in the National Council of Interior Design Qualification (NCIDQ). Up to date information on the examinations and policies adopted from time to time by NCIDQ shall be developed by the Executive Assistant, and reported to the board regularly.

B. The board will cooperate with NCIDQ in furnishing transcripts of records, giving examinations and rendering other assistance calculated to aid in establishing uniform standards of professional qualification throughout the jurisdiction of NCIDQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

**§119. Limitation of Liability**

A person who serves as a member of the board shall not be individually liable for any act or omission resulting in damage or injury, arising out of the exercise of his judgment in the formation and implementation of policy while acting as a member of the board, provided he was acting in good faith and within the scope of his official functions and duties, unless the damage or injury was caused by his willful or wanton misconduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

**Chapter 3. Officers of the Board and Their Duties.**

**§301. Chairman**

The chairman shall exercise general supervision of the board's affairs, shall preside at all meetings at which he is present, shall appoint any committees within the board, shall sign vouchers, and shall perform all other duties pertaining to the office as deemed necessary and appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

**§303. Vice Chairman**

The vice chairman shall perform the duties of the chairman in his absence or other duties assigned by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), LR 26:

**§305. Secretary**

The secretary shall be an administrative officer of the board. He shall act as its recording and corresponding secretary and may have custody of and shall safeguard and keep in good order all property and records of the board which the chairman deems necessary and appropriate; cause written minutes of every meeting of the board to be kept in a book of minutes; keep its seal and affix it to such

instruments as require it; *and* sign all instruments and matters that require attest and approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985); amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (December 1999), LR 26:

**§306. Treasurer**

The Treasurer shall act as treasurer and receive and deposit all funds to the credit of the "Interior Design Fund;" attest all itemized vouchers approved by the chairman for payment of expenses of the board; make such reports to the governor and legislature as provided for by law or as requested by same; and keep the records and books of account of the board's financial affairs and any other duties as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 26:

**Chapter 5. Fees and Charges.**

**§501. Fees and Charges**

A. All fees and charges except for the annual renewal fee must be made by cashier's check or money order. The annual renewal fee may be paid by business or personal check, unless required otherwise by the board. The following fees and charges have been established:

|  |       |
|--|-------|
| 1. Licensing   | \$150 |
| 2. Annual renewal fee  | \$100 |
| 3. Restoration of expired license or reactivation of expired license | \$150 |
| 4. Replacing lost certificate  | \$25  |
| 5. Restoration of revoked or suspended license                       | \$150 |
| 6. Failure to renew license within the time limit set by the board   | \$50  |

B. NOTE: The fees and charges may be amended by the board in accordance with the Act and rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3182 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

**§503. NCIDQ Examination**

Persons who wish to take the NCIDQ examination must purchase the examination directly from NCIDQ. The Board does not provide the examination as part of the licensing fee of \$150.00. The applicant for a license must provide evidence that the applicant has taken and successfully passed the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3177 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 26:

## **Chapter 7. Issuance and Reinstatement of Certificates of Registration**

### **§701. Issuance**

Certificates of registration issued by the board shall run to and include December 31 of the calendar year following their issue. The initial registration fee payable by cashier's check or money order of \$150 should be submitted with the application to the board. Certificates must be renewed annually for the following calendar year, by the payment of a fee of \$100; provided that any approved applicant who has paid the initial registration fee of the preceding calendar year shall not be required to pay the renewal fee until December 31 of the next succeeding calendar year. Certificates not renewed by December 31 shall become invalid, except as otherwise provided.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991) amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

### **§703. Reinstatement**

A. When a certificate has become invalid through failure to renew by December 31, it may be reinstated by the board at any time during the remainder of the following calendar year on payment of the renewal fee, plus a late penalty restoration fee of \$150. In case of failure to reinstate within one year from the date of expiration, the certificate cannot be renewed or reissued except by a new application approved by the board and payment of the registration fee.

B. A licensee may reinstate his or her license only with proof that he or she has completed the continuing education units for each year in which his or her license was invalid.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), Department of Economic Development, Board of Examiners of Interior Designers, LR 17:340 (November 1991), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 20:864 (August 1994); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

### **§704. Restoration of Expired Certificates.**

A. A certificate expires on December 31 of each year. If the licensee fails to have the certificate reinstated within one year of the expiration date of the certificate, then the applicant may petition the board to have his certificate restored if he files the said petition within three years of the expiration of the certificate. If the board approves the restoration of the certificate, then the applicant must pay the sum of \$150 to the board for the restoration and file a new application with the board.

B. A licensee may reinstate his or her license only with proof that he or she has completed the continuing education units for each year in which his or her license was invalid.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers,

LR 17:1075 (November 1991), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 20:864 (August 1994); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999).

### **§705. Lost or Destroyed Certificates**

Lost or destroyed certificates may be replaced on presentation of a sworn statement giving the circumstances surrounding the loss or destruction thereof, together with a fee of \$25. Such replaced certificate shall be marked duplicate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3174.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

## **Chapter 8. Continuing Education**

### **§801. Continuing Education Policy**

LSA-R.S. 37:3179 mandates that the Board promulgate regulations governing the participation by licensees in a continuing education program approved by the Board. These regulations are in compliance with that mandate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3179.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 26:

### **§802. Continuing Education Units**

A. The definition of a continuing education unit will be the same definition used by the Interior Design Continuing Education Council (IDCEC), which has ruled that one contact hour will equal .1 continuing education unit, or C.E.U.

B. The Board will only approve continuing education units which build upon the basic knowledge of Interior Design and which also include topics which concentrate on the subjects of health, safety and welfare of both licensees and their clients and customers.

C. A licensee must submit evidence on a yearly basis that he or she has participated in an approved continuing education program. The licensee must show that he or she has earned five or more contact hours of continuing education, or .5 C.E.U.'s.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3179.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

### **§803. Verified Credit**

A. The term "verified credit" applies to continuing education units which are approved by the Board and at which attendance by the licensee is verified in some fashion. Verification of attendance occurs where the sponsor of the program verifies participation or a transcript from the C.E.U. registry is submitted.

B. The Board will hold at least one program every year that fulfills the requirements promulgated herein. Attendance at this program will automatically be recognized by the

Board as verified credit toward the requirements set forth herein.

C. The Board shall approve those programs submitted for Board approval based upon the following factors:

1. The program must comply with IDCEC criteria.
2. The program must build upon the basic knowledge of interior design and must concentrate on or address the subjects of health, safety, and welfare of both licensees and their clients and customers.
3. The length of the actual instruction time.
4. The program must be open to all licensees or applicants for licensing.

D. The Board will allow any program approved by the Board prior to the program's date to contain in its brochures or literature the statement "This program in whole or in part counts toward fulfilling requirements promulgated by the State of Louisiana for interior design continuing education units."

E. The approval of a submitted program shall be given by the Board in writing to the program's sponsor at least 60 days prior to the first presentation of the program for credit.

F. Any applicant or sponsoring agency applying for C.E.U. course approval should do so in advance of the program. Programs submitted for approval after they have been given will be reviewed by the Board, but approval is not guaranteed. Further, programs which are not approved prior to the date scheduled for the program cannot publish that they have been approved by the State of Louisiana as interior design continuing education units.

G. The Board shall not have the authority to disapprove earned C.E.U.'s of a pre-approved program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

#### **§804. Approved Programs**

A. The Board by majority vote shall appoint a Continuing Education Advisory Committee which shall solicit, examine, review and recommend for approval by the Board all continuing education courses which may be used by registrants and licensees to meet the requirements of this Chapter and Section 3179 of Title 37 of the Louisiana Revised Statutes.

B. The membership of the Continuing Education Advisory Committee shall be composed as follows:

1. At least one member of the Board.
2. One member appointed from a list of candidates provided by ASID.
3. One member appointed from a list of candidates provided by IIDA.
4. One correspondence member from each of the eight Louisiana Electoral Districts.
5. One member representing at-large Designers [non-affiliated].
6. Any other member approved by the Board.

B. The Continuing Education Advisory Committee shall approve only continuing education that builds upon the basic knowledge of interior design and which also concentrates on or addresses the subjects of health, safety, and welfare of both

licensees and their clients and customers and shall recommend guidelines for continuing education.

C. Any application for approval of any program must contain the following information:

1. Information on the course sponsor, including name, address and telephone number.
2. Description of the course, including a detailed description of subject matter and course offering. The following information is required: Length of instructional period, instruction format, lecture, seminar conference, workshop, or home study; presentation method, such as electronic, visuals, or printed materials. The description should also state how the course relates to public health, safety and welfare.
3. Course instructors, leaders and/or participants. Names, addresses and telephone numbers of instructors or leaders or participants in the program must be given. Participants will include any member of any panel, those who make a presentation by electronic means, or any other person who leads or contributes to the course content. Information on these should include education and professional credentials for each person. Professional references will be requested.
4. Time, place and cost. The information must include the date, time and location of course offerings, as well as attendance fees and cost of course materials.
5. Verification of course completion. The information must include the sponsor's method for verifying attendance, participation and achievement of program learning objectives.
6. Course information dissemination. The information must include the method of informing those interested of program offering.

E. Application fees.

1. All applicants for approval of a program for continuing education credit by the Board must pay the following costs, which represent the direct cost to the Board for committee review and expenses:

- a. programs already approved by professional organizations including ASID, IIDA, IDEC, IFMA, BOMA, NFPA, SBC AIA and the IDCEC \$10.00;
- b. individual presentations on a one-time annual basis 25.00;
- c. National Commercial Seminars presented by for profit organizations 50.00.

2. Review fees are payable to the Board and are non-refundable.

3. The Board may waive fees for programs solicited by the Board.

F. Committee meetings.

- a. The CEU Advisory Committee may meet by telephone conference calls or by other electronic means.
- b. Corresponding members will receive information regarding applications for CEU approval by facsimile and may respond via facsimile.
- c. All matters considered by the CEU Advisory Committee are subject to final approval by the Board at its regularly scheduled meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

**§805. Recording and submission of credits**

A. Those programs sponsored by the Board will verify attendance of licensee and maintain records of attendees on a yearly basis, and that information will be retained by the Board for five years.

B. It is incumbent on the licensee attending a pre-approved program to provide verification of attendance satisfactory to the Board, such as a transcript or certificate of attendance.

C. Licensees attending a pre-approved program must submit attendance verification with license renewal on a yearly basis no later than January 31 of the year after the year in which the program was attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), LR 26:

**§806. Notification of Approved Programs**

A. The Board will publish information on approved C.E.U. courses being offered.

B. Information on Board-sponsored seminars will be sent directly to all applicants by mail to address listed in applicants' records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), LR 26:

**Chapter 9. Examination and Registration.**

**§901. Qualifications for Registration**

A1. A person desiring to be licensed as an interior designer shall apply to the board for licensure. Each applicant shall apply to the board on a form and in the manner prescribed by the board. To be eligible for the examination, an applicant shall submit satisfactory evidence of having successfully completed at least four years of study at the high school level, and in addition meets at least one of the following requirements:

- a. is a graduate from an interior design program of 5 years or more and has completed one year of interior design experience;
- b. is a graduate from an interior design program of four years or more and has completed two years of interior design experience.
- c. has completed at least three years in an interior design curriculum and has completed three years of interior design experience.
- d. is a graduate from an interior design program of at least two years and has completed four years of interior design experience.

2. All such education shall have been obtained in a program, school, or college of interior design accredited by the Foundation for Interior Design Education Research (FIDER) or in an unaccredited program, school or college of interior design approved by the board. The unaccredited program, school or college of interior design will be evaluated based upon FIDER standards. The board shall review and approve interior design experience on a case by case basis, using the same standards as those accepted by NCIDQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3174 and R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers,

LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), LR 26:

**§902. Licensing without Examination**

A.1. All persons registered to use the title ~~Anterior~~ designer@, ~~Registered interior designer@~~ or ~~Alicensed interior designer@~~ on January 1, 2000, shall be qualified for interior design registration under the provisions of this Chapter, provided that their license was not inactive, expired, suspended or revoked.

2. Any person licensed on January 1, 2000, who has not passed the required examination by January 1, 2003, must show completion of one of the following:

- a. passage of the building and barrier free code section of the NCIDQ examination; or
- b. 15 hours of board-approved continuing education classes relating to building and barrier free code regulation prior to having the certificate of registration issued under this subsection renewed. Any hour earned for continuing education pursuant to this section shall be in addition to any other continuing education required by this part.

3. however, any person who has within the three years prior to January 1, 2000, completed 15 hours of approved continuing education on building and barrier free code regulation shall not be required to complete the 15 hours of continuing education related to building and barrier free code regulation as provided for herein.

4. Prior to January 1, 2003, or until he completes the requirements of this Section, the interior designer may retain the title ~~Alicensed interior designer@~~ and retain all rights and duties granted to registered interior designers pursuant to this act, conditioned upon the licensed interior designer abiding by all requirements of this part.

B. On January 1, 2000, all persons who are 65 years old and who are authorized to use the term ~~Alicensed interior designer@~~ on the effective date of the act shall not be required to establish proof of passage of the required examination. However, such persons shall comply with all other requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), LR 26:

**§903. Application Procedure.**

A. Application must be made to the board on application forms obtained from the State Board of Examiners for Interior Design and required fees filed. Application forms may be obtained by calling (225) 298-1283 or writing to: State Board of Examiners for Interior Design, 2900 Westfork Drive, Ste. 200, Baton Rouge, Louisiana 70827.

B. The application must request the following information:

- 1. name;
- 2. business address and telephone;
- 3. residential address and telephone;
- 4. affiliations, if any;
- 5. educational background;
- 6. employment background;
- 7. specialties, if recognized;
- 8. e-mail address;
- 9. volunteer status for Board committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

#### **§905. Reciprocal Registration**

Persons providing evidence of registration or licensing in another state, whose requirements for registration are equivalent to Louisiana's requirements and who extend the same privilege to those registered in Louisiana, may become registered by the board upon payment by such person of the initial registration fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), LR 26:

#### **§907. Examination**

A. The examination for purposes of the Act shall be the National Council for Interior Design Qualification (NCIDQ) Examination, which shall be held at least twice a year in the State of Louisiana. Application forms for said examinations may be obtained by contacting the board. The applicant must pass all portions of the examination and submit proof of passage to the board.

B. Those who have taken and successfully completed the examination provided by the American Institute of Interior Designers may submit proof of passage of that examination to the board. The board may consider for licensing those persons who have taken and passed the AID examination, which preceded and was replaced by the NCIDQ examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), LR 26:

#### **§909. Seal and Display of License Number**

A. An applicant for licensing who complies with all requirements established therefor, including the successful completion of an examination where applicable, shall be issued a certificate by the board to evidence such licensing. Each holder of a license shall secure a seal of such design as is prescribed in the rules of the board. All drawings, renderings, or specifications prepared by the holder or under his supervision shall be imprinted with his seal.

B. The seal to be used is identified in the following illustration:

C. Any licensed or registered interior designer who advertises his services through any medium, including but not limited to advertising in newspapers, magazines or on television, and to stationery and business cards, shall indicate in such advertisement his name, business address and license or registration number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.2.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers,

LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

#### **§911. Inactive Status**

A. A license which has become inactive may be reactivated pursuant to this Section upon application to the board and payment of an application fee.

B. An applicant who wishes to have his license reactivated must provide proof to the Board that he has completed Board-approved continuing education units of not less than five hours approved by the board for each year the license was inactive, to be cumulated at the time the applicant applies to have his license reactivated.

C. Any license which has been inactive for more than 4 years shall automatically expire if the licensee has not made application for reactivation. Once a license expires, it becomes null and void without any further action by the board. At least one year prior to expiration of the inactive license, the board shall give notice to the licensee at the licensee's last address of record that, unless reactivated, the license will expire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

#### **§913. Application for inactive status**

A. An applicant who wishes to apply for inactive status must file an application provided by the Board which requires all information asked of new and renewal applications. Further, the applicant must provide a good and supportable reason for inactive status. Inactive status is to be considered a status of last resort, and will only be available to a limited number of applicants. Some reasons for obtaining inactive status will be that the applicant is seriously ill; that the applicant is a full-time student; or that the applicant will be out of the country for longer than twelve months at one time. These reasons are for explanation only; other reasons may be considered.

B. Applications for inactive status will be considered on a case-by-case basis. Applicants may be required to produce evidence supporting their claim for inactive status.

C. During inactive status, the designer will not be able to use the term "interior design" or "interior designer" when describing his occupation or the services provided, as prohibited by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), LR 26:

### **Chapter 10. Use of term "Interior Designer"**

#### **§1001. Limitation of use of term**

A. Only those who are licensed as a licensed interior designer or registered interior designer by the board may use the appellation interior designer, licensed interior designer or registered interior designer or the plural thereof in advertising or in business usage when referring to themselves or services to be rendered.

*Licensed Interior Designer* is a person who is licensed pursuant to the provisions of this chapter.

*Registered Interior Designer* a licensed interior designer who has taken and passed the examination provided by the National Council for Interior Design Qualifications (NCIDQ).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

### **§1003. Firm Practice**

Nothing shall prevent a licensed or registered interior designer licensed pursuant to the statute or regulations from associating with one or more interior designers, architects, professional engineers, landscape architects, surveyors, or other persons in a partnership, joint venture, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

### **§1005. Use of Term by Business**

A firm shall be permitted to use in its title the term licensed interior designer or registered interior designer and to be so identified on any sign, card, stationery, device, or other means of identification if at least one partner, director, officer, or other supervisory agent of such firm is licensed as an interior designer in this state. A firm shall not be required to include the names of all partners, directors, or officers in its title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

## **Chapter 11. Revocation or Suspension of Certificates of Registration**

### **§1101. Authority of Board to Suspend or Revoke**

A. The board may suspend for a definite period or revoke any certificate of registration on those grounds mentioned in the Act, which include:

1 that the license or any renewal thereof was obtained by fraud, misstatement, or misrepresentation of fact;

2 that the holder of the license or any applicant therefor has committed any act of fraud or deceit in his professional conduct or has been convicted of a felony;

3 that an applicant for a license has represented himself to be a licensed interior designer or a registered interior designer prior to the time of issuance of a license to him except as authorized by the Act;

4 that the holder of a license or an applicant therefor has been found by the board to have aided and abetted any person not licensed in violating any provisions of the Act;

5 that the holder of a license has failed to comply with the requirements of this Act or with any rule, regulation, or order of the board pursuant to authority granted by the Act;

6 that the holder of the license has been guilty of gross incompetence, dishonesty, or gross negligence in the practice of interior design;

7 that the holder of the license has been guilty of affixing his seal or stamp or name to any specification,

drawing, or other related document which was not prepared by him or under his responsible supervision and control, or permitting his seal, stamp, or name to be affixed to any such document:

a. that the holder of a license has been guilty of affixing his seal or stamp or name to any plan, specification, drawing or other document which depicts work which he is not competent or licensed to perform;

8. that the holder of the license has been convicted of a felony, in which case the record of conviction is conclusive evidence of such conviction;

9. that the holder of the license has been guilty of willfully misleading or defrauding any person employing him as an interior designer;

10. that the holder of the license has been guilty of willfully violating the provisions of the Act or any lawful rule or regulation adopted by the board pursuant to law;

11. that the holder of the license has been guilty of attempting to obtain, obtaining, or renewing, by bribery, by fraudulent misrepresentation, or through an error of the board, a license to use the title licensed interior designer;

12. that the holder of the license has been guilty of having a license to practice interior design, or a license to use the title licensed interior designer or registered interior designer revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction for any act which would constitute a violation of this part of this Chapter;

13. that the holder of the license has been convicted or found guilty of a crime in any jurisdiction which directly relates to the provision of interior design services or to the ability to provide interior design services. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charge. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charge and the circumstances surrounding such plea;

14. that the holder of the license has been guilty of false, deceptive, or misleading advertising;

15. that the holder of the license has been guilty of aiding, assisting, procuring, or advising any unlicensed person to use the title licensed interior designer or registered interior designer contrary to this Act or to a rule of the board;

16. that the holder of the license has been guilty of failing to perform any statutory or legal obligation placed upon an interior designer;

a. that the holder of the license has been guilty of:

i. making or filing a report which the licensee knows to be false;

ii. intentionally or negligently failing to file a report or record required by state or federal law; or

iii. willfully impeding or obstructing such filing or inducing another person to do so;

b. such reports or records shall include only those which are signed in the capacity as an interior designer;

18. that the holder of the license has been guilty of making deceptive, untrue, or fraudulent representations in the provision of interior design services;

19 that the holder of the license has been guilty of accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent or licensed to perform;

20 that the holder of the license has been guilty of rendering or offering to render architectural services.

B. Revocation or nonrenewal of the registration of the registered interior designer is recommended for violations of Sections 1, 2, 6, 8, 9, 10, 11, and 12.

C. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has been suspended at least twice prior to the hearing on the incident regarding the current complaint.

D. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has violated any requirements relating to continuing education units.

E. A reprimand or suspension of 30 days to one year is recommended for violation of any Sections 3, 4, 5, 7(a), 13, 14, 15, 16, 17, 18, 19.

F. Suspension is recommended if the registrant has received three reprimands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

#### **§1103. Procedure for Suspension or Revocation**

A. Upon receipt of notice of any alleged violations of this Part, or any rule or regulation adopted by the board, the board shall institute a preliminary investigation. If warranted by the investigation, the board shall duly notify the alleged violator and schedule a timely hearing for the resolution of the alleged violation. If following such hearing, the board reasonably finds that a violation of the rule or the rules or regulations promulgated by the board has occurred, the board shall take such disciplinary action that it may in its discretion choose to exercise in keeping with its delegated authority.

B. If a formal complaint is filed with the Board, that complaint shall be referred to the Disciplinary Committee, whose job shall be to investigate the complaint. If warranted by the investigation, the Disciplinary Committee shall duly notify the alleged violator in writing of the complaint and ask the alleged violator for a response to the complaint.

C. If the Disciplinary Committee by a majority vote determines that there has been no violation of the statutes and regulations regulating registered or licensed interior designers, then a report of that shall be made to the Board.

D. If the Disciplinary Committee determines that the registrant has corrected the alleged violation, and the complainant has accepted the correction without further hearing, it shall make a report of that to the entire Board.

E. If the Disciplinary Committee determines that there is a violation alleged, and that the registrant has not corrected the alleged violation, then it shall make a referral to the Board of this fact and ask that the matter be referred for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991); amended by the Department of Economic

Development, Board of Examiners of Interior Designers, (December 1999).

#### **§1104. Hearing Procedures**

A. If, after following the procedure in Section 1103, the Board determine that a hearing is warranted, the following procedure should be followed.

B. Proceedings to revoke, rescind or suspend the certificate of registration of an interior designer shall commence by any person filing a sworn affidavit with the board against the interior designer. A time and place for the hearing of the charges shall be fixed by the board. The board, upon its own motion, may investigate the actions of any interior designer and file a complaint against him.

C. A copy of the complaint shall be sent by the board to the interior designer against whom a complaint has been filed at his last known address by registered or certified mail at least twenty days prior to the hearing together with a notice of the time and place of the meeting of the board at which the complaint shall be heard.

D. At the hearing the interior designer against whom a complaint has been filed shall have the right to cross-examine witnesses against him, to produce witnesses in his defense, and to appear personally or by counsel.

E. No action shall be taken to rescind, revoke, or suspend the certificate of registration of any interior designer unless a quorum of the board is present at the hearing and then only by an affirmative vote of at least four of the members of the board present.

F. If the board determines upon the suspension of the certificate of registration of any interior designer, it shall fix the duration of the period of the suspension.

G. If the board revokes, rescinds, or suspends the certificate of registration of any interior designer, the secretary of the board shall give written notice of its action by registered or certified mail to the person against whom the complaint was filed at the last known address.

H. The board may require the production of books, papers, or other documents and may issue subpoenas to compel the attendance of witnesses to testify and to produce any relevant books, papers, or other documents in their possession before the board in any proceeding concerning any violations of the laws regulating registered interior designers or the practice of interior design. The subpoenas shall be served by the sheriff for the parish where the witness resides or may be found. If any person refuses to obey any subpoena so issued or refuses to testify or to produce any books, papers, or other documents required to be produced, the board may present its petition to the district court of the parish in which that person was served with the subpoena setting forth the facts. The court shall then issue a rule to that person requiring him to obey the subpoena or to show cause why he fails to obey it. Unless that person shall show sufficient cause for failing to obey the subpoena, the court shall direct him to obey the subpoena and, upon his refusal to comply, he shall be adjudged in contempt of court and punished therefor, as the court may direct.

I. Any licensed or registered interior designer who has been found guilty by the board of the charges filed against him and whose certificate of registration has been revoked, rescinded, or suspended, shall have the right to appeal to the district court of the parish in which the hearing was held. The appeal shall be governed by the Administrative Procedure Act, R.S. 49:950, et seq.

J. The board shall have the power to issue a new certificate of registration, change a revocation to a suspension, or shorten the period of suspension, upon satisfactory evidence that proper reasons for such action exist, presented by any person whose certificate of registration as an interior designer has been revoked, rescinded or suspended. Any person whose certificate of registration has been suspended shall have his certificate of registration automatically reinstated by the board at the end of his period of suspension upon payment of the renewal fee. No delinquent fee shall be charged for reinstatement of certificate of registration under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991).

#### **§1105. Appeal Process**

Any person aggrieved by any disciplinary action of the board shall have the right to a rehearing by the board if written application for a rehearing is made to the board within 15 days after the adverse disciplinary action. If such person is aggrieved further by a decision or action by the board on rehearing, such person may appeal the decision or action of the board to the district court in the parish in which he is domiciled. The written petition for a rehearing in district court shall be made within 30 days after written notice sent to the person of the action or decision of the board on rehearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991).

#### **§1106. Fine for Restoration of Revoked or Suspended License**

The board may require a licensee who has had his license revoked or suspended pursuant to the provisions of this Chapter to pay a fine of up to \$150.00 to have his license restored to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991); amended by the Department of Economic Development, Board of Examiners of Interior Designers, (December 1999), LR 26:

#### **§1107. Enforcement of Board's Decisions**

The board may apply to any court which has jurisdiction for an order enjoining or restraining the continuance of the alleged unlawful act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

#### **§1108. Disciplinary Committee**

A. There is hereby created a disciplinary committee to review all complaints filed with the Board.

B. The Board shall appoint the members of the disciplinary committee.

C. The disciplinary committee shall be composed of the following members:

1. the Chairman of the Board or a representative of same;
2. one representative of ASID;
3. one representative of IIDA;
4. one representative of IDEC;
5. one unaffiliated registered interior designer.

D. All complaints filed with the Board shall be reviewed by the Disciplinary Committee before submission to the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

#### **§1109. Cease and Desist Orders and Injunctive Relief**

A. In addition to or in lieu of the administrative sanctions provided in this Chapter the board is empowered to issue an order to any person or firm engaged in any activity, conduct, or practice constituting a violation of any provision of this chapter directing such person or firm to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. The Board shall issue a cease and desist order against anyone who is not registered and who is found to be practicing interior design or using the term interior designer, registered interior designer, or licensed interior designer.

C. The alleged violator shall be served with the cease and desist order by certified mail. If within 10 days the alleged violator is continuing the offending activity, the Board may file a complaint with the appropriate district court requesting that the Court enjoin the offending activity.

D. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct, or other activity proscribed by this Chapter, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct, or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction, or permanent injunction issued hereunder shall not be subject to being released upon bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

### **Chapter 12. Miscellaneous**

#### **§1201. Lending books**

Books or other materials on the NCIDQ reading list, which books are owned by the Board and located in the Board offices may be loaned for a period not to exceed 14 days, provided that a borrower of any book must pay a deposit equal to the book's cost if the book is removed from board offices.

Deposits will not be refunded on books or other materials if they are not returned to board offices within the 14-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

**§1202. Roster**

The roster of licensed interior designers will be provided upon payment of the cost of copying at the rate of copying charges as set by the Regulations established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), LR 26:

**Chapter 13. Severability**

**§1301. Severability**

If any provision or item of the rules of the board or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of the rules of the board which can be given effect without the invalid provisions, items or applications, and to this end the provisions of the rules of the board are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 11:340 (April 1985), LR 26:

J. Dan Bouligny  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Composition and Operation of the Board**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no increased cost as a result of the passage of the legislation. The State Board will not gain any new powers except for the right to impose fines on those who violate the law. The fines will pay for any disciplinary proceedings. At the present time, the State Board has the power to hold disciplinary proceedings against licensees so other costs will remain the same.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

None. The regulations do not change the current system of collection.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

None. The regulations do not change the current system of collection.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The regulations follow the 1999 revisions to the statute, which provide that only licensees may practice interior design. Formerly, the statute restricted only the use of the title. This

will limit the number of designers who will be able to practice interior design. Others who do qualify will become licensed.

J. Dan Bouligny  
Chairman  
0005#055

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Economic Development  
Office of Financial Institutions**

**Additional Fees and Charges  
(LAC 10:XI.701)**

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Acting Commissioner of Financial Institutions ("Commissioner") hereby gives notice of intent to promulgate the following rule to implement the provisions of Act 1315 of 1999, and specifically R.S. 9:3517(C) of said Act, to provide for the approval of additional fees and charges not inconsistent with the Louisiana Consumer Credit Law, ("LCCL"), R.S. 9:3510, et seq.

**TITLE 10**

**CHAPTER 7. Additional Fees and Charges**

**§701. Definitions**

*Additional Fees and Charges* means those fees and charges which are not specifically authorized by the LCCL but, as determined by the Commissioner, are considered not to be inconsistent with the provisions thereof.

*Creditor* means a person who is a licensed lender as defined in R.S. 9:3516(22).

*Petition* means a written request of a creditor, in the form of a letter, directed to the Commissioner seeking approval of an additional fee or charge and including an explanation as to why a creditor believes a certain fee or charge is warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

**§703. Procedure for Requesting Approval of an Additional Fee or Charge**

A. A creditor extending credit under the LCCL shall petition the Commissioner for authority to assess an additional fee or charge which is not inconsistent with the provisions thereof.

B. A petition shall include an explanation as to why a creditor believes the fee or charge is warranted, as well as a showing that such fee or charge is not inconsistent with the provisions of the LCCL. The creditor shall also include documentation supporting its request.

C. The Commissioner may publish the creditor's request, in a form prescribed by him, in the Potpourri section of the next *Louisiana Register*, to solicit public comments.

D. After considering the request and any public comments received, the Commissioner may approve the proposed fee or charge, as long as it is not inconsistent with the provisions of the LCCL, and it complies with the requirements established by policy promulgated by the Commissioner.

E. A current list of all fees and charges which have been approved or disapproved by the Commissioner shall be maintained on the OFI website and made available upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

**§705. Procedure for Consumers of Financial Services to Comment on Petitioner's Request for Approval of Additional Fees and Charges**

A. When a creditor petitions the Commissioner to request approval of an additional fee or charge in accordance with this Rule, a notice may be published in the *Louisiana Register* that such petition has been received by the Commissioner. The notice shall apprise the public that a formal request for an additional fee or charge has been made and that the Commissioner will consider the merits of the request and make a decision regarding its approval within a time to be stated in the notice. Any interested person, shall have the opportunity to submit written comments, observations, or objections to the request. The comments, observations, or objections shall bear a postmark of not later than 15 days after publication of the notice in the *Louisiana Register*.

B. In addition to the public notice that is provided for by Section 703.C, the Commissioner may inform the general public by a press release, which is distributed to newspapers which have a general circulation, that a creditor has filed a petition requesting approval of an additional fee or charge and that any interested person may make comments, observations, or objections known in the same manner and in the same time as is provided for in Subsection A of this Section.

C. The notice which is provided for by Section 703.C and the press release which is permitted by Subsection B of this Section shall briefly summarize the creditor's reasons for requesting the additional fee or charge. The notice and press release shall inform the general public that any person may obtain a copy of the creditor's request, including any attachments or documents filed therewith to support the request, at no cost to the person requesting it. A copy of the petition and attachments may be obtained by a written request sent via U.S. Postal Service, addressed to the Chief Examiner, Non-Depository Division, Office of Financial Institutions, 8660 United Plaza Boulevard, Baton Rouge, LA 70809. In the alternative, any person may obtain, in person, a copy at the same address between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

D. By the end of the month following the month in which the petition for additional fees and charges was filed with the Office of Financial Institutions, if the fee or charge is approved, the Commissioner may announce the decision and publish it in the Potpourri section of the *Louisiana Register* which is issued in the month following the decision.

E. The creditor shall, within 30 days after the Office of Financial Institutions receives the Office of the State Register's invoice for costs of publication, reimburse the Office of Financial Institutions the total cost of publishing the notices provided for by Subsections A, C and D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

Any interested party may submit written comments regarding the contents of the proposed rule to Gary L. Newport, Chief Attorney, Office of Financial Institutions, in person to: 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA, 70809; or by mail to: Louisiana Office of Financial Institutions, Post Office Box 94095, Baton Rouge, LA, 70804-9095. All comments must be received no later than June 20, 2000 at 4:30 p.m.

Doris B. Gunn  
Acting Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Additional Fees and Charges**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in any implementation costs (or savings) to the state or local governmental units other than those one-time costs directly associated with the publication of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of the state will increase to the extent that creditors request authority to charge borrowers additional fees and incur additional fees to reimburse the OFI for publications costs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Creditors requesting authority to charge additional fees will incur additional costs to reimburse the Office of Financial Institutions for the *Louisiana Register's* costs of publication of notices in the Potpourri section. It is indeterminable as to any economic benefit to creditors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Doris B. Gunn  
Acting Commissioner  
0005#026

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Racing Commission**

Total Dissolved Carbon Dioxide Testing (LAC 35:I.1720)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:I.1720 "Total Dissolved Carbon Dioxide Testing," to ban bicarbonate loading or the administration of "milkshakes" or other substances that affect total dissolved carbon dioxide levels when administered by use of nasogastric tube or any other means whatsoever, which shall be deemed to have an adverse affect on the horse by changing its normal physiological state through elevation of blood total dissolved carbon dioxide, and to include provisions for total dissolved carbon dioxide testing in horses.

This proposed rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

**Title 35  
HORSE RACING**

**Part I. General Provisions**

**Chapter 17. Corrupt and Prohibited Practices**

**§1720. Total Dissolved Carbon Dioxide Testing**

**A. Definitions**

*Bicarbonate Loading* or *"Milkshaking"* terms used to describe the administration of bicarbonate of soda (sodium bicarbonate or NaHCO<sub>3</sub>) or other substances that affect total dissolved carbon dioxide levels, administered through a nasogastric tube or by any other means, which shall be deemed to have an adverse affect on the horse by changing its normal physiological state through elevation of blood total dissolved carbon dioxide.

*Nasogastric Tube* any tube which can be inserted through the nose that extends into the stomach.

**B. Procedures**

1. The state veterinarian may draw blood samples from a horse for the purpose of obtaining a TCO<sub>2</sub> (total dissolved carbon dioxide) concentration level.

2. Blood samples for TCO<sub>2</sub> shall be drawn not earlier than 90 minutes following the official post-time of the race.

3. The post-race TCO<sub>2</sub> level in the blood shall not exceed:

a. 39.0 millimole per liter if the horse is competing on furosemide (lasix) or other permitted medication known to affect TCO<sub>2</sub>;

b. 37.0 millimole per liter if the horse is not competing on furosemide (lasix) or other permitted medication known to affect TCO<sub>2</sub>.

4. In the event a post-race sample drawn from a horse contains an amount of TCO<sub>2</sub> which exceeds the levels described above, the following penalties shall apply:

a. The first time the laboratory reports an excessive TCO<sub>2</sub> level, the trainer shall be fined \$1,000 and the purse shall be redistributed.

b. The second time the laboratory reports an excessive TCO<sub>2</sub> level, the stewards shall suspend the trainer for the duration of the race meeting plus ten days or for a period not to exceed six months, whichever is greater, and shall refer the case to the commission.

c. For each subsequent report of an excessive TCO<sub>2</sub> level, the penalties provided for in (B)(4)(b) shall apply.

5. The provisions of §1733 and §1769 through §1775, pertaining to split samples, shall not apply to blood samples drawn for the purposes of TCO<sub>2</sub> testing.

6. No permittee other than veterinarians shall possess a nasogastric tube, as described herein, on the premises under the jurisdiction of the commission.

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

HISTORICAL NOTE: Adopted by the Department of Economic Development, Racing Commission LR 26:

The domicile office of the Louisiana State Racing Commission is open from 8AM to 4PM and interested parties may contact C. A. Rieger, assistant director, at (504

483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through June 9, 2000, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Total Dissolved Carbon Dioxide Testing**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of local governmental units associated with this proposed rule. However, the state may receive an indeterminable increase in self-generated revenue through fines imposed on those not complying with these rules.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This action benefits horsemen and patrons by assuring that no excessive amount of sodium bicarbonate is administered to horses, thereby making it more difficult to unduly alter the outcome of any race.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner, III  
Executive Director  
0005#059

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Tuition Opportunity Program for Students  
(TOPS) Core Curriculum Equivalents for  
Louisiana Schools (LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

The proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., May 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley  
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Program for  
Students (TOPS) Core Curriculum  
Equivalents for Louisiana Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The implementation cost associated with publishing these rule revisions in the Louisiana Register as emergency, notice and rule is approximately \$200. The purpose of this action is to establish core curriculum equivalent courses for students at the Louisiana School. This will not require increased funding. There are no costs inconsistent with current budgetary appropriations for this purpose.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

TOPS applicants at the Louisiana School for Math, Science and the Arts who have taken high school courses that have been approved as substitutes for the core curriculum course requirements for TOPS may use those courses to establish eligibility for an award.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

No impact on competition and employment is anticipated to result from this rule.

Melanie Amrhein  
Assistant Executive Director  
0005#008

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

Louisiana Pollutant Discharge Elimination  
System (LPDES) Program (WP040)  
(LAC 33:IX.2301, 2531 and 2533)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2301, 2531, and 2533 (Log #WP040\*).

This proposed rule is identical to federal regulations found in 40 CFR parts 136 and 40 CFR chapter I, subchapter N, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact

will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule will update the CFR references in Chapter 23 to the current 1999 CFR. Authorized programs are required to adopt changes made to the federal regulations. The basis and rationale for this proposed rule are to keep the LPDES program current with federal rules that are incorporated by reference into the state regulations.

This proposed rule meets an exception 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. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part IX. Water Quality Regulations**

**Chapter 23. The Louisiana Pollutant Discharge  
Elimination System (LPDES) Program  
Subchapter A. Definitions and General Program  
Requirements**

**§2301. General Conditions**

\*\*\*

(See Prior Text in A - E)

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those regulations published in the July 1999 *Code of Federal Regulations*, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**Subchapter N. Incorporation by Reference**

The Louisiana Department of Environmental Quality incorporates by reference the following federal requirements.

**§2531. 40 CFR Part 136**

Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 1999, in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§2533. 40 CFR Chapter I, Subchapter N**

Title 40 (Protection of the Environment) CFR, chapter I, subchapter N (Effluent Guidelines and Standards), revised July 1, 1999, parts 401 and 402, and parts 404 - 471 in their entirety. (Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in part 403 of Subchapter N have been included in these regulations as Subchapter T.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended LR 25:1467 (August 1999), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on June 26, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP040\*. Such comments must be received no later than June 26, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP040\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

0005#065

### NOTICE OF INTENT

#### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Waste Tire Regulations (SW027)  
(LAC 33:VII.Chapter 105)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.Chapter 105 (Log #SW027).

The rule clarifies definitions, simplifies the exemption process, simplifies the standards for waste tire generators, transporters, and recyclers, and implements the fee for off-road tires. The revisions are necessary to meet the standards required by Act 1015 of the 1999 Regular Session of the Louisiana Legislature, which places a fee on off-road tires for their disposal and/or recycling. In addition, many of the sections in the Waste Tire Program regulations have not been updated since inception in 1994. These revisions will make the regulations current. The basis and rationale for the

proposed rule are to incorporate the aspects of Act 1015 into the regulations and to make the standard current.

This proposed rule meets an exception 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. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Title 33 ENVIRONMENTAL QUALITY Part VII. Solid Waste Subpart 2. Recycling

#### Chapter 105. Waste Tires

##### §10503. Administration

This program shall be administered by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

##### §10505. Definitions

The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

\* \* \*

[See Prior Text]

*Agreement* a written contract or other written arrangement between recipient persons and the administrative authority that outlines specific goals or responsibilities.

*Authorization Certificate* written authorization issued by the administrative authority.

*Clean Closure* the act of closing a facility whereby all waste tires and waste tire material are removed, including any resulting on-site or off-site contamination.

*Collection Center* a permitted or authorized location denoted on an authorization certificate where waste tires and waste tire material can be stored and/or collected.

*Collector*—a person who operates a collection center.

\* \* \*

[See Prior Text]

*Destination Facility* a facility where waste tires and/or waste tire material is processed, recycled, collected, stored and/or disposed after transportation.

\* \* \*

[See Prior Text]

*Disposal* the depositing, dumping, or placing of waste tires or waste tire material on or into any land or water so that such waste tires, waste tire material, or a constituent thereof, may have the potential for entering the environment, or being emitted into the air, or discharged into any waters of Louisiana.

*Facility* any land and appurtenances thereto used for storage, processing, recycling, and/or disposal of solid waste or tire material, but possibly consisting of one or more units. (Any earthen ditches leading to or from a facility that receive waste are considered part of the facility to which they connect; except ditches which are lined with materials

which are capable of preventing groundwater contamination.)

**Generator** a facility that generates waste tires as a part of its business operations.

**Government Agencies** local, parish, state, municipal, and federal governing authorities having jurisdiction over a defined geographic area.

\* \* \*

[See Prior Text]

**Manifest** the form, provided by the department, used for identifying the quantity, composition, origin, routing, and destination of waste tires and/or waste tire material during transportation from the point of generation to the authorized destination.

\* \* \*

[See Prior Text]

**Mobile Processor** a standard permitted processor who has processing equipment capable of being moved from one location to another.

**Modification** any change in a site, facility, unit, process or disposal method, or operation that deviates from the specification in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specification of the permit is not considered a modification.

**Motor Vehicle** an automobile, motorcycle, truck, trailer, semi-trailer, truck-tractor and semi-trailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power.

**Off-Road Vehicle** a vehicle used for construction, farming, industrial uses, or mining, not normally operated on the roads of the state. This term does not include vehicles propelled solely by muscular power.

**Permittee/Permit Holder** a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

\* \* \*

[See Prior Text]

**Processing** any method or activity that alters whole waste tires so that they are no longer whole; such as, cutting, slicing, chipping, shredding, distilling, freezing, or other processes as determined by the administrative authority. At a minimum, a tire is considered processed only if its volume has been reduced by cutting it in half along its circumference.

**Processor** a person that collects and processes waste tires.

**Qualified Recycler** any person that the department determines recycles waste tires or waste tire material so that the waste tire or waste tire material is reused or returned to use in the form of raw material, product, or fuel source.

**Recycling** any process by which waste tires, waste tire material, or residuals are reused or returned to beneficial use in the form of products or as a fuel source.

**Standard Permit** a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, or closure of facilities or equipment used or intended to be used to process or collect waste tires in accordance with the act, these regulations, specified terms and conditions, and the permit application.

**Temporary Permit** a written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post closure of a particular facility used or intended to be used for processing waste tires or waste tire material in accordance with the act, these regulations, and specified terms and conditions.

**Tire** a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle or off-road vehicle.

**Tire Dealer** any person, business, or firm that engages in the sale of new tires for use on motor vehicles.

**Tire Wholesaler** any wholesaler, supplier, distributor, jobber, or other entity who distributes tires to retail dealers in this state or to its own retail establishments in this state.

**Transporter** a person who transports waste tires.

**Unauthorized Waste Tire Pile** a pile in excess of 20 waste tires whose storage and/or disposal is not authorized by the administrative authority.

**Waste Tire** a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect.

**Waste Tire Material** waste tires after processing; such as, but not limited to, chipped, shredded, cut, or sliced tires, crumb rubber, steel cord, cord material, oil, or carbon black.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10507. Exemptions**

Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.307.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10509. Prohibitions and Mandatory Provisions**

A. No person may knowingly or intentionally dispose unprocessed waste tires in a landfill within the boundaries of Louisiana.

B. Upon promulgation of these regulations, no person may store more than 20 whole waste tires unless they are authorized by the administrative authority and:

1. collected and stored at a registered tire dealer, registered used tire dealer, or registered other generator of waste tires;

2. collected and stored at an authorized waste tire collection center or permitted waste tire processing facility; or

3. collected and stored at an authorized waste tire recycling facility.

C. No person may transport more than 20 waste tires without first obtaining a transporter authorization certificate.

D. No person may receive payment from the Waste Tire Management Fund for processing tires without a standard permit issued by the department.

E. No regulated generator, collector, or processor may store any waste tire for longer than 365 days.

F. All persons subject to these regulations are subject to inspection and/or enforcement action by the administrative authority, in accordance with LAC 33:VII.10537.

G. All persons subject to these regulations shall maintain all records required to demonstrate compliance with these regulations for a minimum of three years. The department may extend the record retention period in the event of an investigation. The records shall be maintained at the regulated facility or site unless an alternate storage location is approved in writing by the administrative authority. All records shall be produced upon request for inspection by the department.

H. All persons who sell new tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fee due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

I. Each tire wholesaler shall maintain a record of all new tires sales made to dealers in this state. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A). These records shall contain and include the name and address of each tire purchaser and the number of tires sold to that purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26.

### **§10511. Permit System**

#### **A. Permit Requirements**

1. Scope. Persons, other than generators and government agencies, operating collection facilities that collect waste tires and/or waste tire material and/or process waste tires or waste tire material for payment from the Waste Tire Management Fund must secure a permit and are subject to the requirements detailed in these regulations.

#### **2. Types of Permits**

a. Temporary Permits. A temporary permit allows continued operation of an existing collector and/or processor, in accordance with an approved interim operational plan, but does not allow the expansion or modification of the facility without approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

\*\*\*

[See Prior Text in A.2.a.i]

ii. Order to Close – to allow operations to continue at an existing facility while a closure plan is being processed or while a facility is being closed in accordance with a closure plan.

\*\*\*

[See Prior Text in A.2.b]

#### **3. Permit Provisions**

\*\*\*

[See Prior Text in A.3.a-b]

B. Modifications. Modification requests shall be tendered in accordance with LAC 33:VII.517. No modifications shall be made to the permit or facility without prior written approval from the administrative authority.

C. Suspension or Revocation of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend or revoke a permit in whole or in part in accordance with procedures outlined in LAC 33:VII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26.

### **§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities**

\*\*\*

[See Prior Text in A-A.3]

#### **B. Submittal of Permit Applications**

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the department. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

\*\*\*

[See Prior Text in B.2]

#### **C. Requirements for Public Notification of Permit Application**

1. As provided in R.S. 30:2022 and 30:2418, upon receipt of a permit application the department shall provide written notice on the subject matter to the parish governing authority and each municipality affected by the application.

\*\*\*

[See Prior Text in C.2]

3. The applicant shall cause the notice of the hearing to be published in the official journal of the parish or municipality on two separate days preceding the hearing. The last day of publication of such notice shall be at least 10 days prior to the hearing. The applicant shall provide the department with proof of publication.

4. The applicant shall post a notice of the hearing, in prominent view of the public, for two weeks prior to the hearing, in the courthouse, government center, and all the libraries of the parish.

5. A public comment period of at least 30 days shall be allowed following the public hearing.

\*\*\*

[See Prior Text in D-D.2]

#### **E. Waste Tire Standard Permit Application Review**

1. An application deemed unacceptable for technical review shall be rejected. Applications shall be subject to the completeness review requirements of LAC 33:I.1505.A.

2. Applications shall be subject to the technical review requirements of LAC 33:I.1505.B.

3. Closure plans that are determined to be unacceptable for a technical review shall be rejected. The applicant shall be required to resubmit the closure plan to the administrative authority.

4. An applicant whose closure plan is acceptable for technical review, but lacks the necessary information, shall be informed of such in a closure plan deficiency letter. These deficiencies shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter. Closure plans that have been deemed technically complete shall be approved.

F. Standard Permit Applications Deemed Technically Complete

\* \* \*

[See Prior Text in F.1-2]

3. After the six copies are submitted to the department, a notice shall be placed in the office bulletin (if one is available), the official journal of the state, and the official journal of the parish or municipality where the facility is located. The department shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of the official journal of the parish or municipality where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. The notice shall solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the department. The notice shall be published in accordance with the sample public notice provided by the department.

4. A public hearing shall be held for any proposed standard permit application when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary.

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice required in Subsection F.3 of this Section, request that a public hearing be held. If the administrative authority determines that the hearing is warranted, a public hearing shall be held. If the administrative authority determines not to hold the requested hearing, the department shall send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

\* \* \*

[See Prior Text in F.6]

7. Receipt of Comments Following a Public Hearing. The department shall receive comments for 30 days after the date of a public hearing.

\* \* \*

[See Prior Text in G-G.2]

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in the official journal of the parish or municipality where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public

notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The permit holder shall provide proof of publication of the notice(s) to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10515. Agreements with Waste Tire Processors**

Standard permitted waste tire processors may apply to the administrative authority for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the administrative authority.

##### **A. Maximum Payments to Processors**

1. Standard permitted processors shall be eligible to receive \$1 per tire equivalent unit of 20 pounds of waste tire material that is processed, marketed, and manifested by the facility on a monthly basis. This weight shall be documented by Department of Agriculture certified scale-weight tickets.

2. Standard permitted processors shall be eligible to receive \$ .15 per tire equivalent unit of 20 pounds of waste tire material that is actually recycled or that reaches certifiable end-market uses provided.

a. Standard permitted processors shall provide documentation to prove that they are contracted with a qualified recycler. Proof shall be provided in the form of a letter or other document from the qualified recycler.

b. Standard permitted processors shall provide a certificate of end use demonstrating that the waste tire material has been recycled.

c. Standard permitted processors shall provide a Department of Agriculture certified scale-weight ticket including gross, tare and net weights.

3. Standard permitted processors shall be eligible to receive \$1 per 20 pounds of whole waste tire that is marketed and shipped to a qualified recycler in accordance with LAC 33:VII.10535.D.4.c.

a. Standard permitted processors must apply and obtain approval from the department in order to market and ship whole waste tires. At this time they shall provide a detailed description of the operational plan to market and ship whole waste tires to a qualified recycler, including:

- i. shipping destination;
- ii. place of origin of the tires;
- iii. name of the qualified recycler;
- iv. method of recycling authorized or allowed under applicable state and federal laws;
- v. detailed description of product material or fuel source; and
- vi. a copy of an agreement with the qualified recycler who will accept whole waste tires for recycling.

b. The standard permitted processor shall ensure the qualified recycler accepts whole waste tires or baled waste tires from the processor in accordance with its agreement and Subsection A.2.a of this Section.

B. The standard permitted processor shall provide, with the monthly report required by LAC 33:VII.10535.D.6, a certificate of end use by the qualified recycler, demonstrating that it has recycled the waste tires or waste tire material.

C. The standard permitted processor shall comply with LAC 33:VII.10533.

D. The standard permitted processor shall provide all documentation to demonstrate that all the requirements of this Section have been met.

E. Once the application is approved, the department shall issue an agreement in accordance with Subsection A of this Section.

F. General Conditions of Agreements. It shall be the responsibility of processors to make payments to authorized waste tire transporters who provide them with waste tires. This includes making payments to local governmental bodies acting as transporters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10517. Standard Waste Tire Permit Application**

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application, including, but not limited to, the information included in this Section.

A. Processing Facility. The permit application shall include:

1. the name of the applicant;
2. the name and phone number of the owner/contact;

\*\*\*

[See Prior Text in A.3]

4. the location of the processing/collection facility, including section, township, and range;

\*\*\*

[See Prior Text in A.5-6]

7. the name, address, and phone number of a contact person in case of an emergency, other than the individual specified in Subsection A.2 of this Section;

8. certification. The applicant must certify in writing that all the information provided in the application and in accordance with the application is true and correct. Providing false or incorrect information may result in criminal or civil enforcement. The applicant shall also provide the site master plan, including property lines, building, facilities, excavations, drainage, roads, and other elements of the process system employed, certified by a registered engineer licensed in the state of Louisiana.

9. a copy of written notification to the appropriate local governing authority, stating that the site is to be used as a waste tire processing and/or collection facility;

\*\*\*

[See Prior Text in A.10]

11. written documentation from the property owner granting approval for use of property as a waste tire processing and/or collection facility, if property owner is other than applicant;

12. proof of publication of notice of intent to submit an application for a standard waste tire permit;

\*\*\*

[See Prior Text in A.13-14.a]

b. waste tire acceptance plan, to count, record, and monitor incoming quantities of waste tires;

\*\*\*

[See Prior Text in A.14.c-e.i]

ii. maximum number of waste tires and volume of waste tire material to be stored at any one time. The total amount of waste tires and volume of waste tire material shall not exceed 60 times the daily capacity of the processing unit;

\*\*\*

[See Prior Text in A.14.e.iii-iv]

v. type of access roads and buffer zones; and

\*\*\*

[See Prior Text in A.14.e.vi-15]

16. site closure plan to assure clean closure. The closure plan must be submitted as a separate section with each application. The closure plan for all facilities must ensure clean closure and must include the following:

a. the method to be used and steps necessary for closing the facility;

b. the estimated cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive;

c. an estimate of the maximum inventory of whole waste tires and waste tire material on-site at any one time over the active life of the facility;

d. a schedule for completing all activities necessary for closure; and

e. the sequence of final closure as applicable;

\*\*\*

[See Prior Text in A.17-21]

B. Waste Tire Collection Center. Waste tire processors or other persons may operate a waste tire collection center in accordance with LAC 33:VII.10527. All information required in Subsection A of this Section must be provided in a permit application for each waste tire collection center.

C. Governmental Agencies. Government agencies intending to operate collection centers and/or tire processing equipment for the purposes of volume reduction prior to disposal will not be required to possess permits provided that:

1. the governmental agency collection centers shall be located on property owned or otherwise controlled by the governmental agency, unless otherwise authorized by the department;

2. governmental agency collection centers shall be attended during operational hours and have controlled ingress and egress during non-operational hours;

3. governmental agency collection center personnel shall witness all loading and unloading of waste tires;

4. governmental agency collection centers may accept waste tires from roadside pickup from right-of-ways, individual residents, and unauthorized waste tire piles. For the tires from unauthorized waste tire piles to be eligible for the \$1 per 20 pounds marketing payment to permitted processors as indicated in LAC 33:VII.10535, the governmental agency must notify the department, in writing, of the agency's intent prior to removing the tires from said site;

5. governmental agencies shall develop fire control plans and disease vector control plans for the collection center and /or tire processing equipment; and

6. governmental agencies shall satisfy the requirements of LAC 33:VII.10509 and 10533.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§10519. Standards and Responsibilities of Generators of Waste Tires**

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the department of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the department.

B. Tire dealers must accept one waste tire for every new tire sold from the purchaser of the new tire at the time of purchase, unless the purchaser elects to retain the waste tire.

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the waste tire fee specified in LAC 33:VII.10535.B upon the sale of each new tire. "Tire dealers" includes any dealer selling tires to a resident of Louisiana, or business operating in Louisiana, where the tire is delivered into this state.

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted along with the Monthly Waste Tire Fee Report Form obtained from the department. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

\* \* \*

[See Prior Text in E-E.1]

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 per tire weighing 100 pounds or less, and an additional \$1 per 20 pounds of weight in excess of 100 pounds, upon sale of each new tire. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every new tire sold, unless the purchaser elects to retain the waste tire."

F. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice. No tax of any kind shall be applied to this fee.

G. Generators of waste tires shall comply with the manifest requirements of LAC 33:VII.10533.

H. For all waste tires and waste tire material collected and/or stored, generators must provide:

1. a cover adequate to exclude water from the waste tires;
2. vector and vermin control; and

3. means to prevent or control standing water in the containment area.

I. Generators of waste tires may store waste tires up to 365 days after receipt or generation, provided:

1. the extended storage is solely for the purpose of accumulating such quantities as are necessary to facilitate proper processing; and

2. documentation supporting the storage period and the quantity required for proper processing are available at the generator's facility for department inspection.

J. All waste tires and waste tire material must be collected and/or stored on property contiguous to the tire dealership or other waste tire generator facility.

K. No generator shall allow the removal of waste tires from his place of business by anyone other than an authorized transporter, unless the generator generates less than 50 waste tires per month from the sale of 50 new tires. In this case, the generator may transport his waste tires to an authorized collection or permitted processing facility provided LAC 33:VII.10523.C is satisfied.

L. A generator who ceases the sale of tires at the registered location shall notify the administrative authority within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. Generators of waste tires shall segregate the waste tires from any new or used tires offered for sale.

N. Governmental agencies are not required to comply with this Section, except Subsections A, G, I, and J of this Section.

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be kept for a period of three years and shall be available and subject to inspection by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§10521. Repealed**

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§10523. Standards and Responsibilities of Waste Tire Transporters**

A. Transporters of waste tires shall complete the application for transporter authorization form and submit the application, with the payment of the transporter fees as specified in LAC 33:VII.10535.A, to the administrative authority.

B. A transporter authorization certificate shall be valid for a maximum of one year from the date of issuance. All transporter authorization certificates expire on August 31 of each calendar year. The administrative authority shall issue

to the transporter an appropriate number of transporter decals to be placed in accordance with Subsection F of this Section.

C. No person shall transport more than 20 waste tires without a completed manifest satisfying the requirements of LAC 33:VII.10533.

D. For in-state waste tire transportation, the transporter shall transport all waste tires to an authorized collection center or a permitted processing facility.

E. Any person who engages in the transportation of waste tires from Louisiana to other states or countries or from other states to Louisiana, or persons who collect or transport waste tires in Louisiana, but have their place of business in another state, shall comply with all of the requirements for transporters contained in this Section.

F. The transporter shall affix to the driver's door, along with the transporter decal, and the passenger's door of each truck or tractor listed on the notification form, the authorization certificate number in characters no less than three inches in height.

G. All persons subject to this Section shall notify the administrative authority in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10525. Standards and Responsibilities of Waste Tire Processors**

A. Upon receiving a shipment containing waste tires, the processor shall be responsible to verify the number of waste tires in each shipment by actually counting each waste tire. The processor shall sign each waste tire manifest upon receiving waste tires.

\* \* \*

[See Prior Text in B-C]

D. All waste tire facilities must meet the following standards:

1. All processors shall control ingress and egress to the site through a means approved by the administrative authority, with at least one entrance gate being a minimum of 20 feet wide.

2. All facilities shall have a buffer zone of 100 feet. Waste tires and waste tire material shall not be placed in the buffer zone.

3. Fire Protection

a. There shall be no open burning.

b. The facility operator shall enter into a written agreement with the local fire department regarding fire protection at the facility.

c. The facility operator shall develop and implement a fire protection and safety plan for the facility to ensure personnel protection and minimize impact to the environment.

4. Suitable drainage structures or features shall be provided to prevent or control standing water in the waste tires, waste tire material, and associated storage areas.

5. All water discharges, including stormwater runoff, from the site shall be in accordance with applicable state and federal rules and regulations.

6. All waste tire processors, collectors, and associated solid waste management units shall comply with LAC 33:VII.Subpart 1.

7. Waste tires and waste tire material shall be treated according to an acceptable and effective disease vector control plan approved by the administrative authority.

8. Waste tires and waste tire material stored outside shall be maintained in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority.

9. Waste tire or waste tire material piles shall be separated by lanes with a minimum width of 50 feet to allow access by emergency vehicles and equipment.

10. Access lanes to and within the facility shall be free of potholes and ruts and be designed to prevent erosion.

11. The storage limit for waste tires and waste tire material shall be no more than 60 times the daily permitted processing capacity of the processing facility.

12. All waste tire facility operators shall maintain a site closure financial assurance fund in an amount based on the maximum number of pounds of waste tire material that will be stored at the processing facility site at any one time. This fund shall be in the form of a financial guarantee bond, performance bond, or an irrevocable letter of credit in the amount of \$20 per ton of waste tire material on the site. A standby trust fund shall be maintained for the financial assurance mechanism that is chosen by the facility. The financial guarantee bond, performance bond, irrevocable letter of credit, or standby trust fund must use the exact language included in the documents in Appendix A. The financial assurance must be reviewed at least annually.

13. An alternative method of determining the amount required for financial assurance shall be as follows:

a. the waste tire facility operator shall submit an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

c. if the estimates provided are lower than the required \$20 per ton of waste tire material, the administrative authority shall evaluate the estimates submitted and determine the amount of financial assurance that the processor is required to provide.

14. Financial assurances for closure and post closure activities must be in conformity with the standards contained in LAC 33:VII.727.A.2.i.

E. Mobile Processors

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Any mobile processor certificate that expires after the effective date of these regulations shall not be renewed for a period extending beyond 365 days after the effective date of these regulations.

\* \* \*

[See Prior Text in E.2-6]

7. Mobile processors are responsible for notifying the administrative authority in writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the administrative authority before initiating any processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10527. Standards and Responsibilities for Waste Tire Collectors and Collection Centers**

A. All collection center operators shall satisfy the manifest requirements of LAC 33:VII.10533. All collection center operators shall be responsible for counting the tires in the shipment. The collection center shall maintain a log for all unmanifested loads of 20 or fewer waste tires.

B. All collection center operators shall meet the standards in LAC 33:VII.10525.D.1-10 and 12-14.

C. The storage limit for a collection center shall be 3000 whole waste tires or 60 times the daily permitted processing capacity, whichever is greater.

D. Use of mobile processing units are allowed at collection centers only when processed waste tire material is immediately deposited in a trailer or other suitable container for immediate removal from the site.

E. No processed waste tire material shall be deposited on the ground at a collection center at any time.

F. All collection centers shall provide a method to control and/or treat process water if applicable.

G. The closure plan for all collection centers must ensure clean closure and must include the following:

1. the method to be used and steps necessary for closing the center;
2. the estimated cost of closure of the center, based on the cost of hiring a third party to close the center at the point in the center's operating life when the extent and manner of its operation would make closure the most expensive;
3. an estimate of the maximum inventory of whole waste tires ever on-site over the active life of the center;
4. a schedule for completing all activities necessary for closure; and
5. the sequence of final closure as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10529. Standards and Responsibilities of Property Owners**

A. Owners of property on which unauthorized waste tire piles are located shall remediate the site or reimburse the

department for the cost of remediation, except as provided by R.S. 30:2156.

B. Owners of property on which unauthorized waste tire piles are located shall provide disease vector control measures adequate to protect the safety and health of the public, and shall keep the site free of excess grass, underbrush, and other harborage.

C. Owners of property on which unauthorized waste tire piles are located shall limit access to the piles to prevent further disposal of tires or other waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10531. Standards And Responsibilities of Qualified Recyclers**

\* \* \*

[See Prior Text in A-A.9]

B. All facilities recycling waste tires and/or waste tire material in Louisiana shall meet the requirements of LAC 33:VII.10525.D.

C. The storage limit for waste tire material shall be no more than 180 times the daily recycling capacity of the recycling facility. The facility must maintain records to document its compliance with this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10533. Manifest System**

A. All shipments of 20 or more waste tires shall be accompanied by a waste tire manifest provided by the department and executed in accordance with this Section.

B. The manifest document flow is as follows:

1. the generator initiates the manifest (original and at least five copies), completing all of Section 1 and designating the destination facility in Section 3. After the transporter signs the manifest, the generator retains one copy for his files, and the original and all other copies accompany the waste tire shipment. Upon receipt of the waste tires, the transporter completes the Section 2, Transporter 1 information. If applicable, upon surrender of the shipment to a second transporter, the second transporter completes the Section 2, Transporter 2 information. After Transporter 2 signs the manifest, Transporter 1 retains his copy of the manifest;

2. the transporter secures signature of the designated destination facility operator upon delivery of waste tires and/or waste tire material to the designated destination facility. The transporter retains one copy for his files and gives the original and remaining copies to the designated destination facility operator;

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the department with the monthly processor report. The designated processing facility

shall send all remaining copies to the generator no later than seven days after delivery;

4. a generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated destination facility within 30 days of the date the waste tires and/or waste tire material was accepted by the initial transporter must contact the transporter and/or the owner or the operator of the designated destination facility to determine the status of the shipment; and

5. a generator must submit to the department written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

a. a legible copy of the manifest for which the generator does not have confirmation of delivery; and

b. a cover letter signed by the generator explaining the efforts taken to locate the shipment and the results of those efforts.

C. Upon discovering a discrepancy in the number or type of tires in the load, the designated destination facility must attempt to reconcile the discrepancy with the generator(s) or transporter(s). The destination facility operator must submit to the administrative authority, within five working days, a letter describing the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved a corrected copy is to be sent to the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10535. Fees and Fund Disbursement**

A. Permit and Application Fees. Each applicant shall submit a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

\* \* \*

[See Prior Text in A.1-8]

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each new tire sold in Louisiana, to be collected by the tire dealer at the time of retail sale from the purchaser. The fee shall be \$2-per tire weighing 100 pounds or less and \$1 per 20 pounds of weight in excess of 100 pounds.

C. Waste Tire Fee at Full Implementation of These Regulations. Effective January 1, 1995, the disposition of the fee shall be as follows:

1. the entire waste tire fee shall be forwarded to the administrative authority by the tire dealer and shall be deposited in the Waste Tire Management Fund.

2. the waste tire fee shall be designated as follows: 50 percent will be utilized to pay waste tire processors that are working under agreement with the administrative authority for the processing of currently generated waste tires, a maximum of 10 percent will be utilized for program administration, 5 percent may be used for research and

market development, and a minimum of 35 percent shall be used for unauthorized tire pile cleanup.

D. Payments for Processing and Marketing Waste Tires and Waste Tire Material. Payments made by the state of Louisiana are meant to temporarily supplement the business activities of processors and are not meant to cover all business expenses and costs associated with processing and marketing. Payments shall only be paid to standard permitted processors under written agreement with the department in accordance with LAC 33:VII.10515.

\* \* \*

[See Prior Text in D.1-4.b]

c. the payment for marketing or recycling of shredded waste tire material shall be \$ .15 per 20 pounds of waste tire material that is recycled by a qualified recycler. The processor shall demonstrate that the waste tire material has been recycled. The determination that waste tire material is being marketed to a qualified recycler shall be made by the administrative authority; this determination may be reviewed at any time.

5. Payments for processing and/or marketing waste tire material by means not covered in Subsection D.4 of this Section, which must be approved in writing by the administrative authority, are:

a. the payment for marketing waste tire material shall be \$ 1 per 20 pounds of waste tire material; and

b. the payment for marketing and shipping an unprocessed waste tire to a qualified recycler shall be \$1 per whole waste tire. The processor shall prove that the waste tire was recycled.

6. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the department.

7. The amount of payments made to each processor is based on the availability of monies in the Waste Tire Management Fund.

8. All, or a portion, of a processor's payments shall be retained by the administrative authority if the administrative authority has evidence that the processor is not fulfilling the terms of his agreement and/or his standard permit.

9. After January 1, 1998, no payments shall be made for only processing waste tires.

10. After January 1, 1998, a payment of \$1 per 20 pounds of shredded waste tire material or equivalent amount for waste tire material produced by other processes shall be made when it is documented to the administrative authority that this material has been marketed, delivered, and recycled.

11. Waste tire material that was produced prior to January 1, 1998, and for which processing payments were made are only eligible for the additional \$ .15 incentive for marketing the waste tire material when the material is marketed after December 31, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **§10536. Remediation of Unauthorized Tire Piles**

A. Upon promulgation of these regulations, the administrative authority may issue agreements for

remediation of unauthorized waste tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for unauthorized waste tire pile remediation. Any such agreements shall designate specific eligible sites and the department shall monitor the remediation activities, which shall be made in accordance with the standards and responsibilities outlined in the Solid Waste Regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs, which include but are not limited to, administrative costs, consulting fees, legal fees, or premiums for performance bonds. Furthermore, they shall not be applied to reclamation efforts or remediation costs associated with other types of contaminants, which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, recycling, and disposal costs of the waste tires.

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the administrative authority with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the administrative authority.

C. Unauthorized waste tire piles shall be chosen for remediation based on their placement on the waste tire priority remediation list. Point values shall be assigned in accordance with the Waste Tire Management Fund Prioritization System located in Appendix B. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

\* \* \*

[See Prior Text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§10537. Enforcement**

\* \* \*

[See Prior Text in A]

B. Investigations and Audits: Purposes, Notice. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an investigation shall be given to any complainant who provided the information prompting the investigation and, if advisable, to any person under investigation, if the identity of such person is known. In cases where persons selling new tires have failed to report and remit the waste tire fee to the administrative authority, and the person's records are inadequate to determine the proper amount of fee due, or in cases(s) where a grossly incorrect report or a report that is

false or fraudulent has been filed, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the audited entity.

\* \* \*

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**Appendix A**

Louisiana Department of Environmental Quality  
Financial Assurance Documents For Waste Tire Facilities  
(August 4, 1994)

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**SAMPLE DOCUMENT 1:**

**WASTE TIRE FACILITY FINANCIAL GUARANTEE BOND**

Date bond was executed: [Date bond executed]

Effective date: [Effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name and business address]

[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

NOW THEREFORE, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.10525.D.12-14 and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform closure in accordance with the closure plan and permit requirements as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105. Appendix A dated August 4, 1994, effective on the date this bond was executed.

**PRINCIPAL**

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

**CORPORATE SURETIES**

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[This information must be provided for each cosurety]

Bond Premium: \$

**SAMPLE DOCUMENT 2:**

**WASTE TIRE FACILITY PERFORMANCE BOND**

Date bond was executed: [date bond executed]

Effective date: [effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the Louisiana Administrative Code, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in

no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETY

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: \$

SAMPLE DOCUMENT 3:

WASTE TIRE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary

Louisiana Department of Environmental Quality

Post Office Box 82231

Baton Rouge, Louisiana 70884-2231

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit Number in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the closure fund for its [list site identification number, site name, and facility name] at [location], Louisiana for any sum or sums to up to the aggregate amount of U.S. dollars \$ upon presentation of:

(1) A sight draft, bearing reference to the Letter of Credit Number drawn by the administrative authority together with;

(2) A statement signed by the administrative authority, declaring that the operator has failed to perform closure in accordance with the closure plan and permit requirements and that the amount of the draft is payable into the Waste Tire Management Fund.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date, and on each successive expiration date thereof, unless, at least 120 days before the then current expiration

date, we notify both the administrative authority and the [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft to the Department of Environmental Quality for deposit into the Waste Tire Management Fund in the name of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except as otherwise expressly agreed upon, this credit is subject to the uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication Number 400, or any revision thereof effective on the date of issue of this credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date shown immediately below.

[Signature(s) and Title(s) of Official(s) of issuing Institutions]

[Date]

Appendix B

Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria:

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the department.

| Number of Tires in Pile | Point Value |
|-------------------------|-------------|
| >1,000,000              | 50          |
| 250,001 - 1,000,000     | 40          |
| 100,001 - 250,000       | 30          |
| 50,001 - 100,000        | 20          |
| <50,000                 | 10          |

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

| Proximity to Nearest School | Point Value |
|-----------------------------|-------------|
| School within 2 mile radius | 25          |
| School within 4 mile radius | 17          |
| School within 6 mile radius | 9           |

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

| Proximity to 50+ Residences     | Point Value |
|---------------------------------|-------------|
| 50 or more within 2 mile radius | 25          |
| 50 or more within 4 mile radius | 17          |
| 50 or more within 6 mile radius | 9           |

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

| Proximity to Hospital and/or Nursing Home         | Point Value |
|---|-------------|
| Hospital and/or nursing home within 2 mile radius | 25          |
| Hospital and/or nursing home within 4 mile radius | 17          |
| Hospital and/or nursing home within 6 mile radius | 9           |

V. Proximity to Major Highways. If a major highway is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

| Proximity to Major Highway         | Point Value |
|------------------------------------|-------------|
| Major highway within ¼ mile radius | 20          |
| Major highway within ½ mile radius | 10          |

A public hearing will be held on June 26, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by SW027. Such comments must be received no later than July 3, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of SW027.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100

Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Waste Tire Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no costs or savings to state or local governmental units as a result of implementing the proposed rule. No additional personnel are required. The only implementation measure will be a revision to the monthly Waste Tire Fee Report.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Waste Tire Management Fund will collect, approximately, an additional \$510,000 per year based on 30,000 off-road tires at an average fee of \$17 per tire

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated off-road fee increase will be borne directly by those individuals purchasing off-road tires.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition or employment.

James H. Brent, Ph.D.  
Assistant Secretary  
0005#067

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Office of Elderly Affairs**

State Plan on Aging  
(LAC 4:VII, 1301 - 1323)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to repeal and amend LAC4:VII 1301-1323.

The purpose of this amended rule is to acknowledge that the Office of Elderly Affairs will develop a State Plan that will be submitted to the U. S. Department of Health and Human Services, Administration on Aging to receive grants from it allotment under Title III of the Older Americans Act of 1965 as amended (the Act). Title III authorizes formula grants to state agencies on aging to assist states and local communities to develop comprehensive and coordinated systems for the delivery of services to older persons.

**Title 4**  
**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 13. State Plan on Aging**

**§1301 State Plan On Aging**

A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:

1. Identification by the State of the sole State agency that has been designated to develop and administer the plan.
2. Statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the Commissioner through the rulemaking process.
3. A resource allocation plan indicating the proposed use of all Title III funds administered by the State agency and the distribution of Title III funds to each planning and service area;
4. Identification of the geographic boundaries of each planning and service area and o area agencies on aging;
5. Prior Federal fiscal year information related to low income minority and rural older individuals;
6. All assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:
  - a. Preference is given to older persons in greatest social or economic need in the provision of services under the plan;
  - b. Procedures exit to ensure that all services under this part are provided without use of any means tests;
  - c. All services provided under Title III meet any existing State and local licensing, health and safety requirements for the provisions of those services;
  - d. Older persons are provided opportunities to voluntarily contribute to the cost of services;
  - e. Other such assurances as are needed for compliance with the Act, Regulations, other applicable federal law, State Statues, and/or State policy;

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997),repealed and promulgated LR 26:

**§1303. Development of the State Plan**

A The State Agency will develop a State Plan according to the following:

1. Elect to utilize a one, two, three, or four-year format for the State Plan
2. Develop a data profile on the older Louisianian from available census data;
3. Conduct statewide needs assessment activities including, but not limited to, public hearings
4. Assurances for state and area agencies on aging as set forth by the Older Americans Act
5. Goals and Objectives
6. Publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation
7. Conduct public hearings and incorporate written and verbal comments into the revised Plan, as appropriate;

8. Submit final revised plan for approval by the Governor

9. Submit approved plan from the Governor to the Administration on Aging Regional Office for approval

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997),repealed and promulgated LR 26:

**§1305 Intrastate Funding Formula**

A. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.

2. Descriptive Statement

a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.

b. Population aged 60 and over, and land area in square miles is assigned weights of one (1) each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one- tenth. The sum of these four factors is three (3).

c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intra-state funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.

d. The base funding allocation of \$12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.

3. Numerical statement of the intrastate funding formula

- a. Base allocation per PSA: \$12,000 per parish
- b. Formula Allocation per PSA:

| Factors   | Weight |
|---|--------|
| i. <u>PSA 60+Population</u>   |        |
| State 60+Population   | 1.0    |
| ii. <u>PSA 60+Population</u>  |        |
| <u>Below Poverty Threshold</u>  |        |
| State 60+Population   |        |
| Below Poverty Threshold   | 0.9    |
| iii. <u>PSA Land Mass in Square Miles</u>                             |        |
| State Land Mass in Square Miles                                       | 1.0    |
| vi. <u>PSA 75+Population</u>  |        |
| State 75+Population   |        |
| v. Sum  | 3.0    |
| 4. <u>PSA Formula = (i) X 1 + (ii) X 0.9 + (iii) X 1 + (iv) X 0.1</u> | 3      |

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 23:1146 (September 1997), repealed and promulgated LR 26:

**§1307-1323. Reserved**

A public hearing will be held at 412 North 4<sup>th</sup> Street 1<sup>st</sup> floor conference room on Monday June 26, 2000 at 9A.M. Inquiries concerning the proposed amendment may be directed in writing to the Governor's Office of Elderly Affairs, Margaret McGarity, P. O. Box 80374, Baton Rouge, LA 70898-0374, by 5 P.M. June 26, 2000.

**Family Impact Statement**

The effect of this rule on the stability of the family. This rule does not affect the stability of the family.

The effect of this rule on the authority and rights of parents regarding the education and supervision of their children. This rule does not deal with the education or supervision of children and will not make an impact on the family.

The effect of this rule on the functioning of the family. This rule does not effect the functioning of the family.

The effect of this rule on family earnings and family budget. This rule will have no impact on family earnings.

The effect of this rule on the behavior and personal responsibly of children. This rule does not deal with children and will not have any impact.

The effect of this rule on the ability of the family or local government to perform the function as contained in the proposed rule. N/A

Paul F. "Pete" Arceneaux  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: State Plan on Aging**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost of implementation is the minimal cost of printing the plan and publishing the rulemaking. No saving to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule outlines the requirements of the state agency in fulfilling its mission as prescribed in the Older American's Act. There will be no additional costs to the Governor's Office of Elderly Affairs contractors and subcontractors, including area agencies on aging, parish councils on aging and other service providers, or to the elderly residents of the state. This proposed rule will not make any changes in the economic benefits to the elderly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Older Americans Act V program participants will be placed in subsidized or unsubsidized paid positions.

Paul F. "Pete" Arceneaux      Robert E. Hosse  
Executive Director              General Government Section Director  
0005#025                              Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Restricted Licensees; Adverse Sanctions; Temporary Licenses; Licensure by Credentials; Dental Assistant Duties; Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations  
(LAC 46:XXXIII.105; 116; 120; 306; 502; 503; 706; 710; 1305; 1607;and 1619)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.105, "Restricted Licensees," .116 "Reconsideration of Adverse Sanctions," .120 "Temporary Licenses," .306 "Requirements of Applicants for Licensure by Credentials"(dentists), .502 "Authorized Duties of Expanded Duty Dental Assistants," .503 "Guide to Curriculum Development for Expanded Duty Dental Assistants," .706 "Requirements of Applicants for Licensure by Credentials"(hygienists), .710 "Administration of Local

Anesthesia For Dental Purposes,".1305 "Air Abrasion Units," .1607 "Exemptions," and .1619 "Violations." No preamble has been prepared.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXIII. Dental Health Professions**

#### **Chapter 1. General Provisions**

##### **§105. Restricted Licensees**

A. All applicants for a restricted license must successfully complete the Louisiana State Board of Dentistry examination in jurisprudence within sixty days of receiving said license, except those licenses issued for less than one year.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:23 (January 1996), LR 23:1529 (November 1997), LR 26:

##### **§116. Reconsideration of Adverse Sanctions**

A. - C. ...

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action. The applicant is not thereafter entitled to appear before the full board relative to this application; only applications which have been found to have substantial merit by the committee are to be submitted to the full board.

E. The full board, at its next meeting, may consider those applicants found by the committee to have substantial merit in open meeting if requested to do so by the applicant. In the absence of such request, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 26:

##### **§120. Temporary Licenses**

Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials for the nearest scheduled board meeting. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary

license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical licensing examination is given. Under no circumstances shall a temporary license awarded to a dental hygienist be in effect for any period longer than 7 months. Section 120 does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:

#### **Chapter 3. Dentists**

##### **§306 Requirements Of Applicants For Licensure By Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 15. ...

16. has furnished three current letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

17. - 20. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:

#### **Chapter 5. Dental Assistants**

##### **§502 Authorized Duties of Expanded Duty Dental Assistants**

A. A person licensed to practice dentistry in the State of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1 - 15 ...

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:1217 (December 1996), LR 24:1115 (June 1998), LR 26:

##### **§503. Guide to Curriculum Development for Expanded Duty Dental Assistants**

A. ...

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

1. - 15. ...

16. clinical and written exams;

17. lecture on the placement of pit and fissure sealant;

18. lab on placement of pit and fissure sealant; performance evaluation lab shall be practicing on typodonts.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:1115 (June 1998), LR 26:

**Chapter 7. Dental Hygienists**

**§706 Requirements of Applicants for Licensure by Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. - 14. ...

15. has furnished three current letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

16. - 19. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July, 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:

**§710 Administration of Local Anesthesia for Dental Purposes**

A. - E. ...

F. Deleted.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 26:

**Chapter 13. Dental Laser and Air Abrasion Utilization**

**§1305 Air Abrasion Units**

Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 24:1117 (June 1998), LR 26:

**Chapter 16. Continuing Education Requirements**

**§1607. Exemptions**

A. - B. ...

C. Due to the fact that dental and dental hygiene licenses are issued on a biennial basis, dentists and dental hygienists must accumulate one-half of the continuing education hours required under LAC 46:XXXIII.1611 and .1613 during the second year of the biennial period in which they received their initial licensure. For example, if a dentist receives his license immediately after graduation in June 1999, and he/she does not have to renew their license until the year 2001, that licensee need only accumulate 20 hours of continuing education, one-half of which must be clinical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 26:

**§1619. Violations**

**A. Violation Table**

|   | Minimum    | Maximum    |
|---|------------|------------|
| 1. First violation of continuing education  | \$500.00   | \$2,000.00 |
| a. For completion of 3/4th or more of the requirement   | \$500.00   |            |
| b. For completion of 1/2 to 3/4th of the requirement  | \$1,000.00 |            |
| c. For completion of 1/4th to 1/2 of the requirement  | \$1,500.00 |            |
| d. For completion of 0 to 1/4th of the requirement  | \$2,000.00 |            |
| 2. Second violation   | \$1,000.00 | \$4,000.00 |
| 3. All continuing education not completed on time shall be completed no later than August of the following calendar year and shall not count toward the continuing education requirements of the subsequent renewal period. |            |            |
| 4. A second violation of the continuing education requirements shall be reported to the National Practitioner Data Bank, whereas the first violation will not.  |            |            |
| 5. After a second violation of continuing education requirements, the licensee shall be placed on a minimum of a two-year period of probation, depending upon the number of hours not completed.                            |            |            |
| 6. A third violation of continuing education requirements will result in the suspension of a dental or dental hygiene license for a period of not less than six months.   |            |            |
| 7. Any subsequent violation of continuing education requirements will result in the revocation of a dental or dental hygiene license.   |            |            |

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8)and(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 26:

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Restricted Licensees; Adverse Sanctions; Temporary Licenses; Licensure by Credentials; Dental Assistant Duties; Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

A costs of \$500 is estimated to implement these rule changes. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for previous rule making changes. It is anticipated that these rule changes will be sent to licensees during the summer of 2000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Louisiana State Board of Dentistry. There will be no effect on any other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
0005#007

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Practical Nurse Examiners**

**Licensure; Education; Practice; and Fees  
(LAC 46:XLVII.Chapter 1)**

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed rule change is to update existing policies governing the Board of Practical Nurse Examiners and to reflect changes made to the Practical Nursing Practice Act in the 1999 session of the Louisiana Legislature. More specifically, the proposed change: reduces the need for future amendments to the rule by removing specific dates and numbers from the text, corrects typographical and syntax errors, provides a mechanism to grant a retired/emeritus license, updates and clarifies the rules and adjudication and license suspension and revocation proceedings, adds the definition of "Executive Director", provides for Associate Degree Registered Nurses to serve as faculty of practical nursing programs, and updates the section regarding fees to reflect statutory changes made by Act 942 of the 1999 session of the Louisiana Legislature.

The proposed change to §1715, related to fees, reflects the new fees outlined in the statute governing the practice of practical nursing.

The statutory change was required to allow the board to continue its operations as, in spite of a hiring and spending freeze, deficit spending had depleted the board's cash reserves. The renewal of license is the main source of revenue for the board and was last raised in 1991. This revenue source declines each year, as the pool of practical nurses shrinks. As revenue decreases, and even if all other expenditures remain stable, classified employee salaries and benefits increase each year. In addition, the board is currently responsible for benefits of four retired employees.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part XLVII. Nurses**

**Subpart 1. Practical Nurses**

**Chapter 1. Foreword**

**§101. Foreword**

This manual of administrative rules and minimum requirements contains the approved rules and regulations of the Louisiana State Board of Practical Nurse Examiners relating to practical nurse education, the development, progression and discontinuation of practical nursing programs, and practical nurse licensure in the state of Louisiana. These rules and requirements have been adopted and promulgated in accordance with the law relating to the practice of practical nursing with the authorization vested in the board by the Louisiana Revised Statutes of 1950, Title 37, Chapter 11. Nurses, Part II. Practical Nurses, Section 961 et seq., as amended.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:961 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:

**Chapter 3. Board of Practical Nurse Examiners**

**§301. Organization**

The Louisiana State Board of Practical Nurse Examiners consists of members appointed by the Governor and is the regulatory agency created by statute to act with legal authority on matters related to practical nursing education and the practice of practical nursing in Louisiana as determined by the Louisiana Revised Statutes, Title 37, Section 961 et seq., as amended.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969, and 37:962 as amended Act 272, 1982 and Act 642, 1990.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:

**§303. Additional Duties and Powers of the Board**

A. In accordance with the Louisiana Statutes, Title 37, Section 969, the board shall have all such powers and duties as written. In addition, the board shall:

1. - 3. ...

4. deny, revoke or suspend a license to practice practical nursing;

5. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:969.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended LR 26:

**§305. Procedure for Adoption of Rules**

- A. ...
- B. The board, on its own motion or on the petition of any interested person, may request the promulgation, amendment, or repeal of a rule.
  - 1. Such petition shall:
    - a. ...
    - b. state the name and address of its author;
    - c. - e. ...
  - 2. The board shall consider the petition within 90 days after receipt of said petition, at which time the board shall deny the petition in writing, stating reasons therefore, or shall initiate rulemaking proceedings in accordance with this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 2:274 (September amended LR 26: 1976), amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended LR 26:

**§306. Rules and Adjudication and License Suspension and Revocation Proceedings**

- A. - B. ...
- C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall not be revealed to any person except when such document(s) are offered for evidence in a formal hearing, or are requested pursuant to a subpoena by a court of competent jurisdiction.
- D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing or are requested pursuant to a subpoena by a court of competent jurisdiction.
- E. - G4. ...
- H. Formal hearing procedures shall commence with the filing of a formal complaint by the board. The complaint shall include:
  - 1. a statement of the time, place and nature of the hearing;
  - 2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
  - 3. a reference to the particular sections of RS 37:961 et seq., and/or rules involved;
  - 4. a short and plain statement of the matters asserted.
 If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.
- I. The formal complaint shall be sent by certified mail, a minimum of 20 days prior to the hearing date, to the last known address of the accused licensee. If the mailing is not returned to the board, it is assumed to have been received by said licensee as it is the licensee's obligation and duty to keep the board informed of his/her whereabouts.
- J. The licensee shall return his/her response to the complaint to the board within 10 days or shall be deemed to have waived his/her right to a hearing. In response, the

licensee shall either deny or admit the allegations of the complaint and may either:

- 1. appear for the scheduled hearing;
- 2. submit a written response to the hearing officer to be presented at the hearing in lieu of the licensee's live testimony; or
- 3. waive his/her right to a hearing.
- K. ...
- L. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- M. ...
- N. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default. A consent order or agreed settlement shall be presented to the board for approval before it becomes binding.
- O. Discovery
  - 1. Prior to a formal hearing, an accused licensee shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a licensee as a result of his/her exercise of said right shall be the sole responsibility and obligation of the licensee.
  - 2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least five days prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused licensee. Such subpoenas include or are for the purpose of:
    - a. requiring that a person appear and give testimony in the formal hearing; and
    - b. subpoena duces tecum, requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:
      - i. the information requested is reasonable in terms of amount; and
      - ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;
      - iii. the information requested does not include those documents referred to in §307.C - D; and
      - iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.
  - 3. Prior to a formal hearing, an accused licensee shall, upon written notice received by the board at least five days prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.
  - 4. Prior to a formal hearing, an accused licensee, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness which will or may be called to give testimony in a formal hearing.
  - 5. Depositions for the purpose of discovery are not permissible and may only be allowed for the perpetuation of a witness' testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal

hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before and after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request. Motions made during a formal hearing shall be made orally, as they become a part of the transcript of the proceeding.

P. During a formal hearing, the licensee or his/her attorney shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony on behalf of the licensee. All testimony given during a formal hearing shall be under oath and before a certified stenographer.

Q. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding shall not be transcribed until such time as a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

R. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board.

S. The board shall make a decision based on the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the licensee by certified mail.

T. Sanctions imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the

original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

U. A petition by a party for reconsideration or rehearing must be in proper form and filed within 30 days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

1. the board's decision is clearly contrary to the law and the evidence;

2. there is newly discovered evidence which was not available to the board or the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

4. it would be in the public interest to further consider the issues and the evidence.

V. The grounds for disciplinary proceedings against a licensed practical nurse include, but are not limited to:

1. is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;

2. is guilty of a crime;

3. is unfit, or incompetent by reason of negligence, habit or other causes;

4. is habitually intemperate or is addicted to the use of habit-forming drugs;

5. is mentally incompetent; or

6. is guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

a. failure to practice practical nursing in accordance with the standards normally expected;

b. failure to utilize appropriate judgement in administering nursing practice;

c. failure to exercise technical competence in carrying out nursing care;

d. violating the confidentiality of information or knowledge concerning a patient;

e. performing procedures beyond the authorized scope of practical nursing;

f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

g. improper use of drugs, medical supplies, or patients' records;

h. misappropriating personal items of an individual or the agency;

i. falsifying records;

j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;

k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;

l. leaving a nursing assignment without properly notifying appropriate personnel;

m. failing to report, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;

n. is convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;

o. is guilty or moral turpitude;

p. inappropriate, incomplete or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgement while on duty, to include making application for employment;

r. possess a physical or psychological impairment which interferes with the judgement, skills or abilities required for the practice of practical nursing;

s. has violated any provisions of this Part (R.S. 37:961 et seq.), as amended or aid or abet therein.

W. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 20:663 (June 1994), amended LR 26:

## **Chapter 5. Definitions**

### **§501. Terms in the Manual**

\* \* \*

*Executive Director* where used in this manual includes his/her designee and/or staff.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 2:274 (September 1976) amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:

## **Chapter 7. Program Establishment**

### **§703. Initial Requirements**

A. - J. ...

K. Cooperating agencies shall meet the following requirements:

1. - 5. ...

6. The hospital administrator, directors of nursing service and others responsible for patient care shall be aware of the objectives of the practical nursing program and shall participate in the furthering of such objectives in so far as is consistent with the objectives of the hospital staff.

7. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976 as amended Act 642, 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:337 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 14:708 (October 1988), LR 18:1126 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 26:

## **Chapter 9. Program Projection**

### **Subchapter A. Faculty and Staff**

#### **§901. Faculty**

A. ...

B. Qualifications

1. - 3. ...

4. Nurse Instructor shall be:

a. A graduate of a three-year diploma registered nursing program or a graduate of a baccalaureate registered nursing program with a minimum of three years experience in medical-surgical nursing or nursing education. At least one of these three years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse instructor must have worked as a nurse for a minimum of six full-time months during the three years immediately preceding application, or complete an approved review course and/or successfully pass a board approved competency examination; or

b. A graduate of an associate degree registered nurse program with a minimum of five years of medical-surgical nursing with at least one of these being immediately prior to consideration of appointment. An associate degree registered nurse with prior preparation and experience as a licensed practical nurse shall have a minimum of two years experience in medical-surgical nursing as an associate degree registered nurse, with at least one of these years being immediately prior to consideration of appointment.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 16:133 (February 1990), LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 21:1244 (November 1995), amended LR 26:

### **Subchapter F. Admissions**

#### **§939. Advanced Standing**

A. - C. ...

D. At the discretion of the nursing faculty and based upon individual evaluation, a student who has withdrawn from an approved or accredited practical nursing program within the previous four years may be granted advanced credit for units previously completed.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 26:

**Subchapter H. Board Reports and Records**

**§953. Periodic Reports**

A. - 1. ...

2. annual report forms to be obtained from the board office and completed in duplicate; one copy shall remain at the institution, one shall be submitted to the board office by July 1 each year;

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 26:

**Chapter 13. Program Approval and Accreditation**

**§1305. Type of Approval**

A. - D. ...

E. Provisional Approval

1. - 2. ...

3. Programs on provisional accreditation shall:

3.a. - 5....

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:355 (November 1979), LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1262 (November 1992), amended LR 26:

**Chapter 17. Licensure**

**§1707. Retirement from Practice**

A. Inactive and Emeritus/Emerita License

1. A licensee who is retiring from practice shall send a written notice to the board. Upon receipt of this notice the board shall place the name of the licensee upon an inactive list. While on this list, the licensee shall not be subject to the payment of any renewal fees and shall not practice practical nursing in the state. When the licensee desires to resume practice, a renewal license shall be issued to a licensed practical nurse who submits the required fee.

2. Should a retired licensee in good standing with the board wish to receive an Emeritus/Emerita license, s(he) shall request and complete an Emeritus/Emerita renewal application and submit same with the appropriate license renewal fee. Upon receipt of the fee and approval of the renewal application s(he) may be issued an "Emeritus/Emerita" license. Said license does not permit practice in the State of Louisiana. If a retired licensee desires to return to practice, s(he) will be subject to the same requirements as any licensee.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:972-975, 37:977, 37:978, and 37:979.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:

**§1715. Approved Fees**

A. Fees

- 1. License by examination \$ 85

- 2. License by endorsement \$ 50
- 3. Duplicate license \$ 20
- 4. Renewal of license \$ 30
- 5. Reinstatement of license which has been suspended, revoked or which has lapsed by nonrenewal \$100
- 6. Duplicate renewal \$ 10
- 7. Delinquency fee in addition to renewal fee for nursing license (per year delinquent) \$ 50
- 8. Survey fee \$250
- 9. Renewal of certificate of accreditation \$100
- 10. Evaluation of credits of applicants for admission to approved program \$ 25
- 11. Evaluation of credits of out-of-state applicants for Louisiana practical nurse license \$ 50
- 12. Verification of Louisiana license to out-of-state board \$ 15
- 13. Certification of good-stand license \$ 5

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:977 as amended Act 272, 1982 and Act 54, 1991.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:

**Family Impact Statement**

The proposed amendments, to rule XLVII.Subpart 1., should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 3:30 p.m., June 10, 2000, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Suite. 203, Metairie, LA 70002.

Claire Doody Glaviano  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Licensure; Education; Practice;  
and Fees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the Louisiana Register at \$760.00.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated and intended that only Section 1715 of the proposed rule change will increase revenue by an estimated \$285,200 in FY00, \$284,690 in FY01, and \$273,701 in FY02. The main source of revenue for the agency is the license renewal fee. This fee increases by \$10 per year and accounts for \$200,000 of the revenue increase. Revenue increase will decline by about 3.9% in the second year as the trend toward a

decrease in the number of nurse license renewals is expected to continue. The fee increase was enacted by the 1999 Louisiana Legislature (Act 942).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Section 1715 of the proposed rule change will increase the renewal license fee for all licensed practical nurses. Practical nurses will pay \$30 per year to practice in Louisiana. Renewal of expired and delinquent license increases will affect a small number of nurses who fail to renew in a timely manner. Other fee increases affect: practical nurses making a first time application for Louisiana license by examination, \$85; those applying for evaluation of out of state credit, \$50. Educational programs will pay \$100 per year for state accreditation. The \$5 fee for documentation of good stand license will impact only those choosing to verify license in this manner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, RN, MN  
Executive Director  
0005#0016

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

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

Sanitary Code, Water Supplies (LAC 48:XIII.Chapter XII)

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

The first amendment proposed is specifically necessary due to a federal rule promulgated by USEPA in the *Federal Register* dated August 19, 1998 (Volume 63, Number 160, pages 44526 through 44536), which is entitled "National Primary Drinking Water Regulations: Consumer Confidence Reports; Final Rule". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996). The reason for this proposed amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which will require all community water systems [public water systems (PWSs) which provide water to year-round residents, such as systems serving subdivisions, mobile home parks, municipalities, etc.] to provide to their consumers an annual report on the quality of the drinking water supplied to them.

This report is termed the annual Consumer Confidence Report. DHH-OPH intends to adopt this rule by reference.

The second amendment proposed is due to a federal rule promulgated by USEPA in the *Federal Register* dated August 14, 1998 (Volume 63, Number 157, pages 43846 through 43851), which is entitled "Revision of Existing Variance and Exemption Regulations To Comply With Requirements of the Safe Drinking Water Act; Final Rule". This federal rule was also promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996). The reason for this proposed amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which will then authorize the State Health Officer to issue variances to small PWSs (serving less than 10,000 individuals) under USEPA's new small system variance criteria. This rule is intended to provide a mechanism for small PWSs to be able to obtain regulatory relief for some regulated contaminants under certain conditions, including, but not limited to, an affordability criterion. Variances generally allow a PWS to provide drinking water that may be above the maximum contaminant level (MCL) on the condition that the quality of the drinking water is still protective of public health. The duration of small PWS variances generally coincides with the life of the technology; however, DHH-OPH is required under federal rule to review each small PWS variance it issues at least every five years after the compliance date established in the small PWS variance itself. The review consists of whether the PWS continues to meet the eligibility criteria for such variance and is complying with the terms and conditions of the small PWS variance itself. A small PWS variance is not available for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant. DHH-OPH intends to also adopt this rule by reference.

The proposed Consumer Confidence Report portion of the rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accordance with R.S. 49:972(B)(6) local governmental units may be affected if they own or operate a community water system. Local governmental units owning or operating a community water system are already subject to the requirements of the federal Consumer Confidence Report rule and were required to provide their first Consumer Confidence Report (covering calendar year 1998) to their consumers by October 19, 1999. The second annual Consumer Confidence Report (covering calendar year 1999) is required by federal rule to be provided to consumers no later than July 1, 2000. Community water systems are required to provide a Consumer Confidence Report to consumers no later than July 1 of each of the years following.

The proposed small PWS variance portion of the rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accordance with R.S. 49:972(B)(6) local governmental units may be positively affected if they own or operate a small PWS and become eligible for a small PWS variance. Local governmental units owning or operating a small PWS which

cannot, among other criteria, afford to comply [either by treatment, alternative sources of water supply, restructuring or consolidation changes (including ownership change and /or physical consolidation with another PWS), or obtaining financial assistance pursuant to Louisiana's Drinking Water Revolving Loan Fund program or any other federal or state program] in accordance with affordability criteria established by DHH-OPH may potentially be able to obtain a small PWS variance and, in essence, obtain some regulatory relief for some regulated contaminants. Of course, there are other criteria, unrelated to affordability, which must also be met before any small PWS variance will be granted.

For the reasons set forth above, Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is proposed to be amended as follows:

#### **Title 48**

### **HEALTH AND HOSPITALS**

### **Sanitary Code, State of Louisiana**

#### **Chapter XII (Water Supplies)**

##### **12:001 Definitions**

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

\* \* \*

*National Primary Drinking Water Regulations* regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act", 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1999 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

a.) Subpart H - Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75),

b.) Subpart L - Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (40 CFR 141.130 through 141.135),

c.) Subpart M - Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144), and

d.) Subpart P - Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), LR 15:969 (November 1989), LR 17:781 (August 1991), LR 20:545 (May 1994), LR 26:

**12:002-6** Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer in accordance with Sections 1415 and 1416 of the federal Safe Drinking Water Act and subpart K (Variances for Small System) of 40 CFR

part 142. The owner of the public water supply which receives a variance and/or exemption shall fully and timely comply with the all the terms and conditions of any compliance and/or implementation schedule specified by the State Health Officer in conjunction with the issuance of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), LR 26:

#### **Family Impact Statement**

1. Effect on the Stability of the Family. No known impact.

2. Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. No known impact.

3. Effect on the Functioning of the Family. No known impact.

4. Effect on Family Earnings and Family Budget. No significant impact predicted. Assuming that a community water system decides to increase rates for all of its customers served by the system in order to reimburse itself for any additional expenses incurred by the Consumer Confidence Report portion of the rule, any increase in the individual homeowner's water bill is expected to be of an insignificant amount.

Homeowners may obtain an economic benefit if they are on a small water system (serving less than 10,000 individuals) and the system is eligible for and receives a small system variance from the State Health Officer since, for example, a less sophisticated treatment option may be allowed in order to achieve near, but possibly not full, compliance with a maximum contaminant level of a regulated contaminant. The DHH-OPH must determine that this lower level of treatment is still protective of health.

5. Effect on the Behavior and Personal Responsibility of Children. No known impact.

6. Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. No known impact on the family. Refer to the Fiscal and Economic Impact Statement which accompanies this rule for the effects on local governmental units.

The Department of Health and Hospitals will conduct a public hearing at 10 a.m. on Tuesday, June 27, 2000, in Room 118 of the Blanche Appleby Computer Complex Building, (on the Jimmy Swaggart Ministry Campus), 6867 Bluebonnet Blvd., Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally and in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Friday, June 30, 2000 at COB, 4:30 p.m., and should be submitted to R. Douglas Vincent, Chief Engineer, Office of Public Health, 6867 Bluebonnet Boulevard, Box 3, Baton Rouge, LA 70810, or faxed to (225) 765-5040.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Sanitary Code Water Supplies**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The DHH-OPH will have to pay a total of approximately \$480 in FY99-2000 funds to the Office of the State Register to have the Notice of Intent and the final rule published in the *Louisiana Register*. No staffing costs are anticipated at this time since existing staffing is believed to be sufficient to implement these rules. It is estimated that \$2,000 in additional administrative costs (paper, photocopying, labels, envelopes, postage, etc.) to DHH-OPH will be incurred for the Consumer Confidence Report (CCR) portion of the rule for the first full year (FY2000-01) with associated inflation costs of 3 percent annually thereafter.

Based on United States Environmental Protection Agency's (USEPA's) analysis, the agency estimates the annual cost of delivering a CCR to every customer served by all community water systems nationally is \$20,807,555. USEPA estimates that the average cost per system is approximately \$442. Community water systems surveyed which serve 10,001 to 100,000 individuals found the average cost of mailing and producing their annual CCR was approximately \$8,500.

The owners/managers/operators of Public Water Systems (PWSs) which qualify for and obtain a variance based upon the Small System Variance portion of the rule may find an economic benefit from the rule. The economic benefit would be in that the system would not have to achieve full compliance with a maximum contaminant level (MCL) regulated by the state and/or USEPA. Due to the various criteria which must be met prior to issuance of such variances, the amount of savings to the PWS would be on a case-by-case basis.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

State or local governmental units which own, manage, and/or operate a community water system may determine a need to increase their revenue collections (i.e., increase water bills) to cover the cost of complying with the CCR portion of this rule; however, if such increases are warranted, they will be warranted regardless whether or not this equivalent state rule is adopted since such systems are already required (and will continue to be required) to comply under the existing federal CCR rule. The actual effect on revenue collections is hard to predict due to variables in the applicable requirements based upon various sized systems.

Local governmental units which own, manage, and/or operate a PWS may find an economic benefit if it were able to obtain a variance under the Small System Variance portion of the rule. The PWS's customers would likely pay a lower water bill if the system has a variance rather than having to achieve full compliance with a maximum contaminant level (MCL) which is normally required.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Any person, corporation, investor-owned utility company, etc., will be affected by the CCR portion of this new rule if they own, manage, or operate a community water system. Any such person, corporation, investor-owned utility company, etc., will be required to produce and provide their CCRs for their customers on an annual basis. Based on USEPA's analysis, the agency estimates the annual cost of delivering a report to every customer served by all community water systems nationally is \$20,807,555. USEPA estimates that the average cost per system is approximately \$442. Community water systems surveyed which serve 10,001 to 100,000 individuals found the

average cost of mailing and producing their annual CCR was approximately \$8,500.

Persons, corporations, investor-owned utility companies, etc., which own, manage, and/or operate a PWS may find an economic benefit if it were able to obtain a variance under the Small System Variance portion of the rule. The PWS's customers would likely pay a lower water bill if the system has a variance rather than having to achieve full compliance with the normally required maximum contaminant level (MCL).

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No impact is expected on competition and employment.

Madeline McAndrew  
Assistant Secretary  
0005#031

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Durable Medical Equipment Program  
Medicare Part B Claims**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an emergency rule effective February 8, 2000 to the reimbursement full co-insurance and deductibles on Medicare Part B claims for durable medical equipment and supplies (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provides States flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that States have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a State is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do a comparison of the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for medical equipment and supply items. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Proposed Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for durable medical equipment and supply items. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Durable Medical Equipment Program Medicare Part B Claims**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$29,582) for SFY 1999-00, (\$776,111) for SFY 2000-01, and (\$799,395) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$70,232) for SFY 1999-00, (\$1,852,992) for SFY 2000-01, and (\$1,908,582) for SFY 2001-02.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will reduce reimbursement for durable medical equipment (DME) crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$99,974) for SFY 1999-00, (\$2,629,103) for SFY 2000-01, and (\$2,707,977) for SFY 2001-02.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition. As a result of the rate reduction, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0005#062

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

Hemodialysis Centers  
Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act,

which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an emergency rule with an effective date of February 8, 2000 to limit the reimbursement of co-insurance and deductibles for Medicare Part B claims for hemodialysis center services (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do a comparison of the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for hemodialysis center services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

### Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for hemodialysis center services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Hemodialysis Centers' Medicare Part B Claims

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$482,865) for SFY 1999-00, (\$2,775,245) for SFY 2000-01, and (\$2,858,502) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$1,144,697) for SFY 1999-00, (\$6,625,991) for SFY 2000-01, and (\$6,824,770) for SFY 2001-02.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement for hemodialysis crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$1,627,722) for SFY 1999-00, (\$9,401,236) for SFY 2000-01, and (\$9,683,272) for SFY 2001-02.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some hemodialysis centers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0005#061

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

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

#### **Inpatient Hospital Services Medicare Part A Claims**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a State's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions limiting the payment of co-

insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment effective July 1, 1999. The provisions of Act 10 specifically excluded small rural hospitals from this limitation of payment to the Medicaid maximum. As a result of a budgetary shortfall, the Bureau determined it was necessary to do a comparison of the Medicare payment and the Medicaid per diem rate on file for inpatient services rendered in small rural hospitals and skilled nursing units in hospitals. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid per diem rate on file for inpatient services rendered in small rural hospitals and skilled nursing units in hospitals. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Inpatient Hospital Services  
Medicare Part A Claims**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$470,121) for SFY 1999-00, (\$2,628,319) for SFY 2000-01, and (\$2,707,169) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$1,114,488) for SFY 1999-00, (\$6,275,201) for SFY 2000-01, and (\$6,463,457) for SFY 2001-02.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will reduce the reimbursement paid on crossover claims by comparing the Medicare payment to the Medicaid per diem rate on file for inpatient services rendered in small hospitals and skilled nursing units in hospitals. This proposed rule will reduce reimbursement by approximately (\$1,584,769) for SFY 1999-00, (\$8,903,520) for SFY 2000-01, and (\$9,170,626) for SFY 2001-02.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition. As a result of the reduction in reimbursement, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0005#034

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Inpatient Psychiatric Services Medicare Part A**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization

review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule effective February 8, 2000 to limit the reimbursement of co-insurance and deductibles for inpatient services rendered in a free-standing psychiatric hospital or a distinct-part psychiatric unit of an acute care hospital (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary (QMB) is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do a comparison of the Medicare payment and the Medicaid per diem rate on file for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid per diem rate on file for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-

## NOTICE OF INTENT

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

#### Laboratory and Portable X-Ray Services Medicare Part B Claims

insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Inpatient Psychiatric Services Medicare Part A**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$105,334) for SFY 1999-00, (\$732,389) for SFY 2000-01, and (\$754,361) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$249,794) for SFY 1999-00, (\$1,748,605) for SFY 2000-01, and (\$1,801,063) for SFY 2001-02.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce the reimbursement paid on crossover claims by comparing the Medicare payment to the Medicaid per diem rate on file for inpatient psychiatric services. This proposed rule will reduce reimbursement by approximately (\$355,288) for SFY 1999-00, (\$2,480,994) for SFY 2000-01, and (\$2,555,424) for SFY 2001-02.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the reduction in reimbursement, some hospitals may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0005#057

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined it was necessary to do a comparison of the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The

Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Laboratory and Portable X-Ray Services<sup>c</sup> Medicare Part B Claims**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$13,038) for SFY 1999-00, (\$119,039) for SFY 2000-01, and (\$122,611) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$31,014) for SFY 1999-00, (\$284,211) for SFY 2000-01, and (\$292,737) for SFY 2001-02.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will reduce the reimbursement for laboratory and portable x-ray crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$44,212) for SFY 1999-00, (\$403,250) for SFY 2000-01, and (\$415,348) for SFY 2001-02.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition. As a result of the reduction in reimbursement, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0005#056

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

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

##### **Outpatient Hospital Services<sup>c</sup> Medicare Part B**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an emergency rule effective February 8, 2000 to limit the reimbursement to hospitals for co-insurance and deductibles on Medicare Part B claims for outpatient services (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provide states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that States have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the

state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do a comparison of the Medicare payment and the Medicaid rate on file for the revenue or procedure codes on Medicare Part B claims for outpatient hospital services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the revenue or procedure codes on Medicare Part B claims for outpatient hospital services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the

receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Outpatient Hospital Services/ Medicare Part B**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$490,003) for SFY 1999-00, (\$2,739,458) for SFY 2000-01, and (\$2,821,641) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$1,161,618) for SFY 1999-00, (\$6,540,548) for SFY 2000-01, and (\$6,736,765) for SFY 2001-02.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will reduce reimbursement for outpatient hospital crossover claims by comparing the Medicare payment to the Medicaid rate on file for the revenue or procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$1,651,781) for SFY 1999-00, (\$9,280,006) for SFY 2000-01, and (\$9,558,406) for SFY 2001-02.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition. As a result of the rate reduction, some hospitals may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0005#054

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

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

#### **Pharmacy Program/ Average Wholesale Price**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures

to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions that amended the reimbursement methodology for prescription drugs under the Medicaid Program. The provisions of Act 10 limited the payments for prescription drugs by amending the Estimated Acquisition Cost formula from Average Wholesale Price (AWP) minus 10.5 percent to AWP minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies for dispensing single source drugs (brand name); multiple source drugs which do not have a state Maximum Allowable Cost (MAC) or Federal Upper Limit; and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary. Chain pharmacies were defined as five or more Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies were defined as independent pharmacies.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to amend the current reimbursement methodology for prescription drugs by changing the Estimated Acquisition Cost formula from AWP minus 10.5 percent to AWP minus 15 percent for independent pharmacies and from AWP minus 13.5 percent to AWP minus 16.5 percent for chain pharmacies for dispensing single source drugs (brand name); multiple source drugs which do not have a state Maximum Allowable Cost (MAC) or Federal Upper Limit; and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary. In addition, the definition of chain pharmacies was changed from five or more to more than fifteen Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies will continue to be defined as independent pharmacies (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Proposed Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing limits payments for prescription drugs to the lower of:

1. Average Wholesale Price (AWP) minus 15 percent for independent pharmacies (all other Medicaid enrolled pharmacies) and 16.5 percent for chain pharmacies (more than fifteen Medicaid enrolled pharmacies under common ownership);
2. Louisiana's Maximum Allowable Cost limitation plus the Maximum Allowable Overhead Cost;
3. Federal Upper Limits plus the Maximum Allowable Overhead Cost; or

4. Provider's usual and customary charges to the general public. General public is defined as all other non-Medicaid prescriptions including third-party insurance, pharmacy benefit management plans and cash.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA, 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Pharmacy Program Average Wholesale Price**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$1,951,743) for SFY 1999-00, (\$4,800,514) for SFY 2000-01, and (\$4,944,529) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$4,626,537) for SFY 1999-00, (\$11,461,390) for SFY 2000-01, and (\$11,805,232) for SFY 2001-02.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will reduce reimbursement to pharmacies for dispensing prescribed drugs to Medicaid recipients. This proposed rule will reduce reimbursement by approximately (\$6,578,440) for SFY 1999-00, (\$16,261,904) for SFY 2000-01, and (\$16,749,761) for SFY 2001-02.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition. As a result of the rate reduction, some pharmacies may find it necessary to reduce staff or staff hours of work. As a result of the change in the definition of chain pharmacy, approximately twenty-six pharmacies are no longer enrolled in the Medicaid Program as chain pharmacies.

Ben A. Bearden  
Director  
0005#053

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Professional Services; Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As the result of a budgetary shortfall, the Bureau determined it was necessary to compare the Medicare payment and the Medicaid rate on file for the procedure codes indicated on Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, Medicare B claims for the professional component of hemodialysis and transplant services are

excluded from this limitation to the Medicaid maximum payment.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes indicated on Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, Medicare Part B claims for the professional component of hemodialysis and transplant services are excluded from this limitation to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA, 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA.

At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Professional Services; Medicare Part B Claims

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$1,297,168) for SFY 1999-00, (\$6,937,685) for SFY 2000-01, and (\$7,145,816) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately

(\$3,074,926) for SFY 1999-00, (\$16,563,959) for SFY 2000-01, and (\$17,060,877) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement for professional services crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$4,372,254) for SFY 1999-00, (\$23,501,644) for SFY 2000-01, and (\$24,206,693) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0005#041

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Rehabilitation Services Medicare Part B**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted an emergency rule effective February 8, 2000 to limit the reimbursement of co-insurance and deductibles on Medicare Part B claims for rehabilitation services (*Louisiana Register*, Volume 26, Number 2). Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost-sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the

State plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined that it was necessary to do comparison of the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Rehabilitation Services  
Medicare Part B**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$66,488) for SFY 1999-00, (\$349,839) for SFY 2000-01, and (\$360,334) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$157,714) for SFY 1999-00, (\$835,253) for SFY 2000-01, and (\$860,310) for SFY 2001-02.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will reduce reimbursement for rehabilitation services crossover claims by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$224,362) for SFY 1999-00, (\$1,185,092) for SFY 2000-01, and (\$1,220,644) for SFY 2001-02.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition. As a result of the rate reduction, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0005#038

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Substance Abuse Clinics Medicare Part B Claims**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for

dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for such service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau determined it was necessary to compare the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for

responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, June 27, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Substance Abuse Clinics/  
Medicare Part B Claims**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$60 for SFY 1999-00, but will reduce state program costs by approximately (\$122) for SFY 2000-01 and (\$126) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$33 for SFY 1999-00, but will reduce federal revenue collections by approximately (\$291) for SFY 2000-01 and (\$300) for SFY 2001-02.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Implementation of this proposed rule will reduce reimbursement to substance abuse clinics by comparing the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims. This proposed rule will reduce reimbursement by approximately (\$67) for SFY 1999-00, (\$413) for SFY 2000-01, and (\$426) for SFY 2001-02.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

It is not anticipated that this proposed rule will have an effect on competition and employment.

Ben A. Bearden  
Director  
0005#036

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Louisiana Lottery Corporation**

On-Line Lottery Games  
(LAC 42:XV.Chapter 1)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., hereby gives notice of its intent to amend the rules and regulations pertaining to the operations of on-line lottery games in particular LAC 42:XV.141 to allow the Louisiana

Lottery Corporation to offer the Multi-State Lottery Association on-line game "Rolldown."

**Title 42**

**LOUISIANA GAMING**

**Part XV. LOTTERY**

**Chapter 1. On Line Lottery Games**

**§141. Multi-State Lottery**

This section authorizes the Louisiana Lottery Corporation, through an agreement with the Multi-State Lottery Association (MUSL), to offer the following games: "PowerBall," "Daily Millions," and "Rolldown." Introduction of any new game conducted by MUSL may only be accomplished by amendment of this Section to include the game as an authorized game. The detailed information regarding the Rules of the PowerBall game, the Daily Millions game, and the Rolldown game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. The game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of PowerBall, Daily Millions, and Rolldown.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:9001 et seq.

**HISTORICAL NOTE:** Adopted by the Louisiana Lottery Corporation on October 21, 1994, and promulgated in *THE ADVOCATE*, October 28, 1994, amended LR 23:67 (January, 1997), amended LR 26:

**Family Impact Statement**

Pursuant to the provisions of LA R.S. 49:953.A., the Louisiana Lottery Corporation, through its president, has considered the potential family impact of the proposed repromulgation and amendment of LAC 42:XV. 141.

It is accordingly concluded that the repromulgation and amendment of the LAC 42:XV. 141 would appear to have no impact on any of the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

A public hearing, if requested, will be held June 27, 2000, at 10:00 a.m., at the offices of the Louisiana Lottery Corporation, 11200 Industriplex Boulevard, Suite 190, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 10, 2000, at 4:00 p.m., to John Carruth, Louisiana Lottery Corporation, P.O. Box 90008, Baton Rouge, LA 70879.

Charles R. Davis  
President

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: On-Line Lottery Games**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Louisiana Lottery Corporation (Corporation) was created by La R.S. 47:9000 et seq. and exists as a quasi-public corporation. All costs of the Corporation are funded by revenue generated by the Corporation. The direct costs associated with any on-line game operated by the Corporation totals approximately 60.35% of sales, including prize expense (50.0%), retailer commissions (5.5%), and on-line vendor commissions (4.85%). With sales estimates for the new games of over \$11 million for the fiscal year ending June 30, 2001 and over \$13 million for the fiscal year ending June 30, 2002, the direct expenses are projected to be \$5.7 million and \$6.9 million, respectively. The general & administrative costs associated with the new games are projected to be \$394,776 for the fiscal year ending June 30, 2001 and \$413,731 for the fiscal year ending June 30, 2002 and subsequent years. A schedule (Attachment IV) is enclosed outlining all costs associated with the revenue from the proposed new games.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

As required by La. R.S. 47:9029, the Louisiana Lottery Corporation transfers not less than 35% of gross revenues to the lottery proceeds fund in the state treasury. As a result of the introduction of the new games, sales are expected to increase by approximately \$11.4 million for the fiscal year ending June 30, 2001 and \$13.7 million for the fiscal year ending June 30, 2002. The corresponding additional revenue to the lottery proceeds fund is estimated to be \$4 million for the fiscal year ending June 30, 2001 and \$4.8 million for the fiscal year ending June 30, 2002. Please note that the additional revenue is estimated based on a start date in September 2000. The first full year of sales will be the fiscal year ending June 30, 2002.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

As indicated in Attachment IV, the Corporation compensates retailers who sell lottery tickets and pays prizes to lottery winners. The distribution of each dollar received from the new games is shown in Attachment IV.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The additional revenue from the new games will be generated from consumer's discretionary income. The specific effects on competition and employment cannot be determined.

Charles R. Davis  
President  
0005#040

H. Gordon Monk  
Staff Director  
Legislative fiscal Office

**NOTICE OF INTENT**

**Office of Public Safety  
Gaming Control Board**

Land Based Casino Gaming  
(LAC 42:IX.Chapter 41)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:IX.4103 and to adopt LAC

42:IX.4201 through 4219 and to repeal LAC 42:IX:4327 through 4357 in accordance with La. R.S. 27:15 and 24, and the Administrative Procedure Act., R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part IX. Landbased Casino Gaming**

**Chapter 41. Enforcement Actions**

**§4103. Enforcement Actions of the Board**

A. Pursuant to R.S. 27:15(B)(3)(b)(iii) and (B)(8), 27:24(A)(4), and 27:233(B), if the board, after investigation by the Division, is satisfied that a License or Permit should be limited, conditioned, suspended or revoked, or that other action is necessary or appropriate to carry out the provisions of the Act or Regulations, the Board may:

1. limit or restrict the operations of the Casino or a Permit; or
2. suspend or revoke the operations of the Casino or a Permit; or
3. direct Actions deemed necessary to carry out the intent of the Act or Regulations, including, but not limited to, requiring the Casino Operator to keep an individual from the Official Gaming Establishment, prohibiting payment for services rendered, prohibiting payment of profits, income, or accruals, or investment in the Casino or its operations. Such order may be an Emergency Order;
4. impose a civil penalty one each person, or entity or both, who is permitted, Approved, registered or other wise found suitable pursuant to the Act or these Regulations, of not more than \$1,000,000 per violation of the Act or these Regulations.

B. The Division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the Casino Operator or Casino Manager. The proscriptive period is the amount of time determined by the Division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the delay for requesting a hearing expires or the date of the final agency decision relative to such violation. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$1,000,000, the matter shall be forwarded to the Board for further administrative action. In such case, the Board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in Section 2927 of these Regulations may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

**C. Penalty Schedule**

| Penalty Schedule  |  |           |                              |
|-------------------|--|-----------|------------------------------|
| Section Reference | Description  | Base Fine | Proscriptive Period (Months) |
| <b>Chapter 19</b> | <b>Policy</b>  |           |                              |
| 1905              |  | \$10,000  | 18                           |
| <b>Chapter 21</b> | <b>Licenses and Permits</b>  |           |                              |
| 2119              | Access to Applicant's Premises and Records   | \$25,000  | 60                           |
| 2127.A            | Information Constituting Grounds for Delay or Denial of an Application   | \$10,000  | 24                           |
| 2153.A            | Cash Transaction Reporting   | \$5,000   | 12                           |
| 2153.B            | Cash Transaction Reporting (Violations in other states)  | \$20,000  | 24                           |
| 2159.A            | Gaming Employee Permits Required   | \$10,000  | 18                           |
| 2163              | Display of Gaming Employees Permit   | \$500     | 12                           |
| 2165.A            | Gaming Equipment Must Be From Permitted Suppliers  | \$25,000  | 60                           |
| 2165.B and C      | Permit Requirements for Persons Furnishing Services or Property or Doing Business with the Casino Operator or Casino Manager | \$2,000   | 12                           |
| <b>Chapter 23</b> | <b>Compliance, Inspections, and Investigations</b>   |           |                              |
| 2325              | Sanctions  | \$2,500   | 12                           |
| <b>Chapter 25</b> | <b>Transfers of Interest in the Casino Operator and Permittee; Loans and Restrictions</b>                                    |           |                              |
| 2521              | Loans and Lines of Credit  | \$75,000  | 60                           |
| <b>Chapter 27</b> | <b>Accounting Regulation</b>   |           |                              |
| 2701              | Procedures for Reporting and Paying Gaming Revenues and Fees   |           |                              |
|                   | Late Reports   | \$2,000   | 12                           |
|                   | Late Wire Transfers  | \$5,000   | 12                           |
| 2703.A            | Accounting Records (per issue)   | \$2,000   | 12                           |
| 2705              | Records of Ownership   | \$500     | 12                           |
| 2707              | Records Retention  | \$10,000  | 18                           |
| 2709.B            | Quarterly Financial Statements   | \$1,000   | 12                           |
| 2709.C            | SEC Reports  | \$500     | 12                           |
| 2711.B            | Required Signatures  | \$500     | 12                           |
| 2711.D            | Change of CPA Requirements   | \$10,000  | 60                           |
| 2711.F            | Audited Financial Statements (submission date)   | \$10,000  | 60                           |
| 2711.G            | Change of Business Year  | \$2,000   | 60                           |
| 2711.H            | Other CPA Reports  | \$2,000   | 60                           |
| 2711.I            | Quarterly Net Win Reports  | \$5,000   | 24                           |
| 2711.J            | Additional CPA Information   | \$10,000  | 60                           |
| 2713.C            | Submit Monthly Calculation to Division   | \$5,000   | 12                           |
| 2713.D            | Submission of Revised Calculated Amount  | \$5,000   | 12                           |
| 2715.A.1-7,14     | General Requirements   | \$2,500   | 12                           |
| 2715.A.8-13       | Key Control & Entry Logs   | \$10,000  | 24                           |
| 2715.D            | Internal Audit Department – Failure to Investigate and Resolve Material Exceptions & to Document Results                     | \$10,000  | 18                           |
| 2715.E            | Late Submission  | \$10,000  | 60                           |
| 2715.F-G          | Amendment of Computerized Controls and Amendments to Internal Controls   | \$25,000  | 24                           |
| 2715.H            | Amendments to Internal Controls required by the Division   | \$20,000  | 24                           |
| 2715.J-M          | General Credit Requirements  | \$5,000   | 18                           |
| 2715.O            | Quarterly Credit Report  | \$5,000   | 18                           |
| 2716              | Clothing Requirements  | \$5,000   | 12                           |
| 2717              | Internal Controls, Table Games:  |           |                              |
| 2717.A-E          | Fills and Credits  | \$2,000   | 12                           |
| 2717.F            | Table Inventory  | \$5,000   | 12                           |
| 2717.G            | Credit Procedures in Pit   | \$2,000   | 12                           |
| 2717.H            | Non-Marker Credit Play   | \$5,000   | 12                           |
| 2717.I            | Call Bets  | \$10,000  | 18                           |
| 2717.J            | Table Games Drop Procedures  | \$10,000  | 24                           |
| 2717.K            | Table Games Count Procedures   | \$10,000  | 24                           |
| 2717.L            | Table Games Key Control Procedures   | \$10,000  | 24                           |
| 2717.M            |  | \$5,000   | 12                           |
| 2717.N            | Supervisory Controls of Table Games  | \$2,500   | 12                           |
| 2717.O            | Table Games Records  | \$2,500   | 12                           |
| 2717.P            | Accounting and MIS Functions   | \$2,500   | 12                           |
| 2719 A and B      | Handling of Cash at Gaming Tables  | \$5,000   | 18                           |
| 2721              | Tips and Gratuities:   |           |                              |
|                   | Licensee Violation   | \$2,000   | 12                           |
|                   | Permittee Violation  | \$500     | 12                           |
| 2723              | Internal Controls, Slots:  |           |                              |
| 2723.B and C      | Jackpot Request  | \$2,000   | 12                           |
| 2723.D            | Jackpot Payout Slip  | \$2,000   | 12                           |
| 2723.E            | Jackpot Payout Slips greater than \$1,200  | \$1,000   | 12                           |
| 2723.F            | Jackpot Payout Slips greater than \$5,000  | \$5,000   | 12                           |
| 2723.G            | Jackpot Payout Slips greater than \$10,000   | \$10,000  | 18                           |

|                   |  |          |    |
|-------------------|--|----------|----|
| 2723.H            | Jackpot Payout Slips greater than \$100,000  | \$15,000 | 24 |
| 2723.I            | Slot Fill Slips  | \$2,000  | 12 |
| 2723.J            | Slot Hard Drop   | \$10,000 | 12 |
| 2723.K            | Slot Count   | \$10,000 | 12 |
| 2723.L            | Hard Count Weight Scale  | \$10,000 | 12 |
| 2723.M            | Accurate and Current Records for each slot machine   | \$5,000  | 12 |
| 2723.N            | Slot Machines removed from gaming floor  | \$10,000 | 18 |
| 2723.O            | Key Control & Entry Logs   | \$10,000 | 24 |
| 2723.P            | Sensitive Keys removed from vessel   | \$10,000 | 24 |
| 2723.Q            | Currency Acceptor Drop and Count Standards   | \$10,000 | 24 |
| 2723.R            | Computer Records   | \$5,000  | 12 |
| 2723.S            | Management Information Systems (MIS) Functions   | \$5,000  | 18 |
| 2723.T            | Accounting Department audit procedures relative to slot operations   | \$10,000 | 24 |
| 2723.U            | Slot Department Requirements   | \$2,000  | 12 |
| 2723.V            | Progressive Slot Machines  | \$5,000  | 12 |
| 2723.W            | Training   | \$5,000  | 24 |
| 2725.A-F          | Poker  | \$2,500  | 12 |
| 2729              | Cage and Credit:   |          |    |
| 2729.A-H          | Cage Procedures  | \$5,000  | 12 |
| 2729.I-HH         | Credit Extension/Check Cashing   | \$5,000  | 12 |
| 2729.II-NN        | Other Credit Issues  | \$5,000  | 12 |
| 2730              | Exchange of Chips and Tokens   | \$1,000  | 12 |
| 2731              | Currency Transaction Reporting   | \$5,000  | 12 |
| 2735.F            | Inclusion of Chips, Tokens, Extensions of Credit or Comps in Gross Gaming Revenue                                      | \$5,000  | 12 |
| 2735              | Gross Gaming Revenue Computation   | \$5,000  | 12 |
| 2736              | Treatment of Credit for Computing Gross Gaming Revenue   | \$5,000  | 12 |
| <b>Chapter 29</b> | <b>Operating Standards</b>   |          |    |
| 2901              | Methods of Operation Generally   | \$10,000 | 24 |
| 2903              | Compliance with Laws   | \$10,000 | 18 |
| 2909              | Prohibited Transactions  | \$25,000 | 60 |
| 2911              | Finder's Fees  | \$10,000 | 12 |
| 2921              | Entertainment Activities   | \$5,000  | 12 |
| 2922-2924         | Promotions; Increased Slot Jackpots; Coupon and Scrip, Tournaments, Giveaways and Drawings                             | \$5,000  | 12 |
| 2925              | Gaming Employees Prohibited from Gaming  | \$2,500  | 12 |
| 2935.B            | Age Restrictions for Casino  | \$10,000 | 12 |
| 2939              | Compulsive/Problem Gamblers – Telephone Info and Referral Service Posting (see Title 27:58.10)                         | \$1,000  | 24 |
| 2945              | Restricted Areas   | \$10,000 | 24 |
| 2949              | Accessibility to Premises; Parking   | \$1,000  | 12 |
| 2970              | Agencies who may Collect; Collection by Unsuitable Person; Recordation of Collection Arrangements; Division Inspection | \$10,000 | 60 |
| <b>Chapter 31</b> | <b>Rules of Play</b>   |          |    |
|                   | All rule violations other than 3101, 3105, 3107  | \$5,000  | 12 |
| 3101              | Authority and Applicability, Unauthorized Game   | \$25,000 | 24 |
| 3105              | Submission of Rules  | \$25,000 | 24 |
| 3107              | Wagers   | \$10,000 | 18 |
| <b>Chapter 33</b> | <b>Surveillance and Security</b>   |          |    |
| 3301              | Required Surveillance Equipment  | \$10,000 | 24 |
| 3303              | Surveillance System Plans  | \$25,000 | 24 |
| 3305.A            | Division Room  | \$10,000 | 24 |
| 3305.B            | Access to Surveillance Equipment   | \$10,000 | 24 |
| 3305.C            | Surveillance Employees Prohibited from Other Gaming Duties   | \$5,000  | 24 |
| 3305.D and E      | Security of Division and Surveillance Rooms  | \$10,000 | 24 |
| 3305.F            | Division Agents Access to Surveillance Room  | \$15,000 | 24 |
| 3305.H            | Licensee Surveillance  | \$5,000  | 24 |
| 3307              | Segregated Telephone Communication   | \$5,000  | 24 |
| 3309.A            | Maintaining Logs; Logging of Unusual Occurrences   | \$10,000 | 24 |
| 3311              | Storage and Retrieval  | \$20,000 | 24 |
| 3315              | Maintenance and Testing  | \$20,000 | 24 |
| 3317              | Surveillance System Compliance   | \$25,000 | 24 |
| <b>Chapter 35</b> | <b>Patron Disputes</b>   |          |    |
| 3501              | Division Notification  | \$1,000  | 12 |
| <b>Chapter 37</b> | <b>List of Excluded Persons</b>  |          |    |
| 3705              | Duty of Casino Operator, Casino Manager and Permittees to Exclude  | \$5,000  | 12 |
| <b>Chapter 41</b> | <b>Enforcement Actions</b>   |          |    |
| 4103              | Enforcement Actions of the Board   | \$20,000 | 18 |
| <b>Chapter 42</b> | <b>Electronic Gaming Devices</b>   |          |    |
| 4202              | Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers                                   | \$10,000 | 12 |
| 4204              | Progressive EGDs   | \$5,000  | 12 |

|                     |  |          |    |
|---------------------|--|----------|----|
| 4205                | Computer Monitoring Requirements of Electronic Gaming Devices                        | \$10,000 | 12 |
| 4208                | Certification by Manufacturer  | \$1,000  | 12 |
| 4211                | Duplication of Program Storage Media   | \$20,000 | 24 |
| 4212                | Marking, Registration, and Distribution of Gaming Devices                            | \$5,000  | 12 |
| 4213                | Approval to Sell or Dispose of Gaming Devices  | \$10,000 | 24 |
| 4214                | Maintenance of Gaming Devices  | \$20,000 | 24 |
| 4219                | Approval of Associated Equipment; Application and Procedures                         | \$5,000  | 12 |
| <b>Chapter 43</b>   | <b>Specifications for Gaming Devices And Equipment</b>                               |          |    |
| 4301                | Approval of Chips and Tokens; Applications and Procedures                            | \$5,000  | 12 |
| 4309                | Use of Chips and Tokens  | \$1,000  | 12 |
| 4311                | Receipt of Gaming Chips or Tokens from Manufacturer or Supplier                      | \$5,000  | 12 |
| 4313                | Inventory of Chips   | \$5,000  | 12 |
| 4315                | Redemption and Disposal of Discontinued Chips and Tokens                             | \$5,000  | 12 |
| 4317                | Destruction of Counterfeit Chips and Tokens  | \$5,000  | 12 |
| 4319                | Approval and Specifications for Dice   | \$5,000  | 12 |
| 4321                | Dice; Receipt, Storage, Inspections and Removal From Use                             | \$5,000  | 12 |
| 4323                | Approval and Specifications for Cards  | \$5,000  | 12 |
| 4325                | Cards; Receipt, Storage, Inspections and Removal From Use                            | \$5,000  | 12 |
| 4327                | Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers | \$10,000 | 12 |
| 4331.B and C        | Display  | \$2,000  | 12 |
| 4331.D              | Amount Reduction   | \$5,000  | 12 |
| 4333                | Computer Monitoring Requirements of Electronic Gaming Devices                        | \$10,000 | 12 |
| 4339                | Certification by Manufacturer  | \$1,000  | 12 |
| 4343                | Duplication of Program Storage Media   | \$20,000 | 24 |
| 4345                | Marking, Registration, and Distribution of Gaming Devices                            | \$5,000  | 12 |
| 4347                | Approval to Sell or Dispose of Gaming Devices  | \$10,000 | 24 |
| 4349                | Maintenance of Gaming Devices  | \$20,000 | 24 |
| 4355                | Approval of Associated Equipment; Application and Procedures                         | \$5,000  | 12 |
| <b>Title 27</b>     | <b>Louisiana Gaming Control Law</b>  |          |    |
| <b>Chapter 4</b>    | <b>The Louisiana Riverboat Economic Development and Gaming Control Act</b>           |          |    |
| <b>Part I</b>       | <b>General Provisions</b>  |          |    |
| 27:250A and 27:230E | License or permit required   | \$10,000 | 60 |
| <b>Part V</b>       | <b>Conducting of Gaming Operations</b>   |          |    |
| 27:260 A(1)(2)      | No one under 21 allowed  | \$10,000 | 12 |
| 27:244A(7)          | Adequate insurance   | \$25,000 | 60 |
| <b>Part VIII</b>    | <b>Issuance of Permits to Manufacturers, Suppliers, and Others</b>                   |          |    |
| 27:238(B)           | Distribution of unapproved devices/supplies  | \$25,000 | 60 |
| 27:250(G)           | Unpermitted employee   | \$10,000 | 18 |
| 27:260(A)(1)(2)(3)  | Underage patron/employees  | \$10,000 | 12 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1900 (October 1999) amend LR 26:

#### **Chapter 42. Electronic Gaming Devices**

##### **§4201. Reserved**

##### **§4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers**

A. A Manufacturer or Supplier shall not sell, lease or distribute EGD's or equipment in this state and the Casino Operator or Casino Manager shall not offer EGD's for play without first obtaining the requisite Permit or License and obtaining prior Approval by the Division for such action. This Section shall not apply to those Manufacturers or Suppliers licensed or permitted to sell, lease or distribute EGD's or equipment in the state to an entity licensed under a provision of state law other than the Administrative Rules when those Manufacturers or Suppliers are selling or distributing to such licensed entity.

B. Applications for Approval of a new EGD shall be made and processed in such manner and using such forms as the Division may prescribe. Casino Operator or Casino Managers may apply for Approval of a new EGD. Each

Application shall include, in addition to such other items or information as the Division may require:

1. a complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device operates, signed under penalty of perjury; and

2. a statement, under penalty of perjury, that to the best of the applicant's knowledge, the EGD meets the standards set forth in this Chapter.

C. No Game or EGD other than those specifically authorized in this Chapter may be offered for play or played in the Casino except that the Division may authorize the operation of progressive electronic EGD's as part of a network of separate Gaming Operations licensed by the Division with an aggregate prize or prizes.

D. Approval shall be obtained from the Division prior to changing, adding, or altering the Casino configuration once such configuration has received final Divisional Approval. For the purpose of this Section, altering the Casino configuration does not include the routine movement of EGD's for cleaning and/or maintenance purposes.

E. All components, tools, and test equipment used for installation, repair or modification of EGD's shall be stored in the slot technician repair office, or in a Division Approved locked storage area. Such office/storage shall be kept secure and only authorized Personnel shall have access.

F. Any compartment or room that contains communications equipment used by the EGD's and the EGD monitoring system shall be kept secure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

#### **§4203. Minimum Standards for Electronic Gaming**

##### **Devices**

A. All EGD's submitted for Approval:

1. shall be electronic in design and operation and shall be controlled by a microprocessor or micro-controller or the equivalent;

2. shall theoretically pay out a mathematically demonstrable percentage of all amounts Wagered, which shall not be less than 80 percent and not more than 99.9 percent for each Wager available for play on the device;

3. shall use a random selection process to determine the Game outcome of each play of a Game. The random selection process shall meet 99 percent confidence limits using a standard chi-squared test for goodness of fit and in addition:

a. each possible permutation or combination of Game elements which produce winning or losing Game outcomes shall be available for random selection at the initiation of each play; and

b. the selection process shall not produce detectable patterns of Game elements or detectable dependency upon any previous Game outcome, the amount wagered, or upon the style or method of play.

4. shall display an accurate representation of the Game outcome. After selection of the Game outcome, the EGD shall not make a variable secondary decision which affects the result shown to the player;

5. shall display the rules of play and payoff schedule;

6. shall not automatically alter pay-tables or any function of the device based on internal computation of the hold percentage;

7. shall be compatible to on-line data monitoring;

8. shall have a separate locked internal enclosure within the device for the control circuit board and the program storage media;

9. shall be able to continue a Game with no data loss after a power failure;

10. shall have current Game and the previous two Games data recall;

11. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

12. shall contain a surge protector on the line that feeds power to the device. The battery backup or an equivalent for the electronic meter information shall be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the device. The backup shall be kept within the locked logic board compartment;

13. shall have an on/off switch that controls the electrical current used in the operation of the device which shall be located in an accessible place within its interior;

14. shall be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

15. shall have at least one electronic coin acceptor and may be equipped with an Approved currency acceptor. Coin and currency acceptors shall be designed to accept designated coins and currency and reject others. The coin acceptor on a device shall be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All types of coin and currency acceptors are subject to Approval by the Division. The control program shall be capable of handling rapidly fed coins so that occurrences of inappropriate "coin-ins" are prevented;

16. shall not contain any unsecured hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

17. shall contain a non-removable identification plate containing the following information, appearing on the exterior of the device:

- a. Manufacturer;
- b. Serial Number; and
- c. Model Number.

18. shall have a communications data format from the EGD to the EGD monitoring system Approved by the Division;

19. shall be capable of continuing the current Game with all current Game features after a malfunction is cleared. This rule does not apply if a device is rendered totally inoperable. The current Wager and all credits appearing on the screen prior to the malfunction shall be returned to the Patron;

20. shall have attached a locked compartment separate from any other compartment of the device for housing a Drop bucket. The compartment shall be equipped with a switch or sensor that provides detection of the Drop door opening and closing by signaling to the EGD monitoring system;

21. shall have a locked compartment for housing currency, if equipped with a currency acceptor;

22. shall, at a minimum, be capable of detecting and displaying the following error conditions which an attendant may clear:

- a. coin-in jam;
- b. coin-out jam;
- c. currency acceptor malfunction or jam;
- d. hopper empty or time-out;
- e. program error;
- f. hopper runaway or extra coin paid out;
- g. reverse coin-in;
- h. reel error; and
- i. door open.

23. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

24. shall have a mechanical, electrical, or electronic device that automatically precludes a player from operating the device after a jackpot requiring a manual payout and requires an attendant to reactivate the device; and

25. shall be outfitted with any other equipment required by this Chapter or the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

#### §4204. Progressive Electronic Gaming Devices

A. This Section authorizes the use of progressive EGD's among Gaming Operations licensed pursuant to the provisions of R.S. 27:51 et seq., R.S. 27:201 et seq. and R.S. 27:351 et seq. in the state of Louisiana, within one eligible facility, provided that the EGD's meet the requirements stated in this Chapter and any additional requirements imposed by the Administrative Rules, the Board, or the Division.

B. Wide area progressive Games that link EGD's located in more than one location shall be approved by the Board or Division on a case-by-case basis.

##### C. Progressive EGD's Defined

1. A progressive EGD is an electronic Gaming device with a payoff that increases uniformly as the EGD or another device on the same link is played.

2. "Base amount" means the amount of the progressive jackpot offered before it increases.

3. "Incremental amount" means the difference between the amount of a Progressive Jackpot and its base amount.

4. A Progressive Jackpot may be won where certain pre-established criteria, which does not have to be a winning combination, are satisfied.

5. A bonus Game where certain circumstances are required to be satisfied prior to awarding a fixed bonus prize is not a progressive EGD and is not subject to this Chapter.

##### D. Transferring of Progressive Jackpot which is in Play:

1. A Progressive Jackpot which is currently in play may be transferred to another progressive EGD in the Casino in the event of :

- a. EGD malfunction;
- b. EGD replacement; or
- c. other good reason deemed appropriate by the

Division or Board to ensure compliance with this Chapter.

2. If the events set forth above do not occur, the Progressive award shall be permitted to remain until it is won by a player or transfer is approved by the Division.

##### E. Recording, Keeping and Reconciliation of Jackpot Amount

1. The Casino Operator or Casino Manager shall maintain a record of the amount shown on a Progressive Jackpot meter on the premises. The Progressive Jackpot meter information shall be read and documented, at a minimum, every 24 hours. Electronic meter information shall be recorded when a primary jackpot occurs on an EGD.

2. Supporting documents shall be maintained to explain any reduction in the payoff amount from a previous entry.

3. The records and documents shall be retained for a period of five years.

4. The Casino Operator or Casino Manager shall confirm and document, on a quarterly basis, that proper communication was maintained on each EGD linked to the progressive controller during that time.

5. The Casino Operator or Casino Manager shall record the progressive liability on a daily basis.

6. The Casino Operator or Casino Manager shall review, on a quarterly basis, the incremented rate and reasonableness of the progressive liability by either a physical coin-in test or by meter readings to calculate incremental coin-in multiplied by the rate incremented to

arrive at the increase in, and reasonableness of, the Progressive Jackpot amount.

7. The Casino Operator or Casino Manager shall formally adopt the Manufacturer's specified internal controls for Wide area progressive EGD's, as Approved by the Division, as part of the Casino Operator or Casino Manager's system of internal controls.

##### F. The Progressive Meter

1. The EGD shall be linked to a progressive meter or meters showing the current payoff to all players who are playing an EGD which may potentially win the progressive amount. A meter that shows the amount of the Progressive Jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

##### G. Consistent Odds on Linked EGD's

1. When more than one progressive EGD is linked together, each EGD in the link shall be of the same denomination and have the same coin in multiplier, and have the same probability of hitting the combination that will award the Progressive Jackpot or jackpots as every other machine in the link.

##### H. Operation of Progressive Controller-Normal Mode

1. During the normal operating mode of the progressive controller, the controller shall do the following:

- a. continuously monitor each EGD attached to the controller to detect inserted coins or credits wagered;
- b. multiply the accepted coins by the denomination and the programmed rate progression in order to determine the correct amounts to apply to the Progressive Jackpot.

2. The progressive display shall be constantly updated as play on the link is continued. It will be acceptable to have a slight delay in the update so long as when a jackpot is triggered, the jackpot amount is shown immediately.

##### I. Operation of Progressive Controller-Jackpot Mode

1. When a Progressive Jackpot is recorded on an EGD, which is attached to the progressive controller or another attached approved component or system ,(hereinafter progressive controller), the progressive controller shall allow for the following:

- a. display of the winning amount;
- b. display of the EGD identification that caused the progressive meter to activate if more than one EGD is attached to the controller.

2. The progressive controller is required to send to the EGD the amount that was won. The EGD is required to update its electronic meters to reflect the winning jackpot amount consistent with this Chapter.

3. When more than one progressive EGD is linked to the progressive controller, the progressive controller shall automatically reset to the reset amount and continue normal play. During this time, the progressive meter or another attached Approved component or system shall display the following information:

- a. the identity of the EGD that caused the progressive meter to activate;
- b. the winning progressive amount;
- c. the new normal mode amount that is current on the link.

4. A Wide Area progressive EGD and/or a progressive device, where a jackpot of one hundred thousand dollars (\$100,000) or more is won , shall automatically enter into a non-play mode which prohibits additional play on the device

after a primary jackpot has been won on the device. Upon conclusion of necessary inspections and tests by the Division, the device may be offered for play.

J. Alternating Displays

1. When this procedure prescribes multiple items of information to be displayed on a progressive meter, it is sufficient to have the information displayed in an alternating fashion.

K. Security of Progressive Controller

1. Each progressive controller linking two or more progressive EGD's shall be housed in a double keyed compartment in a location Approved by the Division. All keys shall be maintained in accordance with LAC 42:IX:Chapter 27 of the Administrative Rules.

2. The Division may require possession of one of the keys.

3. Persons having access to the progressive controller shall be Approved by the Division.

4. A list of Persons having access to a progressive controller shall be submitted to the Division.

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the Division and completed by each individual who gains entrance to the controller.

2. Security restrictions shall be submitted in writing to the Division for Approval at least 60 days before their enforcement. All restrictions approved by the Division shall be made on a case by case basis in the case of a stand-alone progressive where the controller is housed in the logic area.

3. The progressive controller shall keep the following information in nonvolatile memory which shall be displayed upon demand:

a. the number of Progressive Jackpots won on each progressive level if the progressive display has more than one winning amount;

b. the cumulative amounts paid on each progressive level if the progressive display has more than one winning amount;

c. the maximum amount of the progressive payout for each level displayed;

d. the minimum amount or reset amount of the progressive payout for each level displayed;

e. the rate of progression for each level displayed.

M. Limits on jackpots of progressive EGD's

1. The Casino Operator or Casino Manager may impose a limit on the jackpot of a progressive EGD if the limit imposed is greater than the possible maximum jackpot payout on the EGD at the time the limit is imposed. The Casino Operator or Casino Manager shall inform the public with a prominently posted notice of progressive EGD's and their limits.

N. The Casino Operator or Casino Manager shall not reduce the amount displayed on a Progressive Jackpot meter or otherwise reduce or eliminate a Progressive Jackpot unless:

1. a player wins the jackpot;

2. the Casino Operator or Casino Manager adjusts the Progressive Jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to §4204.M of these Regulations and the

Casino Operator or Casino Manager documents the adjustment and the reasons for it;

3. the Casino Operator or Casino Manager's Gaming operations at the establishment cease for any reason other than a temporary closure where the same Casino Operator or Casino Manager resumes Gaming operations at the same establishment within a month;

4. the Casino Operator or Casino Manager distributes the incremental amount to another Progressive Jackpot at the Casino Operator or Casino Manager's establishment and:

a. the Casino Operator or Casino Manager documents the distribution;

b. any machine offering the jackpot to which the Casino Operator or Casino Manager distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

c. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.B of the Regulations; and

d. The distribution is completed within 30 days after the Progressive Jackpot is removed from play or within such longer period as the Division may for good cause approve; or

e. the Division approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which Approval is confirmed in writing.

5. Casino Operator or Casino Managers shall preserve the records required by this section for at least five years.

O. Individual progressive EGD controls.

1. Individual EGD's shall have a minimum of seven electronic meters, including a coin-in meter, Drop meter, jackpot meter, win meter, manual jackpot meter, progressive manual jackpot meter and a progressive meter.

P. Link progressive EGD controls.

1. Each machine shall require the same number of Tokens be inserted to entitle the player to a chance at winning the Progressive Jackpot and every Token shall increment the meter by the same rate of progression as every other machine in the group.

2. When a Progressive Jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current "Current Progressive Jackpot Amount."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

A. The Casino Operator or Casino Manager shall have a computer connected to all EGD's in the Casino to record and monitor the activities of such devices. No EGD shall be operated unless it is on-line and communicating to a computer monitoring system approved by a designated Gaming laboratory specified by the Division. Such computer monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the Division.

1. Any occurrence of malfunction or interruption of communication between the EGD's and the EGD monitoring system shall immediately be reported to the Division for determination of further action to be taken. These malfunctions include, but are not limited to, system down for maintenance or malfunctions, zeroed meters, invalid meters and any variance between EGD Drop meters and the actual count of the EGD Drop.

2. Prior written Approval from the Division is required before implementing any changes to the computerized EGD monitoring system or adopting manual procedures for when the computerized EGD monitoring system is down.

3. Each and every modification of the software shall be Approved by a designated gaming laboratory specified by the Division.

B. The computer Permitted by subsection A above shall be designed and operated to automatically perform and report functions relating to EGD meters, and other exceptional functions and reports in the Casino as follows:

1. record the number and total value of Tokens placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of Tokens deposited in the Drop bucket of the EGD;

4. record the number and total value of Tokens automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of Tokens to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the Drop area. In addition, any Person opening the EGD or the Drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the Drop team;

7. be capable of logging in and reporting any revenue transactions not directly monitored by Token meter, such as Tokens placed in the EGD as a result of a fill, and any Tokens removed from the EGD in the form of a credit; and

8. identify any EGD taken off-line or placed on-line of the computer monitor system, including date, time, and EGD identification number;

9. report the time, date and location of open doors or error conditions by each EGD.

C. The Casino Operator or Casino Manager shall store, in machine-readable format, all information required by subsection B above for the period of five years. The Casino Operator or Casino Manager shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a Division agent in the format and media Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

#### **§4206. Employment of Individual to Respond to Inquires From the Division**

A. Each Manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the Division to any inquires from him concerning the EGD or any modifications to the device. Each Manufacturer shall writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

#### **§4207. Evaluation of New Electronic Gaming Devices**

A. The Division may require transportation of not more than two working models of a new EGD to a designated gaming laboratory for review and inspection. The Manufacturer seeking Approval of the device shall pay the cost of the inspection and investigation. The designated gaming laboratory may dismantle the models and may destroy electronic components in order to fully evaluate the device. The Division may require the Manufacturer or Supplier seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the equipment, and may employ an outside designated gaming laboratory to conduct the evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

#### **§4208. Certification by Manufacturer**

A. After completing its evaluation of a new EGD, the lab shall send a report of its evaluation to the Division and the Manufacturer seeking Approval of the device. The report shall include an explanation of the manner in which the device operates. The Manufacturer shall return the report within 15 days and shall either:

1. certify, under penalty of perjury, that to the best of its knowledge the explanation is correct; or

2. make appropriate corrections, clarifications, or additions to the report and certify, under penalty of perjury, that to the best of its knowledge the explanation of the EGD is correct as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

#### **§4209. Approval of New Electronic Gaming Devices**

A. After completing its evaluation of the new EGD, the Division shall determine whether the application for Approval of the new EGD should be granted. In considering whether a new EGD will be given final Approval, the Division shall consider whether Approval of the new EGD is consistent with this Chapter. Division Approval of an EGD does not constitute certification of the device's safety.

1. Equipment Registration and Approval

a. All electronic or mechanical EGD's shall be approved by the Division and/or its Approved designated gaming laboratory and registered by the Division prior to use.

b. The following shall not be used for Gaming by any Casino Operator or Casino Manager without prior written Approval of the Division:

- i. bill acceptors or bill validators;
- ii. coin acceptors;
- iii. progressive controllers;
- iv. signs depicting payout percentages, odds, and/or rules of the Game;
- v. associated Gaming equipment as provided for in Chapter 42 of the Administrative Rules.

c. The Casino Operator or Casino Manager and/or Manufacturer's request for Approval shall describe with particularity the equipment or device for which the Division's Approval is requested.

d. The Division may request additional information or documentation prior to issuing written Approval.

## 2. Testing

a. The following shall be tested prior to registration or Approval for use:

- i. all EGD's;
- ii. EGD monitoring systems;
- iii. any other device or equipment as the Division may deem necessary to ensure compliance with this.

b. The Division may employ the services of a designated gaming laboratory to conduct testing.

i. Any new EGD not presently Approved by the Division shall first meet the Approval and testing criteria of the Division's recognized designated gaming laboratory, who shall evaluate and test the product and issue a written opinion to the Division of all test results. The Casino Operator or Casino Manager, Manufacturer or Supplier shall incur all costs associated with the testing of the product. This may include costs for field tests, travel, laboratory tests, and/or other associated costs. Failure on the part of the requesting party to timely pay these costs may be grounds for the denial of the request and cause for Enforcement action by the Division. Recommendations of Approval by the designated gaming laboratory with regard to program Approval(s) shall constitute Division Approval and do not require separate written Approval by the Division. Other test determinations shall be reviewed by the Division and a written decision shall be issued by the Division. In situations wherein the need for specific guidelines and internal controls are required, the Division will work in concert with the designated gaming laboratory to develop guidelines for the Casino Operator or Casino Manager. The Casino Operator and Casino Managers shall be required to comply with these guidelines and they shall become part of the Casino Operator or Casino Manager's system of internal controls. At no time shall an unauthorized program, Gaming device, Associated Equipment and/or component be installed, stored, possessed, or offered for play by a Casino Operator or Casino Manager, Permittee, or their agent, representative, employee or other Person in the Louisiana Gaming Industry.

c. Registration and/or Approval shall not be issued unless payment for all costs of testing is current.

d. Registration, Approval, or the denial of EGD's, or any other device or equipment shall be issued in accordance with the Administrative Rules, and this Chapter.

e. EGD's shall meet all specifications as required in §4203 of these regulations and shall meet the following security and audit specifications:

- i. be controlled by a microprocessor;
- ii. be connected and communicating to an Approved on-line EGD monitoring system;

iii. have an internal enclosure for the circuit board which is locked or sealed, or both, prior to and during Game play;

iv. be able to continue a Game with no loss of data after a power failure;

v. have Game data recall for the current Game and the previous two Game

vi. have a random selection process that satisfies the 99 percent confidence level using the following tests:

- (a). standard chi-squared;
- (b). runs; and
- (c). serial correlation.

(Note: These tests shall not be predictable by players.)

vii. clearly display applicable rules of play and the Payout schedule;

viii. display an accurate representative of each Game outcome utilizing:

- (a). rotating wheels;
- (b). video monitoring; or
- (c). any other type of display mechanism that accurately depicts the outcome of the Game.

f. All EGD's shall be registered with the Division and shall have a registration sticker to the device on a viewable, accessible location on the interior of the frame of the EGD. It is incumbent on each Casino Operator or Casino Manager to ensure that the registration sticker is properly affixed and is valid. In the event that the registration sticker becomes damaged or voided, the Casino Operator or Casino Manager shall immediately notify the Division in writing. The Division shall issue a replacement sticker and re-register the device as soon as practical.

g. All EGD's shall be located within the Designated Gaming Area. This is inclusive of all "Free Pull" machines or similar devices. A device which is not in use may be stored in a secured area if Approved in writing by the Division.

h. The Casino Operator or Casino Manager shall maintain a current inventory report of all EGD's and equipment. The inventory report shall include, but is not limited to, the following:

- i. the serial number assigned to the EGD by the Manufacturer;
- ii. the registration number issued by the Division;
- iii. the type of Game for which the EGD is designed and used;
- iv. the denomination of Tokens or coins accepted by each EGD;
- v. the location of EGD's equipped with bill validators and any bill validators that stand alone;
- vi. the Manufacturer of the EGD;
- vii. the location or house number of the EGD.

i. This inventory report shall be submitted to the Division's Operational Section on a diskette, in a data text format, upon request by the Division.

j. All EGD's offered for play shall be given a "House Number" by the Casino Operator or Casino Manager. This house number shall not be altered or changed without prior written Approval from the Division. The Casino Operator or Casino Manager shall issue the "House Numbers" in a systematic manner which provides for easy recognition and location of the device's location. This number shall be a part of the Casino Operator or Casino Manager's "On-Line Computer EGD Monitoring System",

and shall be displayed, in part, on all on-line system reports. Each EGD shall have its respective House Number attached to the device in a manner which allows for easy recognition by Division Personnel and surveillance cameras.

k. Control Program Requirements:

i. EGD control programs shall test themselves for possible corruption caused by failure of the program storage media.

ii. The test methodology shall detect 99.99 percent of all possible failures.

iii. The control program shall allow for the EGD to be continually tested during Game play.

iv. The control program shall reside in the EGD which is contained in a storage medium not alterable through any use of its circuitry or programming of the EGD itself.

v. The control program shall check the following:

(a). corruption of RAM locations used for crucial EGD functions;

(b). information relating to the current play and final outcome of the two prior Games;

(c). random number generator outcome;

(d). error states.

vi. The control RAM areas shall be checked for corruption following Game initiation, but prior to display of the Game outcome to the player.

vii. Detection of corruption is a Game malfunction that shall result in a tilt condition which identifies the error and causes the EGD to cease further function.

viii. The control program shall have the capacity to display a complete play history for the current Game and the previous two Games.

ix. The control program shall display an indication of the following:

(a). the Game outcome or a representative equivalent;

(b). bets placed;

(c). credits or coins paid;

(d). credits or coins cashed out; and

(e). any error conditions.

x. The control program shall provide the means for on-demand display of the electronic meters via a key switch or other mechanism on the exterior of the EGD.

l. Accounting Meters:

i. All EGD's shall be equipped with electronic meters;

ii. All EGD's electronic meters shall have at least eight digits;

iii. All EGD's shall tally totals to eight digits and be capable of rolling over when the maximum value is reached;

iv. The required electronic meters are as follows:

(a). The coin-in meter shall cumulatively count the number of coins wagered by actual coins inserted or credits bet, or both.

(b). The coin-out meter shall cumulatively count the number of coins that are paid by the hopper as a result of a Win, or credits that are won, or both.

(c). The coins-dropped meter shall maintain a cumulative count of the number of coins that have been diverted into a Drop bucket and credit value of all bills inserted into the bill validator for play.

(d). The jackpots-paid meter shall reflect the cumulative amounts paid by an attendant for all jackpots.

(e). The Games-played meter shall display the cumulative number of Games played (handle pulls).

(f). The Drop door meter shall display the number of times the Drop door was opened.

(g). If the EGD is equipped with a bill validator, the device shall be equipped with a bill validator meter that records:

(i) the total number of bills that were accepted,

(ii) a breakdown of the number of each denomination of bill accepted, and

(iii) the total dollar amount of bills accepted.

(h). EGD's shall be designed so that replacement of parts, modules, or components required for normal maintenance does not affect the electronic meters.

(i). EGD's shall have meters which continuously display the following information relating to the current play or monetary transaction:

(i). the number of coins or credits wagered in the current Game;

(ii). the number of coins or credits won in the current Game, if applicable;

(iii). the number of coins paid by the hopper for a credit cash out or a direct pay from a winning outcome;

(iv). the number of credits available for wagering, if applicable.

(j). Electronically stored meter information required by this Section shall be preserved after power loss to the EGD by battery backup and be capable of maintaining accuracy of electronically stored meter information for a period of at least 180 days.

m. No EGD may have a mechanism that causes the electronic accounting meters to clear automatically when an error occurs.

n. Clearing of the electronic accounting meters, other than due to a malfunction, may be done only if Approved in writing by the Division. Meter readings, as prescribed by the Division, shall be recorded before and after any electronic accounting meter is cleared or a modification is made to the device.

o. Hopper:

i. EGD's shall be equipped with a hopper which is designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

(a). jammed coins;

(b). extra coins paid out;

(c). hopper runaways;

(d). hopper empty conditions.

ii. The EGD control program shall monitor the hopper mechanism for these error conditions in all Game states in accordance with this Chapter.

iii. All coins paid from the hopper mechanism shall be accounted for by the EGD, including those paid as extra coins during hopper malfunction.

iv. Hopper pay limits shall be designed to Permit compliance by Casino Operator or Casino Managers with all applicable taxation laws, rules, and regulations.

p. Communication Protocol

i. An EGD which is capable of a bi-directional communication with internal or external Associated Equipment shall use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the EGD.

q. EGD's installed and/or modified shall be inspected and/or tested by Division Agents prior to offering these devices for live play. Accordingly, no device shall be operated unless and until each regulated program storage media has been tested and sealed into place by Division Agent(s). The Division's security tape shall at all times remain intact and unbroken. It is incumbent on the Casino Operator or Casino Manager to routinely inspect every device to ensure compliance with this procedure. In the event a Casino Operator or Casino Manager discovers that the security tape has been broken or tampered with, the power to the EGD shall be immediately turned off, surveillance shall be immediately notified and shall take a photograph of the logic board. The board shall be maintained in the surveillance office until a Division Agent has the opportunity to inspect the board. A copy of the device's meal card shall be made and shall accompany the board.

r. No Casino Operator or Casino Manager or other Person shall modify an EGD without prior written Approval from the Division. A request shall be made by completing form(s) prescribed by the Division and filing it with the respective field office. The Casino Operator or Casino Manager shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for Enforcement Action.

s. EGD's shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

i. The EGD shall pay out at least 80 percent and not more than 99.9 percent of the amount wagered.

ii. The theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage.

iii. An EGD shall have a probability of obtaining the maximum payout greater than 1 in 50,000,000.

iv. An EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

t. Modifications to an EGD's program shall be considered only if the new program has been Approved by the designated gaming laboratory, and if the existing program has met the minimum requirements as set forth herein. The minimum program change requirements are unique to each program or program storage media. Therefore, it is not practical to list each one. In general, a program shall meet the 99 percent confidence interval range of 80 percent to 99.9 percent prior to being removed or replaced. As stated, this confidence interval varies by program and manufacturer. The confidence interval is determined by the designated Gaming laboratory who tests each program and determines the interval. For the purpose of these procedures, an interval shall be determined by the Games played on the existing program. An EGD's program shall not be approved for change unless the existing program

has met or exceeded the minimum of one hundred thousand required Games played. Exceptions to this procedure are those situations in which it can be reasonably determined that a program chip is defective or malfunctioning, or during a 90 day trial period of a newly Approved program.

u. A Casino Operator or Casino Manager shall be allowed to test, on a limited basis, newly Approved programs. The Casino Operator or Casino Manager shall file an EGD 96-01 form and indicate in field 21 that the request is for a 90 day trial period. Failure to do so may be grounds for denial of the request to remove the program prior to reaching the 99.9 percent confidence interval. The Casino Operator or Casino Manager, upon Approval, shall be allowed to test the program and will be allowed to replace it during this 90 day period with cause. If a request to replace the test program is not filed with the Division prior to the expiration of the 90 day approval, the program shall not be replaced and the program replacement criteria as stated in these procedures shall be applicable.

v. When an Approved denomination change is made to an EGD which used or uses Tokens, the Casino Operator or Casino Manager shall make necessary adjustments to the initial hopper fill listed on the Daily Gross Gaming Revenue Report. Additionally, an adjustment shall be made to the Daily Gross Gaming Revenue Report to reflect the change in the initial hopper fill each time an EGD is taken off the floor or out of play. A final Drop shall be made for that machine, including the hopper. The initial hopper load should be deducted to determine the final net Drop for the device.

w. Randomness Events / Randomness Testing

i. Events in EGD's are occurrences of elements or particular combinations of elements which are available on the particular EGD.

ii. A random event has a given set of possible outcomes which has a given probability of occurrence called the distribution.

iii. Two events are called independent if the following conditions exist:

(a). the outcome of one event has no influence on the outcome of the other event;

(b). the outcome of one event does not affect the distribution of another event.

iv. An EGD shall be equipped with a random number generator to make the selection process. A selection process is considered random if the following specifications are met:

(a). The random number generator satisfies at least 99 percent confidence level using chi-squared analysis;

(b). The random number generator does not produce a measurable statistic with regard to producing patterns of occurrences. Each reel position is considered random if it meets at least the 99 percent confidence level with regard to the runs test or any similar pattern testing statistic;

(c). The random number generator produces numbers which are independently chosen.

x. Safety Requirements

i. Electrical and mechanical parts and design principles shall not subject a player to physical hazards.

ii. Spilling a conductive liquid on the EGD shall not create a safety hazard or alter the integrity of the EGD's performance.

iii. The power supply used in an EGD shall be designed to make minimum leakage of current in the event of an intentional or inadvertent disconnection of the alternate current power ground.

iv. A surge protector shall be installed on each EGD. Surge protection can be internal or external to the power supply.

v. A battery backup device shall be installed and capable of maintaining accuracy of required electronic meter information after power is disconnected from the EGD. The device shall be kept within the locked or sealed logic board compartment and be capable of sustaining the stored information for 180 days.

vi. Electronic discharges. The following shall not subject the player to physical hazards:

(a). electrical parts;

(b). mechanical parts;

(c). design principles of the EGD and its component parts.

y. On and Off Switch. An on and off switch that controls the electrical current used to operate the EGD shall be located in an accessible place and within the interior of the EGD.

z. Power Supply Filter. EGD power supply filtering shall be sufficient to prevent disruption of the EGD by a repeated fluctuation of alternating current.

aa. Error Conditions and Automatic Clearing:

i. EGD's shall be capable of detecting and displaying the following conditions:

(a). power reset.

(b). door open.

(c) inappropriate coin-in if the coin is not automatically returned to the player.

ii. The conditions listed above shall be automatically cleared by the EGD upon initiation of a new play sequence, if possible.

28. Error Conditions; Clearing by Attendant

a. EGD's shall be capable of detecting and displaying the following error conditions which an attendant may clear:

i. coin-in jam;

ii. coin-out jam;

iii. hopper empty or timed-out;

iv. RAM error;

v. hopper runaway or extra coin paid out;

vi. program error;

vii. reverse token-in;

viii. reel spin error of any type, including a mis-index condition for rotating reels. The specific reel number shall be identified in the error indicator;

ix. low RAM battery, for batteries external to the RAM itself, or low power source;

b. A description of EGD error codes and their meanings shall be affixed inside the EGD.

29. Coin Acceptors

a. At least one electronic coin acceptor shall be installed in each EGD.

b. All acceptors shall be approved by the Division or the designated gaming laboratory.

c. Coin acceptors shall be designed to accept designated coins and to reject others.

d. The coin receiver on an EGD shall be designed to prevent the use of cheating methods, including, but not limited to:

i. slugging;

ii. stringing; and

iii. spooling.

e. Coins which are accepted but not credited to the current Game shall be returned to the player by activation of the hopper or credited toward the next play of the EGD control program and shall be capable of handling rapidly fed coins so that frequent occurrences of this type are prevented.

f. EGD's shall have suitable detectors for determining the direction and speed of the coin(s) travel in the receiver. If a coin traveling at improper speed or direction is detected, the EGD shall enter an error condition and display the error condition which shall require attendant intervention to clear.

30. Bill Validators

a. EGD's may contain a bill validator that will accept the following:

i. \$1 bills;

ii. \$5 bills;

iii. \$10 bills;

iv. \$20 bills;

v. \$50 bills;

vi. \$100 bills.

b. The bill acceptors may be for single denomination or combination of denominations.

31. Automatic Light Alarm

a. A light shall be installed on the top of the EGD that automatically illuminates when the door to the EGD is opened or Associated Equipment that may affect the operation of the EGD is exposed, excluding all bartop EGD's.

32. Access to the Interior

a. The internal space of an EGD shall not be readily accessible when the door is closed.

b. The following shall be in a separate locked or sealed area within the EGD's:

i. logic boards;

ii. ROM;

iii. RAM;

iv. program storage media.

c. No access to the area described above is allowed without prior notification to the Casino Operator or Casino Manager's surveillance room.

d. The Division shall be allowed immediate access to the locked or sealed area. The Casino Operator or Casino Manager shall maintain its copies of the keys to EGD's in accordance with the administrative rules and the Casino Operator or Casino Manager's system of internal controls. A Casino Operator or Casino Manager shall provide the Division a master key to the door of an Approved EGD, if so requested. Unauthorized tampering or entrance into the logic area without prior notification in accordance with subsection (c) is grounds for Enforcement Action.

33. Tape Sealed Areas.

a. An EGD's logic boards and/or any program storage media in a locked area within the EGD shall be sealed with the Division's security tape. The security tape

shall be affixed by a Division Agent. The security tape may only be removed by, or with Approval from, a Division Agent.

34. Hardware Switches.

a. No hardware switches may be installed which alter the pay tables or Payout percentages in the operation of an EGD.

b. Hardware switches may be installed to control the following:

- i. graphic routines;
- ii. speed of play;
- iii. sound; and
- iv. other approved cosmetic play features.

35. Display of Rules of Play

a. The rules of play for EGD's shall be displayed on the face or screen of all EGD's. Rules of play shall be Approved by the Division prior to play.

b. The Division may reject the rules if they are:

- i. incomplete;
- ii. confusing;
- iii. misleading; or
- iv. for any other reason stated by the Division.

c. Rules of play shall be kept under glass or another transparent substance and shall not be altered without prior Approval from the Division.

d. Stickers or other removable devices shall not be placed on the EGD face unless their placement is Approved by the Division.

36. Manufacturer's Operating and Field Manuals and Procedures.

a. A Casino Operator or Casino Manager shall comply with written guidelines and procedures concerning installations, modifications, and/or upgrades of components and Associated Equipment established by the Manufacturer of an EGD, component, on-line system, software, and/or Associated Equipment unless otherwise Approved in writing by the Division, or if the guideline(s) and/or procedure(s) conflict with any portion of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4210. Electronic Gaming Device Tournaments**

A. EGD tournaments may be conducted by Casino Operator or Casino Managers, upon written Approval by the Division.

B. All tournament play shall be on machines which have been tested and Approved by the Division, and for which the tournament feature has been enabled.

C. All EGD's used in a single tournament shall utilize the same electronics and machine settings. Casino Operator or Casino Managers shall utilize, and each device shall be equipped with an Approved program which allows for tournament mode play to be enabled by a switch key (reset feature) and/or total replacement of the logic board, with an Approved tournament board. Replacement of program storage media is not permissible for tournament play only. Form(s) as prescribed by the Division are required to be submitted for each device used in tournament play when the non-tournament logic board is removed. The Casino Operator or Casino Manager shall submit, in writing, procedures regarding the storage and security of the both tournament and non-tournament boards when not in use.

D. EGD's enabled for tournament play shall not accept or pay out coins. The EGD's shall utilize credit points only.

E. Tournament credits shall have no cash value.

F. Tournament play shall not be credited to accounting or electronic (soft) meters of the EGD.

G. At the Casino Operator or Casino Manager's discretion, and in accordance with applicable laws and rules, the Casino Operator or Casino Manager may establish qualification or selection criteria to limit the eligibility of players in a tournament.

H. Rules of Tournament Play

1. The Casino Operator or Casino Manager shall submit rules of tournament play to the Division in accordance with LAC 42:IX:2953 or within such time period as the Division may designate. The rules of play shall include, but are not limited to, the following:

- a. the amount of points, credits, and playing time players will begin with;
- b. the manner in which players will receive EGD assignments and how reassignments are to be handled;
- c. how players are eliminated from the tournament and how the winner or winners are to be determined;
- d. the number of EGD's each player will be allowed to play;
- e. the amount of entry fee for participating in the tournament;
- f. the number of prizes to be awarded;
- g. an exact description of each prize to be awarded;
- h. any additional house rules governing play of the tournament;

i. any rules deemed necessary by the Division to ensure compliance with this Chapter.

2. A Casino Operator or Casino Manager shall not Permit any tournament to be played unless the rules of the tournament play have been Approved, in writing, by the Division.

3. The rules of tournament play shall be provided to all tournament players and each member of the public who requests a copy of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4211. Duplication of Program Storage Media**

A. Personnel and Certification

1. Only the Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager shall be allowed to duplicate program storage media.

2. The Casino Operator or Casino Manager shall provide to the Division certified documentation, from the Manufacturer or copyright holder of the program storage media which is being duplicated, stating that the duplication of the program storage media is authorized.

3. The Casino Operator or Casino Manager shall assume the responsibility of complying with all rules and regulations regarding copyright infringement. Program storage media protected by the Manufacturer's federal copyright laws will not be duplicated for any reason or circumstance, unless approved otherwise by the Manufacturer and/or the Division.

4. Each duplicated program storage media shall be certified by the designated Gaming laboratory's signature for that program storage media.

**B. Required Documentation**

1. Each Casino Operator or Casino Manager shall maintain a program storage media Duplication Log which shall contain:

a. the name of the program storage media Manufacturer and the program storage media identification number of each program storage media to be erased;

b. serial number of program storage media eraser and duplicator;

c. printed name and signature of individual performing the erasing and duplication of the program storage media;

d. identification number of the new program storage media;

e. the number of program storage media duplicated;

f. the date of the duplication;

g. machine number (source and destination);

h. reason for duplication; and

i. disposition of permanently removed program storage media.

2. The log shall be maintained on record for a period of five years.

3. Corporate internal auditors shall verify compliance with program storage media duplication procedures at least twice annually.

**C. Program Storage Media Labeling**

1. Each duplicated program storage media shall have an attached white adhesive label containing the following:

a. manufacturer name and serial number of the new program storage media;

b. designated Gaming laboratory signature verification number;

c. date of duplication;

d. initials of Personnel performing duplication.

**D. Storage of Program Storage Media and Duplicator/Eraser**

1. Program storage media duplication equipment shall be stored with the security department or other department approved by the Division.

2. Equipment shall be released only to Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager.

3. At no time shall the Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager leave unattended the program storage media duplication equipment.

4. Program storage media duplication equipment shall only be released from the security department, or other department Approved by the Division, for a period not to exceed 4 hours within a 24 hour period.

5. An Equipment Control Log shall be maintained by the Casino Operator or Casino Manager and shall include the following:

a. Date, time, name of employee taking possession of, or returning equipment, and name of the Security Officer taking possession of or releasing equipment.

6. All Program storage media shall be kept in a secure area and the Casino Operator or Casino Manager shall maintain an inventory log of all Program storage media.

**E. Internal Controls**

1. The Casino Operator or Casino Manager shall adopt, and have Approved by the Division, internal controls which are in compliance with this section prior to duplicating program storage media.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4212. Marking, Registration, and Distribution of Gaming Devices**

A. No one, including a Casino Operator or Casino Manager, Permittee, Manufacturer or Supplier may ship or otherwise transfer a Gaming Device into this state, out of this state, or within this state unless:

1. a serial number (which shall be the same number as given the device pursuant to the provisions of §15 U.S.C. 1173 of the Gaming Device Act of 1962) permanently stamped or engraved in lettering no smaller than five millimeters on the metal frame or other permanent component of the EGD and on a removable metal plate attached to the cabinet of the EGD; and

2. a Manufacturer, Supplier, or Casino Operator or Casino Manager shall file forms as prescribed by the Division before receiving authorization to ship a device for use in the Louisiana Land Based Gaming Industry.

3. each Manufacturer or Supplier shall keep a written list of the date of each distribution, the serial numbers of the devices, the Division Approval number, and the name, state of residence, addresses and telephone numbers of the Person to whom the Gaming Devices have been distributed and shall provide such list to the Division immediately upon request;

4. a registration fee of \$100 per device shall be paid by company check, money order, or certified check made payable to State of Louisiana, Department of Public Safety. This fee is not required on devices which are currently registered with the Division and display a valid registration certificate. Upon receipt of the appropriate shipping forms and fees, the Division shall issue a written authorization to ship for Approved devices. This fee is applicable only to Gaming Devices destined for use in Louisiana by the Casino or Suppliers;

5. prior to actual receipt of the shipment, the Casino Operator or Casino Manager shall notify the Division of the arrival. The Division shall require that the shipper's manifest or other shipping documents are verified against the Letter of Authorization for that shipment. The shipment shall also have been sealed at the point of origin, or the last point of shipment. The seal number shall be recorded on the shipping documents and attached to the Casino Operator or Casino Manager's copy of the Letter of Authorization;

6. the storage of the shipment, once properly received, shall be in a containment area that is secure from any other equipment. There shall be a dual key locking system for the containment area. The containment area shall have been inspected and Approved in writing by the Division prior to any EGD storage. All electronic control boards and/or program storage media shall be securely stored in a separate containment area from the EGD's. The containment area

shall have been inspected and Approved in writing by the Division prior to any electronic control board and/or program storage media storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4213. Approval to Sell or Disposal of Gaming Devices**

A. No Gaming Device registered by the Division shall be destroyed, scrapped, or otherwise disassembled without prior written Approval of the Division. A Casino Operator or Casino Manager shall not sell or deliver a Gaming Device to a Person other than its affiliated companies or a Permitted Manufacturer or Supplier without prior written Approval of the Division. Applications for Approval to sell or dispose of a registered Gaming Device shall be made, processed, and determined in such manner and using such forms as the Division may prescribe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4214. Maintenance of Electronic Gaming Devices**

A. The Casino Operator or Casino Manager shall not alter the operation of an Approved EGD except as provided otherwise in the Board's rules and regulations and shall maintain the EGD's as required in this Chapter. The Casino Operator or Casino Manager shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the Game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the Division upon request. The written list of repairs for all EGD's shall be kept in a maintenance log book in the slot tech office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4215. Analysis of Questioned Electronic Gaming Devices**

A. If the operation of any EGD is questioned by any Casino Operator or Casino Manager, Patron or an Agent of the Division and the question cannot be resolved, the questioned device shall be examined in the presence of an agent of the Division and a representative of the Casino Operator or Casino Manager. If the malfunction can not be cleared by other means to the satisfaction of the Division, the Patron or the Casino Operator or Casino Manager, the EGD shall be disabled and be subjected to a program storage media memory test to verify signature comparison by the Division. Upon successful verification of the signature of the program storage media, and all malfunctions resolved, the EGD in question may be enabled for Patron play.

B. In the event that the malfunction can not be determined and corrected by this testing, the EGD may be removed from service and secured in a remote, locked compartment. The EGD may then be transported to the designated Gaming laboratory selected by the Division where the device shall be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis shall be borne by the Casino Operator or Casino Manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4216. Summary Suspension of Approval of Electronic Gaming Devices**

A. The Board or Division may issue an order suspending Approval of an EGD if it is determined that the EGD does not operate in the manner certified by the designated gaming laboratory pursuant to this Chapter. The Board or Division after issuing an order may thereafter seal or seize all models of that EGD not in compliance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4217. Seizure and Removal of Electronic Gaming Equipment and Devices**

A. EGD's and Associated Equipment may be summarily seized by the Division. Whenever the Division seizes and removes EGD's and/or Associated Equipment:

1. an inventory of the equipment or EGD's seized will be made by the Division, identifying all such equipment or EGD's as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or EGD's will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the Casino Operator or Casino Manager or Permittee will be notified in writing by the Division at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or EGD is to be impounded. A copy of the inventory of the seized equipment or EGD will be provided to the Casino Operator or Casino Manager or Permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4218. Seized Equipment and EGD's as Evidence**

A. All Gaming equipment and EGD's seized by the Division shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the Division upon their seizure and may be disposed of by the Division, which disposition shall be documented as to date and manner of disposal;

2. the Division shall notify by certified mail each known claimant of a cheating device that the claimant has 10 days from the date of the notice within which to file a written claim with the Division to contest the characterization of the property as a cheating device;

3. failure of a claimant to timely file a claim as provided in Subsection B above will result in the Division's pursuit of the destruction of property;

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within 15 days after final determination;

5. items seized for inspection or examination may be returned by the Division without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

**§4219. Approval of Associated Equipment; Applications and Procedures**

A. A Manufacturer or Supplier of Associated Equipment and/or Non-Gaming products shall not distribute Associated Equipment and/or Non-Gaming products unless such Manufacturer and/or Supplier has been Approved by the Division or Board. Applications for Approval of Associated Equipment and/or Non-Gaming products shall be made and processed in such manner and using such forms as the Division may prescribe. Each application shall include, in addition to such other items or information as the Division or Board may require:

1. the name, permanent address, social security number or federal tax identification number of the Manufacturer or Supplier of Associated Equipment and Non-Gaming products unless the Manufacturer or Supplier is currently Permitted by the Division or Board. If the Manufacturer or Supplier of associated equipment and Non-Gaming products is a corporation, the names, permanent addresses, social security numbers, and driver's license numbers of the directors and officers shall be included. If the Manufacturer or Supplier of Associated Equipment and Non-Gaming products is a partnership, the names, permanent addresses, social security numbers, driver's license numbers, and partnership interest of the partners shall be included. If social security numbers or driver's license numbers are not available, the birth date of the partners may be substituted;

2. a complete, comprehensive and technically accurate description and explanation in both technical and non-technical language of the equipment and its intended usage, signed under penalty of perjury;

3. detailed operating procedures; and

4. details of all tests performed and the standards under which such tests were performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

All interested persons may contact Thomas A. Warner III, Attorney General's Gaming Division, (225) 342-2465, and may submit written comments relative to these proposed rules through June 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953 A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the proposed amendments to LAC 42:IX.4103 and the proposed adoption of LAC 42:IX.4201-4219.

It is accordingly concluded that the amendments to LAC 42:IX.4103 and the adoption of LAC 42:IX.4201-4219 would appear to have no impact on any of the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule.

Hillary J. Crain  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Land Based Casino Gaming**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no direct implementation costs or savings to state or local government units. The addition of these rules may result in some increased workload to the Land Based Division of State Police but the amount of increase and cost cannot be estimated at this time due to the fact that the number and types of events involved are not constant. It is anticipated that any increase in workload can be performed at existing staffing levels.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This is the first year that penalties will be levied and collected from the Land Based Casino. The proposed rule amendment for LAC 42:IX.4103 specifies penalty amounts that fall within the existing parameters, and as such, will not increase or decrease the penalties.

The adoption of the Chapter 42 regulations, pertaining to electronic gaming devices, will have no effect on the revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No estimated effect on competition and employment is anticipated.

Hillary J. Crain  
Chairman  
0005#066

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

Driver's License General Requirements  
(LAC 55:III.118, 135, 138, and 141)

Pursuant to the authority contained in R.S. 32:408.1 and R.S. 32:412, and in accordance with the Administrative Procedures Act, the Department of Public Safety and Corrections, Office of Motor Vehicles proposes to amend LAC 55, Part III, Chapter 1, Subchapter A, §118, regarding third-party tester agreements, and to enact §135, and to repeal §139 and §141 regarding the renewal of driver's license by electronic commerce.

The amendment to §118 resolves a technical issue that was raised in current litigation. The enactment of §135 and the repeal of §139 and §141 are required as a result of the

passage of Act No. 6 of the 2000 Special Session which amended R.S. 32:412

## **Title 55**

### **PUBLIC SAFETY**

#### **Part III. Motor Vehicles**

##### **Chapter 1. Driver's License**

##### **Subchapter A. General Requirements**

##### **§118. Administrative actions**

A. The Department may suspend, revoke or cancel any certification, agreement, license, or permit granting the status of a third-party tester or third-party examiner for any violation of R.S. 32:401 et seq., LAC 55, Part III, Chapter 1, or the agreement signed by the third-party tester or third party examiner. Additionally, the Department may impose a fine or other sanction for violation of R.S. 32:401 et seq., or LAC 55, Part III, Chapter 1, or the agreement signed by the third party examiner or third party tester.

B. The Department shall deny any application, including any renewal application, for an agreement and a certification, as a third-party tester or third-party examiner if the applicant does not possess the qualification contained in R.S. 32:408.1 and LAC 55, Part III, Chapter 1. The Department may also deny any renewal application if the Department determines that the applicant has not administered skills test in accordance with the law and the agreement between the parties.

C. Any request for an administrative hearing to review the suspension, revocation or cancellation of any certification, license, or permit issued pursuant to R.S. 32:408.1 or LAC 55, Part III, Chapter 1, any other action, order or decision of the Department regarding a third-party tester or a third-party examiner shall be in writing and received by the Department within thirty days of the date the notice was mailed or hand delivered as the case may be.

D. Since the agreement between the parties is subject to contract law, and is not an order or decision for purposes of administrative law, no administrative hearing shall be granted in connection with the denial of an application for a new or renewal application to be certified as a third-party tester or third party examiner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:2315 (December 1998); amended LR 26:

##### **§135. Renewal by Electronic Commerce**

A. In addition to renewing a class "D" or "E" driver's license by mail, an individual who has received an invitation to renew pursuant to LAC 55, Part, III, Chapter 1, §129 may choose to renew his or her driver's license by contacting the Department via the Internet or by telephone.

B. Prior to initiating the renewal process via the Internet or by telephone, the individual shall be required by the Department to provide information verifying the individual's identity including the individual's license number, the individual's date of birth, and the date the individual's license expires.

C. Any individual who chooses to renew his or her driver's license by electronic commerce shall be required to give express consent to any disclosure of personal

information over the Internet that may be necessary in order to complete the renewal process. This consent shall be obtained by any means appropriate based upon the method chosen to renew the license.

E. Notwithstanding any other provision of LAC 55, Part III, Chapter 1 to the contrary, a class "D" or "E" driver's license which has been expired for a period of six months or less may be renewed by mail or electronic commerce upon the payment of the special late fee specified in R.S. 32:412(D)(3)(d).

F. Except as otherwise provided in §135, the rules governing renewal of class "D" or "E" driver's licenses by mail shall apply to renewals by electronic commerce.

G. All money submitted with an application to renew a class "D" or "E" driver's license by mail shall be in the form of a personal check with the applicant's name and address preprinted on the check, a money order, a cashier's check, or a certified check.

H. All fees due in connection the renewal of a class "D" or "E" driver's license by electronic commerce shall be paid using an approved credit card in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR. 26:

##### **§139. Repealed**

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:183 (February 1995); repealed LR 26:

##### **§141. Repealed**

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:184 (February 1995); repealed LR. 26:

#### **Family Impact Statement**

1. The effect of these rules on the stability of the family. The amendment to §118 should have no effect on the stability of the family. The enactment of §135 and the repeal of §139 and §141 should have a positive effect on the family as an individual will have to spend less time renewing his or her driver's license.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These proposals should have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. These proposals should have a positive effect on the functioning of the family since less time will be required to renew a driver's license.

4. The effect of these rules on family earnings and family budget. These proposals should have no effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These proposals should have no effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. These proposals should make it easier to renew a driver's license.

Nancy VanNortwick  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Driver's License General Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no increased costs or savings to the state other than minimal programming costs to allow on-line users to interface with the Department's computer during the renewal process. There should be no costs or savings to local government as only the state issues driver's licenses.

The changes to the section of the rules dealing with commercial driver's licenses, LAC 55 Part III, §118, are technical in nature and will not result in any new costs or savings.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections may be slightly affected through the use of on-line renewals, but it is unknown whether the revenues will increase or decrease. Act 6 of the 2000 Special Session created a new late fee for driver's license renewals done through electronic commerce of ten dollars (\$10). This fee is five dollars less than the regular late fee, but this fee does not grant the ten day grace period that is granted in connection with the regular late fee. Therefore, the increase or decrease will depend on when those people with expired driver's licenses renew the license.

Since local governments do not issue driver's license, there will be no effect on revenues of local governments.

The amended section related to commercial driver's license does not effect revenue as the administrative hearing process is not a revenue raising event.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Louisiana citizens who choose to renew their driver's licenses through e-commerce will be affected by these rules. There people will be able to renew driver's license from their home or office. Additionally, those persons with expired driver's licenses will be allowed to renew their licenses through electronic commerce. This latter group may pay more or less of a late fee, depending how long their driver's license has been expired.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There should be no effect on competition and employment as this is strictly a governmental function.

Nancy VanNortwick  
Undersecretary  
0005#070

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

Special Identification Cards (LAC 55:III.1929)

Pursuant to the authority contained in R.S. 40:1321, and in accordance with the Administrative Procedures Act, the Department of Public Safety and Corrections, Office of Motor Vehicles proposes to enact LAC 55, Part III, Chapter 19, §1929, regarding the renewal of special identification card by mail or electronic commerce.

This proposal will allow any individual who has previously been issued a Louisiana special identification card the opportunity to renew the identification card by means of the U.S. mail, the Internet, or the telephone. This rule making is required as a result of the passage of Act No. 7 of the 2000 Special Session which amended R.S. 40:1321.

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 19. Special Identification Cards  
§1929. Renewals**

A. In addition to renewing a special identification card by mail, an individual who has received an invitation to renew pursuant to R.S. 40:1321 may choose to renew his or her special identification card by contacting the Department via the Internet or by telephone.

B. Prior to initiating the renewal process via the Internet or by telephone, the individual shall be required by the Department to provide information verifying the individual's identity including the individual's identification card number, the individual's date of birth, and the date the individual's identification card expires.

C. Any individual who chooses to renew his or her identification card by electronic commerce shall be required to give express consent to any disclosure of personal information over the Internet or telephone line that may be necessary in order to complete the renewal process. This consent shall be obtained by any means appropriate based upon the method chosen to renew the license.

D. Except as otherwise provided in §1929, the rules governing renewal of special identification cards shall apply to renewals by mail or electronic commerce.

E. All money submitted with an application to renew a special identification card by mail shall be in the form of a personal check with the applicant's name and address preprinted on the check, a money order, a cashier's check, or a certified check.

H. All fees due in connection with the renewal of a special identification card by electronic commerce shall be paid using an approved credit card in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:

**Family Impact Statement**

1. The effect of these rules on the stability of the family. The enactment of §1929 should have a positive effect on the family as an individual will have to spend less time renewing his or her special identification card.
2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. This proposal should have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect of these rules on the functioning of the family. This proposal should have a positive effect on the functioning of the family since less time will be required to renew a special identification card.
4. The effect of these rules on family earnings and family budget. This proposal should have no effect on family earnings and family budget.
5. The effect of these rules on the behavior and personal responsibility of children. This proposal should have no effect on the behavior and personal responsibility of children.
6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. This proposal should make it easier to renew a special identification card.

Nancy VanNortwick  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Special Identification Cards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There should be no increased costs or savings to the state other than minimal programming costs to allow on-line users to interface with the Department's computer during the renewal process. There should be no costs or savings to local government as only the state issues the special identification card.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections may be slightly increased through the use of on-line renewals, but the amount of the increase is not known. Act 7 of the 2000 Special Session created a new late fee for special identification card renewals done through electronic commerce of ten dollars (\$10). There was no late fee in existing law. Therefore, the increase will depend on if a person renews the special identification card through electronic commerce after its expiration date.  
Since local governments do not issue special identification cards, there will be no effect on the revenues of local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Louisiana citizens who choose to renew their special identification cards from their home or office.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment as this is strictly a governmental function.

Nancy VanNortwick  
Undersecretary  
0005#071

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Rehabilitation Services**

Independent Living Policy Manual (LAC 67:VII.Chapter 15)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Louisiana Rehabilitation Services proposes to adopt the following rule in LAC 67:VII.Rehabilitation Services, Independent Living Policy Manual.

The rule governing Louisiana Rehabilitation Services policy relative to Independent Living is proposed in order to comply with H.R. 1385, Workforce Investment Act of 1998, Title IV Rehabilitation Act Amendments of 1998.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Rehabilitation Services**

**Chapter 15. Independent Living Policy Manual**

**§1501. Agency Profile**

A. Mission. To assist persons with disabilities in their desire to achieve independence in their home or community and/or to assist a responsible individual to obtain or maintain employment by providing independent living services and by working cooperatively with other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Title VII, Chapter 1, Part B Independent Living Program;

2. Title VII, Chapter 2, IL Services for Older Individuals Who are Blind

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Independent Living Program.

D. Exceptions. The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. Nondiscrimination. All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. Compliance with state laws, federal laws and Regulations, and Departmental Policies and Procedures. Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title VII of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G. Cost-Effective Service Provision. Services shall be provided in a cost-effective manner.

H. Records. A record must be maintained for each applicant/client and shall contain documentation to support a counselor's decision regarding eligibility, and subsequent decisions to provide, deny, or amend services.

I. Data Collection. Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system as well as the Blind Registry.

J. Expeditious Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

K. Client Assistance Program. All programs, including centers for independent living, community rehabilitation programs, and projects that provide services to individuals with disabilities under the Rehabilitation Act Amendments of 1998 shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program, including information on means of seeking assistance under such program.

L. Equal Employment Opportunities

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs (including centers for independent living) supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

M. Affirmative Action Plan. LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bonafide occupational qualification.

N. Comprehensive System of Personnel Development. LRS will provide a comprehensive system of personnel development in accordance with the Rehabilitation Act Amendments of 1998.

O. Applicant/Client. For purposes of representation, the term applicant/client refers to an individual who has applied for independent living services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. Cooperative Agreements. LRS will use services provided under cooperative agreements as comparable services and benefits.

Q. Services to American Indians with Disabilities. LRS will provide independent living services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will

include, as appropriate, services traditionally available to Indian tribes on reservations.

R. Misrepresentation, Fraud, Collusion, or Criminal Conduct

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's independent living case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/or recommendation regarding judicial action. If Department of Social Services, Bureau of General Counsel determines, through reviewing case data, that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. Informed Choice. LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the independent living process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services; and

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Independent Living Plan.

T. Construction. Nothing in this Policy Manual shall be construed to create an entitlement to any independent living service.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S.49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

#### **§1503. Enabling Legislation**

A. The Rehabilitation Act Amendments of 1998, as contained in H.R. 1385, Workforce Investment Act of 1998.

B. Code of Federal Regulations. Volume 34, Sections 364, 365, 366, and 367.

C. Louisiana Revised Statutes

1. R.S. 49:664, Section 6B (1)(b) (Legislative Act that created the Department of Health and Hospitals), R.S. 36:477(c) (Legislative Act that created the Department of Social Services).

2. R.S. 46:331-335 mandates that a register be maintained of all persons known to be legally blind in the

state. (Louisiana Rehabilitation Services maintains and regularly updates the Blind Registry.)

3. Act 19 of 1988 effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

4. Act 109 of 1984, R.S. 39:1595.3, and Act 291 of 1986, R.S. 39:1594(I), enacted and authorized the State Use Law.

5. Act 10 of 1994, R.S. 18:59(I)(2), 61(A)(1), 62(A), 103(A), enacted and authorized to provide for the implementation of the National Voter Registration Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

### **§1505. Confidentiality**

A. General Statement. All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the agency intends to use or release the requested data;

3. whether individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

#### **C. Release of Confidential Information**

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is not needed for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client is being referred for services under the circumstances for which the client's consent may be presumed;

b. the Louisiana Department of Labor and military services of the United States government;

c. doctors, hospitals, clinics, centers for independent living, and rehabilitation centers providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2.a. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for

the development of new knowledge or techniques which would be useful in the administration of the program).

b. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. it will not be released to persons not connected with the study under consideration; and

iii. the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

c. Information for research, audit, or evaluation will be issued only on the approval of the director.

d. The client must be advised of these conditions.

3. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or to the safety of others.

D. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

F. Confidentiality-HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed

informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

a. inform the regional manager or designee of the request;

b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;

c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Department of Social Services' legal counsel.

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

a. notify the regional manager or designee;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;

ii. the subpoenaed case record information is in agency possession;

iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

### **§1507. Applicant/Client Appeal Rights**

#### **A. Administrative Review**

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a means to delay a fair hearing conducted by an Impartial Hearing Officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services. Services will continue during the administrative review appeal process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their independent living case, adequate notification by the counselor must include:

a. the agency's decision;

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the regional manager who should be contacted in order to schedule an administrative review or fair hearing.

Note: All administrative reviews must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

#### **B. Fair Hearing**

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant's/client's representative) must be through the public court system.

2. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review or as a direct avenue of appeal bypassing the administrative review option. The fair hearing will be conducted by an Impartial Hearing Officer.

3. An Impartial Hearing Officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

4. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services.

5. Services will continue during the fair hearing process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that the applicant/client is afforded the option of availing themselves of the opportunity to pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

a. the agency's decision (inclusive of an administrative review, if conducted);

b. the basis for, and effective date of, that decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

### **§1509. Eligibility and Ineligibility**

A. Criteria for Eligibility. To be eligible for independent living services, an applicant must be an individual:

1. with a severe physical or mental impairment which substantially limits the individual's ability to function independently in the family or community, and

2. for whom the delivery of independent living services will improve their ability to function, continue functioning, or move towards functioning independently in the family or community.

B. Determinations by Officials of Other Agencies. To the extent appropriate and consistent with the requirements of this section, LRS will use determinations made by officials of other agencies regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which for such individual substantially limits their ability to function independently.

C. Compliance Provisions.

1. Nondiscrimination and Nonexclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served.

D. Determination of Ineligibility

1. A determination of ineligibility for independent living services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which substantially limits an individual's ability to function independently in the family or community; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require independent living services to function independently in the family or community; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefitting from independent living services, in terms of becoming more independent in the home and/or community.

2. If an individual who applies for independent living services is determined (based on clear and convincing evidence) not eligible for services, or if an eligible individual receiving services under an Independent Living Plan (ILP) is determined to be no longer eligible for services, LRS shall:

a. provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. inform the individual, or as appropriate, the individual's representative, in writing of:

i. the reason(s) for the ineligibility determination; and

ii. an explanation of the means by which the individual may express and seek a remedy for any dissatisfaction with the determination, including the procedures for review by an Impartial Hearing Officer and the availability of services from the Client Assistance Program; and

iii. a referral to any other agencies or programs from whom the individual may be eligible to receive services, including a center for independent living or other components of the statewide workforce investment system.

3. LRS shall review the applicant's ineligibility at least once within 12 months after the ineligibility determination has been made and whenever it has been determined the applicant's status has materially changed. This review need not be conducted in situations where the applicant has refused the review, the applicant is no longer present in the state, or the applicant's whereabouts are unknown.

E. Use of Existing Information. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for independent living services, LRS shall use information that is existing and current (as of the current functioning of the individual), including information available from the individual, other agencies and programs.

F. Eligibility for Nursing Home Residents. Eligibility is met if independent living services rendered enables the individual to permanently leave the nursing home or to participate in other ongoing community or family activities which will enhance the quality of the individual's life outside of the facility.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

### **§1511. Information and Referral Services**

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. To ensure that individuals with disabilities receive accurate independent living information to assist such individuals in functioning more independently in the family and/or community; and

2. To ensure that such individuals, as appropriate, are referred to other federal and state programs, including centers for independent living.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational services:

- i. individualized guidance and counseling;
- ii. assistance in locating appropriate support groups;
- iii. assistance in securing appropriate community services;
- iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate federal or state program, including centers for independent living, that is best suited to address the specific needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

- i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and
- ii. information identifying a specific point of contact within the agency carrying out the program; and
- iii. information and advice regarding the most suitable services to assist the individual to function more independently in the family and/or community.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

**§1513. Comprehensive Assessment**

A. Purpose

1. To make a determination of the independent living needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of independent living services required for development of the Independent Living Plan (ILP) of an eligible individual.

B. Scope. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the independent living needs of the eligible individual and to develop the Independent Living Plan (ILP).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

**§1515. Independent Living Plan (ILP)**

A. Purpose. The purpose of the Independent Living Plan, hereafter referred to as ILP, and all subsequent amendments is to assure that each individual determined eligible for independent living services shall have a formal plan, jointly developed and agreed upon by the individual (or as

appropriate the individual's family member or other authorized representative) and the LRS counselor.

B. Client Choice and Client Participation. The format of the ILP, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's ILP will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an independent living goal, intermediate objectives, services and service providers. The client (or where appropriate, the client's parent, guardian or other representative) must sign the ILP and must receive a copy of the original ILP and amendments.

C. Mandatory Components of an ILP. An ILP shall, at a minimum, contain components consisting of the following:

1. the specific independent living goals chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual;

2. the specific independent living services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the independent living goal;

3. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;

4. a time frame for the achievement of the independent living goal;

5. the entity chosen to provide the independent living service and the methods to procure such services;

6. the criteria to evaluate the individual's progress towards achievement of the independent living goal;

7. the terms and conditions of the ILP, including, as appropriate, information describing:

a. responsibilities of LRS;

b. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the independent living goal;

c. if applicable, the participation of the eligible individual in paying for the costs of the planned services;

d. responsibility of the eligible individual with regard to applying for and securing comparable benefits;

e. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits;

8. the rights and remedies available to the individual through the Appeals Process and information regarding the availability of the Client Assistance Program.

D. Review and Amendment

1. The ILP shall be reviewed as least annually by a qualified LRS counselor and the eligible individual, or as appropriate, the individual's representative; and

2. Amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a LRS counselor.

E. ILP Document

1. An ILP shall be a written document prepared on forms provided by LRS.

2. An ILP shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an independent living goal, the specific independent living services to be provided

under the ILP, the entity that will provide the independent living services, and the methods used to procure the services consistent with Informed Choice as defined in LRS in Chapter 1, Section S of this policy manual.

3. An ILP shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified counselor employed by LRS.

4. A copy of the ILP shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

#### **§1517. Financial**

##### **A. Comparable Services and Similar Benefits**

###### **1. Determination of Availability**

a. Prior to providing any independent living service to an eligible individual, LRS will determine whether comparable services and benefits are available under any other program (including programs carried out under Title I, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay;

i. the provision of such service to any individual at extreme medical risk, with such risk documented by an appropriate Licensed Medical Professional. "Extreme Medical Risk" is defined as a risk of substantially increasing functional impairment or risk of death if services are not provided expeditiously.

###### **2. Exceptions to Use of Comparable Services and Benefits**

a. The following independent living services can be provided without making a determination of the availability of comparable services and benefits:

i. services provided through LRS' Information and Referral System;

ii. assessment for determining eligibility and independent living needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS.

##### **B. Individual's Participation in the Cost of IL Services.**

1. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals for purposes of determining the extent of the individual's participation in the costs of certain independent living services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following independent living services:

i. assessment for determining eligibility;

ii. assessment for determining independent living needs;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. rehabilitation technology assessments.

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following independent living services:

i. counseling services, including psychological, psychotherapeutic and related services;

ii. services related to housing or shelter, including appropriate accommodations to, and modifications of, any space used to serve, or occupied by, individuals with disabilities;

iii. rehabilitation technology;

iv. personal assistance services, including attendant care;

v. consumer information programs on rehabilitation and independent living services;

vi. supported living;

vii. transportation;

viii. physical rehabilitation;

ix. therapeutic treatment;

x. provision of needed prostheses and other appliances and devices;

xi. individual and group social and recreational services;

xii. appropriate preventive services to decrease the need of individuals receiving IL services for similar services in the future;

xiii. any other IL service available under the State Plan for Independent Living which are appropriate to the IL needs of the eligible individual.

c. An individual's status for the budget analysis will be determined as follows:

i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;

ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home.

iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a) the individual's disability has precluded their obtaining or maintaining employment; and

(b) the individual has a documented history of self-sufficiency that includes providing over one-half the costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c) the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes.

d. Family unit is defined as the client and the client's parents or the client and any significant other(s),

such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

e. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those independent living services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

f. Simultaneously with the comprehensive assessment, at the annual review of the ILP, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring independent living services as listed above. The amount of client participation in the cost of their independent living program will be based upon the most recent budget analysis at the time the relevant ILP or amendment is developed.

2. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate. LRS does not renovate or remodel housing.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of independent living clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

### **§1519. Independent Living Services**

A. Independent Living Services are time limited services described in an ILP necessary to assist an individual with a disability in their desire to achieve independence in their home/community and are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and independent living needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;

4. independent living skills training;

5. psychological, psychotherapeutic, and related services;

6. services related to housing or shelter, including services related to community group living, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

7. rehabilitation technology;

8. mobility training;

9. services and training for individuals with cognitive and sensory disabilities, impairments, including life skills training;

10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet state license law;

11. personal assistance services, including attendant care and the training of personnel providing such services;

12. activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

13. education and training necessary for living in a community and participating in community activities;

14. supported living;

15. transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

16. physical rehabilitation;

17. therapeutic treatment;

18. provision of needed prostheses and other appliances and devices;

19. individual and group social and recreational services;

20. training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

21. services for children;

22. appropriate preventive services to decrease the need of individuals assisted through the independent living program for similar services in the future;

23. community awareness programs to enhance the understanding and integration into society of individuals with disabilities;

24. consumer information programs on rehabilitation and independent living services, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved; and

25. such other services as may be necessary and not inconsistent with the objectives listed in the State Plan for Independent Living.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services.

2. LRS will not provide experimental services or supplies.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

#### **§1521. Conditions for Case Closure**

A. Options for Closure. An individual's case can be closed at any time in the independent living process when it has been determined that:

1. the individual is not available for services;
2. the individual is ineligible;
3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate.

B. Closure as Successfully Achieving IL Goal. In order to close a case as successfully achieving an IL goal, the case record must include:

1. documentation the client was determined eligible for services;
2. documentation the client was provided an assessment of IL potential;
3. documentation appropriate services were provided in accordance with the ILP;
4. documentation showing the basis on which the individual has met the goal of living more independently;
5. documentation the client has been informed the case is being closed as having successfully achieved IL goal.

C. Content of the ILP for Case Closure as Ineligible. The ILP and amendments relating to the case closure in cases of ineligibility based on the decision that the individual is not capable of achieving an independent living goal, must document with clear and convincing evidence that the individual is incapable of benefitting from independent living services. Such decisions shall be reviewed and reassessed twelve months from the date of closure.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed rule.

Public hearings will be conducted at 10:00 a.m. on Tuesday, June 27, 2000, as follows: Baton Rouge, LRS Regional Office, 3651 Cedar Crest; Alexandria, LRS Regional Office, 900 Murray Street; New Orleans, LRS Regional Office, 3500 Canal Street; Shreveport, LRS Regional Office, 1525 Fairfield Avenue.

Individuals with disabilities who require special services should contact Brenda Bercegeay, Program Manager,

Louisiana Rehabilitation Services, at least 14 days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-925-4134 or 1-800-737-2958.

#### **Family Impact Statement**

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

J Renea Austin-Duffin  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Independent Living Policy Manual**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is a minimal cost of \$800 for conducting public forums in order to implement this proposal.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated increase or decrease in revenue.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Individuals who will be effected will be those who receive Independent Living Services from Louisiana Rehabilitation Services. There should be no workload adjustments nor additional paperwork as a result of this proposed rule. Services are provided to between 100 and 400 individuals per year at an approximate cost of \$3000 per client.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no projected impact on competition and employment in public or private sectors.

May Nelson  
Director  
0005#058

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Treasury State Bond Commission

#### Electronic Bidding

In accordance with the provisions of Administrative Procedures R.S. 49:950, et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(B), the State Bond Commission intends to adopt the following rule regarding electronic bidding for general obligation bonds.

#### Rule

Bids for general obligation bonds of the State may be received by the State Bond Commission through sealed bids, electronic bids or facsimile bids as provided herein. Bids received electronically must be submitted via a qualified electronic bid provider, as determined by the State Treasurer, and as set forth in the Notice of Sale for the bonds. Bidders submitting a bid electronically must provide a signed Official Bid Form to the State Bond Commission not later than 4:00 p.m. (Baton Rouge time) on the day prior to the opening of bids. In the event that there is a malfunction in the electronic bidding system, bids may be submitted by facsimile as set forth in the Notice of Sale for the bonds, provided that the facsimile bids are received within the time limits set forth in the Notice of Sale. Delivery of a bid is at the risk of the bidder.

Interested persons may submit their views and opinions through June 26, 2000 to Sharon B. Perez, Secretary and Director of the State Bond Commission, Twenty-first Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The commission shall, prior to the adoption of the rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, if requested by 25 persons, or a committee of either house of the legislature to which the rule change has been referred, as required under the provisions of Section 968 of Title 49.

At least eight working days prior to the meeting of the commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the names or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement. Who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission if requested to do so by an

interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

John Neely Kennedy  
State Treasurer and Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Electronic Bidding**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Underwriting syndicates will be able to use "up to the minute" interest rates when bidding on state general obligation bonds, through electronic bidding. There often is a very small interest rate differential between the winning bid and the bid that comes in second, therefore, this could mean the possibility that the syndicate would not provide the winning bid

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule provides for more competition in that interest rate spreads among bidding syndicates will be less.

Sharon B Perez  
Director  
0005#075

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Treasury State Bond Commission

#### Surety Bond Deposit

In accordance with the provisions of Administrative Procedures R.S. 49:950, et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(B), the State Bond Commission intends to adopt the following rule regarding surety bond deposit for general obligation bonds.

#### Rule

Bidders for general obligation bonds of the State must furnish a good faith deposit in the amount of two percent of the par value of the bonds (the ~~A~~Deposit~~@~~) offered for sale in the form of a certified check or cashier's check or by surety bond. If a check is used, it must accompany each sealed bid. For an electronic bid or a facsimile bid as authorized by the Electronic Bidding Rule, the check must be provided in advance of the submission of the bid. Such check must be drawn on a bank or trust company authorized to transact

business in the State of Louisiana or in the State of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the State of Louisiana. Any surety bond must be from an insurance company licensed to issue such a bond in the State of Louisiana and such bond must be submitted to the State Bond Commission prior to the opening of the bids. The surety bond must identify each bidder whose Deposit is guaranteed by such surety bond. If the bonds are awarded to a bidder utilizing a surety bond, then the successful bidder is required to submit its Deposit to the State Bond Commission in the form of a certified check or cashier's check drawn on a bank or trust company authorized to transact business in the State of Louisiana or in the State of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the State of Louisiana (or wire transfer such amount as instructed by the State Bond Commission) not later than 2:00 p.m. (Baton Rouge time) on the next business day following the award. If such good faith deposit is not received by that time, the surety bond will be drawn on by the State to satisfy the Deposit requirement. No interest on the Deposit will accrue to the successful bidder. The Deposit will be applied to the purchase price of the bonds. In the event the successful bidder fails to honor its accepted bid, the Deposit will be retained by the State. Delivery of the Deposit is at the risk of the bidder.

Interested persons may submit their views and opinions through June 26, 2000 to Sharon B. Perez, Secretary and Director of the State Bond Commission, Twenty-first Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The commission shall, prior to the adoption of the rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, if requested by 25 persons, or a committee of either house of the legislature to which the rule change has been referred, as required under the provisions of Section 968 of Title 49.

At least eight working days prior to the meeting of the commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the names or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement. Who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission if requested to do so by an interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

John Neely Kennedy  
State Treasurer and Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Surety Bond Deposit

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Underwriting syndicates will be able to purchase a surety bond in lieu of a good faith check when bidding on state general obligation bonds. This will allow the State to draw on the surety bond in the event the successful bidder does not submit a good faith deposit timely (by 2:00 PM Baton Rouge time the day following the award of the bid).

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule provides for a more modern approach to the "good faith check" and is the industry standard.

Sharon B. Perez  
Director  
0005#074

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Deer Management Assistance Program (LAC 76:V.109 and 111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend rules and regulations governing participation in the deer management assistance program.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part V. Wild Quadrupeds and Wild Birds

#### Chapter 1. Wild Quadrupeds

#### §109. Regulations for Signs and Sign Placement for DMAP Cooperators

#### Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:111.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:78 (January 1991), repealed LR 26:

#### §111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program

##### 1. Application Procedure

a. - d. ...

e. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words DMAP and Posted shall be printed on the sign in letters no less than four inches in height. Signs may be constructed of any material and minimum size is 11 1/4" x 11 1/4".

ii. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every entry point onto the property.

f. - 3.c. ...

**B. Suspension and cancellation of DMAP Cooperators**

1. Failure of the cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of Cooperator from DMAP - Suspension of the Cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the Department for examination in a timely fashion. Suspension of the Cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the Cooperator from DMAP, the Contact Person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP Cooperator with the investigation of the violation will be taken into account by the Department when considering cancellation of the program following a suspension for any of the above listed reasons. The Cooperator may be allowed to continue with the program on a probational status if, in the judgement of the Department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of cooperator from DMAP - Cancellation of a cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The Cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the Cooperator from DMAP, the Contact Person may request an administrative hearing within 10 working days to appeal said cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may comment on the proposed rule in writing to Mr. Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., July 6, 2000.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Deer Management Assistance Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule amends permanent rules and regulations established for the Deer Management Assistance Program (DMAP) and will have no implementation costs to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule amendment simply clarifies regulations that are currently required by DMAP participants. No additional costs or economic benefits are anticipated to occur.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

James L. Patton  
Undersecretary  
0005#060

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Landowner Antlerless Deer Tag Program  
(LAC 76:V.119)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule on participating in the Landowner Antlerless Deer Tag Program.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§119. Rules and Regulations for Participation in the  
Landowner Antlerless Deer Tag Program**

A. The following rules and regulations shall govern the Landowner Antlerless Deer Tag Program:

1. Eligibility. The following landowners or lessees are eligible to participate in this program.

a. Licensed Deer Farmers authorized to hunt deer by Department of Agriculture and Forestry and Department of Wildlife and Fisheries (LDWF).

b. Landowners or lessees with less than 500 acres who have verified deer depredation problems and have met all of the requirements of LDWF as stated in the Nuisance

Deer Management Program and who are dependent upon this commercial crop as a major source of income.

c. Landowners with less than 500 acres and more than 40 acres enrolled in the Louisiana Forest Stewardship Program and who have a written wildlife management plan on file with LDWF.

#### 2. Application Procedure

a. Application for enrollment in the Landowner Antlerless Deer Tag Program must be submitted to the Deer Program personnel or Forest Stewardship Program personnel of LDWF prior to September 1. The application will become an official agreement between the applicant and LDWF.

b. Each applicant will be assessed a \$25 administrative processing fee which must be paid prior to October 1.

c. By enrollment in this program the applicant agrees to allow LDWF personnel access to their land for management surveys, investigations of violations and other inspections deemed appropriate by the Department.

#### 3. Tags

a. A fixed number of Landowner Antlerless Deer Tags will be provided by the department to each applicant that must be attached to each antlerless deer harvested during the regular deer season. These tags can be used only on the land for which they were issued and must be attached to all antlerless deer killed during the entire deer season including special either-sex days. Tag allotment for each applicant will be determined by Deer Program personnel.

b. The total harvest of antlerless deer is restricted to that number of antlerless deer for which tags were issued. Once the number of antlerless deer for which tags were issued have been killed, all deer hunting will then be for bucks-only, even though there may be either-sex days later in the season for the Area at large. No additional tags will be issued to the applicant.

c. In order to harvest an antlerless deer, each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. The tag number will be recorded on the possession tag for the deer or any part(s) of the animal when divided and properly tagged among other individuals.

#### 4. Records

a. Approved applicants will keep daily records for all deer harvested as required by the Deer Program personnel. This information along with any unused tags will be submitted to the Deer Program or Forest Stewardship Program personnel by March 1. Information will include: Date of kill; Name of hunter; Hunting license # or date of birth of hunter, whichever applicable; Sex of animal; Landowner Antlerless Tag Number. Additional biological information from harvested deer may be required of some applicants for management purposes.

b. Approved applicants will provide documentation of harvested deer during the season to Department personnel upon request. Applicants will be given 48 hours to provide this requested information.

#### 5. Cancellation of Program

a. Failure of the approved applicant or other persons permitted to hunt on this property to follow these rules and regulations may result in cancellation of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Mr. David Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, July 6, 2000.

In accordance with Act#1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Landowner Antlerless Deer Tag Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Estimated state implementation cost of the Landowner Antlerless Deer Tag Program is \$4,675. The voluntary program will be handled in the same fashion as the Deer Management Assistance Program and will utilize existing staff. Local government units will not be affected.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Department will charge a \$25 administrative processing fee to participate in the Landowner Antlerless Tag Program (the same basic fee charged for enrollment in the Deer Management Assistance Program). It is anticipated that 187 landowners will enroll in this voluntary program during fiscal year 2000-2001. This will result in an estimated increase in state revenue collections of \$4,675. As the Landowner Antlerless Deer Tag Program develops, more participation is anticipated which will result in additional state revenue collections in future years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Landowners wishing to enroll in this program will be required to pay a \$25 administrative processing fee to receive deer tags associated with the program. They will also be required to maintain deer harvest and tag utilization records. Economic benefits will occur from reduced agricultural losses, habitat degradation and esthetic damages in urban areas caused by deer depredation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James L. Patton  
Undersecretary  
0005#069

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office