

Rules

RULE

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 adopts regulations regarding the age of applicants for examination.

The Department of Agriculture and Forestry, Horticulture Commission amends these rules and regulations for the purpose of allowing someone to apply and take an examination for licensure immediately prior to their eighteenth 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 eighteenth 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 eighteenth birthday between regularly scheduled examinations make apply for and take the examination immediately prior to his or her eighteenth birthday. No applicant who qualifies to take an examination before his or her eighteenth birthday shall be issued a license or permit before attaining his or her eighteenth 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 26:2240 (October 2000).

Bob Odom
Commissioner

0010#057

RULE

Department of Economic Development Board of Certified Public Accountants

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

Editor's Note: A portion of this rule is being repromulgated to correct an error. The original rule may be viewed in its entirety on pages 1966-1991 of the September 20, 2000 edition of the *Louisiana Register*.

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 amends LAC 46:XIX. The action adopts, amends and repeals rules in response to changes in the Louisiana Accountancy Act, Act No. 473 of 1999, enacted on June 18, 1999. The action was 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.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XIX. Certified Public Accountants

§1701. Independence, Integrity and Objectivity

A. Independence

1. A licensee shall not issue a report on the financial statements of a client or in connection with any attest engagement for a 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 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 client; or

iii. had any joint, closely-held business investment with the client or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the licensee or the client; or

iv. had any loan to or from the 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 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 client; or

iii. receives a commission or had a commitment to receive a commission from the client or a third party with respect to services or products procured for the 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 client or a third party with respect to professional services performed for the 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 client, as applicable to the circumstances.

3. As in other matters involving professional judgement, the licensee is responsible for assessing his or her independence in appearance as well as in fact. Therefore, in making that determination, the licensee shall consider whether independence is affected by the circumstances of any relationships or transactions, including those listed in Subsection 1701.A.1 above, between the licensee and the client, together with its affiliated entities, owners, principals, officers, directors, and 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.

4. 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 26:1983 (September 2000), repromulgated LR 26:2240 (October 2000).

Michael A. Henderson
Executive Director

0009#013

RULE

Department of Economic Development Office of Commerce and Industry Business Division

Commerce and Industry Board (LAC 13:I.Chapter 1)

The Department of Economic Development, Office of Commerce and Industry, Business Division, in accordance with the Administrative Procedure Act, R.S. 40:950, et seq., adopts the following rules regarding the policies and procedures of the Commerce and Industry Board.

The following rules will implement R.S. 51:921 et seq., authorizing the Secretary of the Department of Economic Development to establish rules for the Board of Commerce and Industry. The Board of Commerce and Industry serves in an advisory capacity to the Department of Economic Development. The Commerce and Industry Board's duty and function is to review and approve or disapprove applications for tax incentive programs administered by the Office of Commerce and Industry.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentives Programs

Chapter 1. General Provisions

Subchapter A. General Rules

§101. Board of Commerce and Industry

A. The principal offices of the board shall be at the Louisiana Department of Economic Development, Office of Commerce and Industry, located at One Maritime Plaza, Baton Rouge, Louisiana, or at such other place that the board may determine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2241 (October 2000).

§103. Board Membership

A. Number and Qualifications of Board Members. The board shall consist of 20 members, unless R.S. 51:923 is amended to provide for a different number of board members. Fifteen members shall be appointed by the governor from among representatives of the major economic groups within the state of Louisiana, one who shall be an elected municipal official appointed by the governor from a list of three names submitted by the Louisiana Municipal Association and one who shall be an elected police juror, councilman, commissioner or parish president appointed by the governor from a list of names submitted by the Louisiana Police Jury Association. In addition, the governor, or his designee, the lieutenant governor, or his designee, and the

secretary of the Department of Economic Development, or his designee, shall be ex officio members of the board with full right to participate in and vote on all matters.

B. Appointment. Each appointment by the governor shall be submitted to the senate for confirmation and shall again be submitted by the governor to the senate for confirmation every two years after the initial confirmation.

C. Term. The members, other than the governor, lieutenant governor and the secretary of the Department of Economic Development, shall serve for terms which shall be concurrent with the term of the governor making the appointments. The governor and lieutenant governor shall serve during the term of office of each. Other than the three *ex officio* members above, all other members shall continue to serve until their successor is appointed and takes office.

D. Vacancy. A vacancy occurring for any reason shall be filled in the manner provided in §103.A hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2241 (October 2000).

§105. Compensation of the Board

A. Members of the board shall serve without compensation. Each member shall be entitled to reimbursement for the actual and necessary expenses incurred in the performance of official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

§107. Meetings of the Board

A. Open Meeting. All meetings of the board shall be subject to the Open Meetings Law as provided in R.S. 42:1 et seq.

B. Annual Meeting. The year of the board shall begin February 1 each year. The meeting following the beginning of the year the board shall elect its officers who shall serve until the next annual meeting or until their successors are elected.

C. Regular Meetings. The board may meet as often as it deems necessary provided that there shall be not less than four regular meetings each year.

D. Special Meetings. A meeting may be called by the chairperson or by joint call of at least three 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.

E. Quorum. Excluding any vacancies on the board, a majority of the members of the board shall constitute a quorum. In the absence of a quorum, a majority of the members present at the time and place of any meeting may adjourn such meeting from time to time, with notice given in accordance with the Open Meeting Law.

F. Parliamentary Procedure. Unless otherwise provided by law to the contrary, all meetings of the board shall be conducted in accordance with *Robert's Rules of Order*.

G. Meeting Place. The board, its committees and sub-committees, shall hold its meetings at the principal office of the board, or at such other place as may be fixed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

§109. Notice

A. Notice By Mail. Under the provisions of Louisiana law or these rules, whenever notice is given to any member it shall not be construed to mean personal delivery of notice. Notice will be considered to be given in writing on the day the written notice is deposited in a post office with such notice bearing the member's address as it appears in the records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

§111. Officers

A. The officers of the board shall be elected by the members of the board and shall be a chairperson and a vice-chairperson and such other officers as the board shall consider necessary. There shall be no prohibition against officers succeeding themselves.

1. Chairperson. The chairperson shall be a member of the board and shall preside at all meetings of the board at which he or she is present. The chairperson shall perform such other duties and have such other powers as from time to time may be assigned to the office by these rules or by the board. Election of the chairperson shall be at the annual meeting or such other time as may be necessary. The chairperson shall hold office until the next annual meeting.

2. Vice-Chairperson. The vice-chairperson shall be a member of the board. At the request of the chairperson or in the event of his absence or disability, the vice-chairperson shall perform all duties of the chairperson, and when so acting, shall have all the powers of, and be subject to all the restrictions upon, the chairperson. The vice-chairperson shall also perform such other duties and have such other powers as from time to time may be assigned to the office or to the vice-chairperson by these bylaws or by the board or by the chairperson. The vice-chairperson shall assume the role of chairperson of the screening committee. Election of the vice-chairperson shall be at the annual meeting or such other time as may be necessary. The vice-chairperson shall hold office until the next annual meeting.

B. Records. The board secretary shall keep an accurate record of all proceedings of the board, and shall be the custodian of all books, documents, and papers filed with the board and the minute books of the board. The secretary shall cause copies to be made of all minutes and other records and documents of the board and shall certify that such copies are true copies, and all persons dealing with the board may rely upon such certification. The records of the board shall be kept at the principal office of the board or at such other place that the board may determine. The records of the board shall be available for public inspection at reasonable times in the manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

§113. Standing Committees

A. The board, by resolution adopted by a majority of the board then in office, may establish one or more standing committees, each which shall consist of three or more board members. Each committee shall have and exercise the authority of the board as contained within the resolution establishing such committee and shall perform such functions as shall be provided for in such resolution.

B. Appointment of Members. The officers and members of all standing and ad hoc committees shall be appointed by the chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

§115. Speaking Before the Board

A. Time Limit Set on Speaking Before the Board

1. Petitions to the board by an applicant and/or representatives of same shall, as a group, be limited to a total of 10 minutes to put forward their plea.

2. Opponents to a given application shall, as a group, have a total of 10 minutes to put forward their opposition.

3. Any and all interested parties shall, as a group, have a total of 10 minutes to put forward their views.

4. If any group has more than one speaker, the group may divide their 10 minutes by the number of speakers in that group, however in no case will any group be allowed to speak for more than 10 minutes total.

5. Questions addressed to an applicant or others by a board member are not subject to the above time limits.

B. Any person wishing to appeal the action of the Board of Commerce and Industry or wishing to petition the board or any of its committees or sub-committees must submit their appeal or petition along with any necessary documentation to the Office of Commerce and Industry at least 30 days prior to the meeting of the Board of Commerce and Industry, the committee or sub-committee, during which the appeal or petition will be presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2243 (October 2000).

Harold Price
Assistant Secretary

0010#010

RULE

**Department of Economic Development
Economic Development Corporation**

**BIDCO Investment and Co-Investment Program
(LAC 19:VII.Chapter 71)**

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development, amends *Louisiana Administrative Code* Title 19, Corporations and Business; Part VII, Economic Development Corporation; Subpart 6, Louisiana Economic Development Corporation; Chapter 71, BIDCO Investment and Co-Investment Program.

**Title 19
CORPORATIONS AND BUSINESS
Part VII. Economic Development Corporation
Subpart 6. Louisiana Economic Development Corporation**

Chapter 71. BIDCO Investment and Co-investment Program

§7101. Definitions

BIDCO a business and industrial development corporation licensed by the Louisiana Office of Financial Institutions (OFI) with its business consisting of providing non-traditional capital and/or debt funding for Qualified Louisiana Businesses.

Private Capital paid in cash from non-LEDC sources, available for investment in assets of the BIDCO. These non-LEDC sources may include other non-state governmental sources provided the non-state governmental funds do not exceed 50 percent of the private capital, and provided the non-state governmental funds are not directly or indirectly derived from state sources. For purposes of calculating the eligibility of a request for matching equity capital, components other than paid in cash will not be considered.

Qualified Louisiana Business any enterprise with its primary operations in Louisiana, or with substantially all of its production in Louisiana, and which has no more than 500 employees and has annual business receipts not in excess of \$7,000,000.

Seed Investor an investor in the start-up stages of the BIDCO, prior to certification by OFI and LEDC.

Specialty BIDCO defined in accordance with the Office of Financial Institution's BIDCO policy.

Definitions of other terms used herein are provided in the legislation which is reflected in Chapter 39-A of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:2386 through 2398.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 26:2243 (October 2000).

§7103. Eligibility for Submission of an Application

A. In order to be eligible for consideration to receive a matching or co-investment equity capital investment by LEDC, the Applicant must fulfill the following eligibility requirements.

1. It must have obtained a license from OFI.
2. It must be a for profit Louisiana corporation.
3. In order to be eligible to receive an investment from LEDC, as described in Section 109, it must have raised a minimum of \$1,000,000 of private capital, exclusive of LEDC funds. These private capital funds must be actual cash contributions. (Pursuant to R.S. 51:2392 (B) (2) (d)(2).)

4. Its Management must be experienced in debt and/or capital financing of the types and volume contemplated by the applicant BIDCO.

5. LEDC may consider applications from BIDCOs which have a businesslike mission but with special circumstances or specialized opportunities (herein "Specialty BIDCOs").

6. Owners and Investors cannot be in conflict with the Code of Governmental Ethics R.S. 42:1112. BIDCO's shall

not invest in a company in which a principal or officer of the BIDCO also has an interest in the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997), LR 26:2243 (October 2000).

§7105. Application

A. An application fee of \$500 shall be submitted at the time of application.

B. Applications will be processed for a matching equity capital investment or for a co-investment as follows.

1. Applications will be processed in the order in which they are received.

2. LEDC staff will conduct an initial screening of the application for completeness.

3. An incomplete application will be returned to the submitter. A previously incomplete application may be resubmitted, which will establish a new time and date received for that application.

4. An incomplete application not resubmitted within 30 days will forfeit the application fee.

5. LEDC staff will begin the evaluation process within 30 days of receipt.

C. Information submitted with the Application either for a match investment or co-investment representing the Applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, La. R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC. However, in the event of a BIDCO's licensure surrender, dissolution, bankruptcy, or other indication of insolvency previously confidential information shall be disclosable under the Public Records Law.

D. A BIDCO shall submit to LEDC evidence of its OFI approval with the application.

E. Application for a matching investment will contain the following information. The Applicant may provide other information which it believes relevant. LEDC may request further information beyond what is specified below :

1. name of BIDCO, address (mailing and physical);

2. specify the amount of LEDC investment/commitment requested;

3. specify the minimum and maximum amounts of non-LEDC capital to be raised if the LEDC makes the requested investment/commitment;

4. specify Applicant's projected timetable, with milestones for completion of the fund raising;

5. specify whether applicant anticipates taking in all of the committed capital investment at closing, or whether applicant plans a phase in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of capital raised;

6. marketCidentify the proposed market of the Applicant.

a. Describe and discuss the types of businesses that the BIDCO will finance. Discuss the extent to which the BIDCO intends to specialize in certain industries, or if special circumstances will be addressed.

b. Describe the size range of businesses that it is contemplated the BIDCO will finance, with a general indication of where most of the focus is expected.

c. Discuss the life cycle stage or stages of the companies which the BIDCO will likely finance, with an indication of where most of the focus is contemplated, i.e., start-up, expansion.

d. Discuss the geographic area in which the BIDCO plans to focus. Specify the city or parish in which the BIDCO's principal office will be located, and discuss intentions, if any, to establish any additional offices.

7. Management Assistance. Discuss the plans of the BIDCO to provide management and/or technical assistance to companies for which the BIDCO provides financing. Discuss the BIDCO's plans for monitoring its financing, and enforcing provisions of loan or investment agreements. Discuss how the BIDCO plans to handle problem loans and investments.

8. Idle Funds. Describe plans for the management of the idle funds of the BIDCO.

9. Realization of Returns By Investors. Discuss long term plans and strategies for providing a tangible return to the investors in the BIDCO including dividend policy, public markets, future mergers and acquisitions, sinking funds, etc.

10. Tax and Accounting Issues. Discuss relevant tax and accounting issues for the BIDCO.

11. Submit business and professional references for all stockholders, members of the Board and corporate officers.

12. Management Structure. Describe the proposed management structure for the BIDCO.

13. Describe the proposed responsibilities of each of the members of the management team. If any of these people will not be full time, describe their other activities.

14. Describe the responsibilities of any management position for which a person has not been identified.

15. Specify any other key people including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms. LEDC reserves the right to perform general and criminal background checks on these key people.

16. Identify all principal shareholders (i.e. owning directly or indirectly, or controlling directly or indirectly, 10 percent or more of the voting stock of the BIDCO), by name with specific ownership identified.

17. Financial Projections. Provide the following financial projections:

a. Returns-on-Average assets and Returns-on-Capital Performance projections, year by year, for a 10 year period. These projections should show summary cash flow, summary income and expense (including taxes), and summary balance sheet data. For these performance projections, operating income and expenses can be grouped by category. Emphasis must be placed on a specific exit strategies including provisions for a sinking fund to buy out LEDC's position. Specify the assumptions used for the performance projections.

b. Specify computer programs used for projections, if any, and specify formulas used.

F. A business plan which contains the following information shall be submitted for either a match investment or a co-investment request.

1. Provide a market analysis that the Applicant deems relevant.

2. Marketing Strategy. Describe the BIDCO's plans and approach to marketing its services, including methods of identifying potential applicants for financing assistance.

3. Screening Process and Evaluation Criteria - Discuss the anticipated number of business firms that will be reviewed for possible financing assistance, in comparison with the number that will actually be financed. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide financing assistance.

4. Financing. Describe and discuss the financing instruments that are intended to be used by the BIDCO (e.g. debt with capital features, royalty, capital, pure debt (with SBA or not), etc. Discuss the anticipated mix of the various types of financing instruments. Discuss the anticipated size range of loans/investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit from investments.

5. Specify applicant's start-up budget, including funds already expended and a detailed projected budget for completion of the fund raising. Specify the person or persons who will be working on the start-up phase, including how much of their time they will spend; how, if at all, they will be compensated; and their resumes and references. List applicant's seed investors, if any, with amount invested and number of shares of stock owned. Specify any additional amount of seed capital applicant is seeking, including a discussion of possible sources.

6. Describe and discuss the Applicant's fund raising strategy for raising the private capital.

7. Specify the principal investor sources that the Applicant will be targeting.

8. Attach all specific financing commitments already obtained, including documentation for each. This should include the evidence of the initial required capital.

9. Describe specific demonstrations of interest from private investor sources, including documentation where possible.

10. Capital Structure. Discuss the BIDCO's plans and prospects for leveraging its capital by borrowing money, use of the SBA guarantee secondary market, or other approaches. With respect to borrowing money, describe the degree of leverage the BIDCO will seek and over what time period? Identify sources of debt financing the Applicant plans to utilize. Describe how the Applicant plans to structure the debt. If use of the SBA program is contemplated, discuss Applicant's approach to this activity and analyze its potential profitability. If Applicant is relying heavily on the SBA guarantee program, describe its alternate course of action if the SBA guarantee program is eliminated or its effectiveness significantly curtailed.

11. Financial Projections. Provide the following financial projections:

a. Returns-on-Average assets and Returns-on-Capital Performance projections, year by year, for a 10 year period. These projections should show summary cash flow, summary income and expense (including taxes), and summary balance sheet data. For these performance projections, operating income and expenses can be grouped

by category. Specify the assumptions used for the performance projections.

b. Specify computer programs used for projections, if any, and specify formulas used.

12. Fee Income. Discuss the potential for fee income, and any plans that the BIDCO might have for generating fee income.

13. Complementary and Affiliate Relationships. Discuss the nature of complementary or affiliate relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions. This discussion can be based on general types of institutions and should identify specific institutions where complementary or affiliate relationships have already been discussed or arranged.

G Application for a co-investment will contain the following information. The Applicant may provide other information which it believes relevant. LEDC may request further information beyond what is specified below.

1. The proposed amount, terms, and conditions of the investment.

2. A business and funding plan for the recipient completed in accordance with the standards outlined in LEDC program material for all other LEDC programs.

3. Identify all "principal shareholders" (i.e. owning directly or indirectly, or controlling directly or indirectly, 10 percent or more of the voting stock of the BIDCO), by name with specific ownership identified.

4. The recipient must have its primary operating activities located in Louisiana, and the application of the funding must result in meaningful economic impact to the area of Louisiana where its activities are conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997), LR 26:2244 (October 2000).

§7107. Amount of Investment

A. Co-Investment

1. If a non-specialty BIDCO can show cash of at least \$1 MM but less than \$2,000,000, LEDC may co-invest \$1 for each \$2 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed thirty-three percent of any project nor will LEDC funding exceed \$1 for each \$2 of the BIDCO's total capital. On each project submitted for review, an application fee of \$250 is required.

2. If a specialty BIDCO can show cash of at least \$500K plus enough operating capital to administer ongoing investments, but less than \$1,000,000, LEDC may co-invest \$1 for each \$1 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed fifty percent of any project nor will LEDC funding exceed \$1 for each \$1 of other BIDCO capital committed.

3. On each project submitted for reviewed, an application fee of \$250 is required.

B. Match Investment

1. Each request should be accompanied by a \$500 application fee.

2. If a non-specialty BIDCO can show cash, of \$2,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC subject to availability of funds and a determination by LEDC management that the BIDCO business plan is consistent with investment targets of LEDC. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of \$1 for each \$2 of the BIDCO capital not to exceed \$2,500,000, reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of capital as calculated in accordance with 103 D. Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

3. If a specialty BIDCO can show capital contributions, as defined in Section 103, of \$1,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a \$500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of \$1 for each \$1 of the BIDCO capital not to exceed \$1,000,000 subject to availability of funds and a determination by LEDC management that the BIDCO business plan is consistent with investment targets of LEDC reduced for any previous LEDC capital contributions. LEDC will base its matching equity capital contribution on the amount of non-LEDC capital as calculated in accordance with 103 D. Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

4. All funding of BIDCOs is subject to the availability of resources as allocated by the LEDC Board of Directors.

5. The consolidated dollar total of all LEDC investments authorized under §109 A. through D. shall not exceed \$2,500,000 to any one BIDCO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18:1358 (December 1992), amended LR 26:2245 (October 2000).

§7109. Terms of Investment

A. Founders stock and or investment given in exchange for services shall be subordinate to LEDC's investment unless LEDC determines that the pricing of such founders investment and or stock is commensurate with the services performed or risks taken, in comparison with the pricing of LEDC investment.

B. LEDC will have the right to appropriate representation on the board in the BIDCO. This may include but not be limited to board seat/seats; veto authority or supermajority requirements for key management and financial decisions; board visitation rights.

C. LEDC's stock may be repurchased by the BIDCO or, secondarily, by its private-capital stockholders at any time beginning with the end of the third year based on the then-current book value or market value, whichever is higher, subject to LEDC's concurrence on the valuation methodology. However, the BIDCO shall establish a sinking fund beginning in year three so that the LEDC investment is returned by the end of year ten.

D. LEDC may negotiate additional operating requirements with individual applicant BIDCOs on a case by case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC.

E. All agreements will be executed by duly authorized persons outlining the details of the transaction.

F. The LEDC's funding under its commitment will be made on a quarterly basis subject to verification of non-LEDC funds received by the BIDCO and availability of LEDC funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997), LR 26:2246 (October 2000).

§7111. Operating Requirements

A. During the period when LEDC owns an investment in a BIDCO, the BIDCO shall operate in accordance with the following parameters.

1. The BIDCO shall provide financing assistance to Qualified Louisiana Businesses or to firms who will become Qualified Louisiana Businesses as a result of the funding by the BIDCO. If the business firm has multi-state operations, the criterion that shall be used by the BIDCO is whether or not Louisiana is the state where the primary economic benefit of the financing transaction is likely to occur. The BIDCO shall refrain from purchasing corporate stocks or other capital positions unless such investments are part of the BIDCO's funding plan for the Qualified Louisiana Business entity.

2. The BIDCO shall maintain as its primary focus the markets which it identifies in its initial business plan. The BIDCO shall not engage in operations outside the State of Louisiana while LEDC is an investor.

3. The BIDCO shall invest in or lend to Qualified Louisiana Businesses an amount at least equal to the sum of LEDC's funds plus the matching private-capital funds. For examples:

a. if LEDC invests \$2.5 million to match \$5 million of private capital funds, the BIDCO shall invest in or lend to Qualified Louisiana Businesses a minimum of \$7.5 million of its total portfolio exclusive of operating expenses and minimum capital reserve requirements as set out by the Office of Financial Institutions;

b. if LEDC invests \$1 million to \$2 million of private capital, the BIDCO shall invest/lend to Qualified Louisiana Businesses a minimum of \$3 million of its total portfolio exclusive of operating expenses and minimum capital reserve requirements as set out by the Office of Financial Institutions.

4. Without the consent of LEDC, the BIDCO shall not apply to OFI to surrender its license, provided, however, that if LEDC is not a stockholder no consent of LEDC is

necessary. If LEDC grants its consent for such license-surrender application, the application shall state the commitment of the BIDCO to repurchase LEDC's stock at the time of license surrender for its then-current book value or market value, whichever is greater, or, if discounted pursuant to these rules, for the agreed-upon discounted price. If OFI requires surrender of license, the BIDCO must immediately notify LEDC to review the future plans of operation.

5. LEDC may negotiate additional operating requirements or material changes in the business plan with individual applicant BIDCOs on a case by case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC.

- 6. Reporting requirements shall include the following:
 - a. annual audited financial statements in accordance with GAAP, quarterly financial statements, and minutes of all regular and special board meetings;
 - b. timely advice of all management and board member changes with reasons for the changes and submission of new members' resumes showing experience and qualifications;
 - c. reports of activity including client businesses' names, addresses, employment levels before and after funding, and other information required for LEDC's annual legislative report;
 - d. the BIDCO shall provide LEDC with complete copies of OFI's annual audit report;
 - e. if the BIDCO is also a CAPCO, it must be in compliance with all CAPCO regulations;
 - f. the BIDCO's officers shall provide LEDC annual certification that BIDCO investments are consistent with their business plan and that they are in compliance with the Code of Governmental Ethics, R.S. 42:1112 et seq.

7. The failure of a BIDCO to comply with these operating requirements will constitute violation of the premise(s) on which LEDC relied in making its investment and will be just cause for LEDC to demand and require that its investment be immediately repurchased in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:555 (May 1997), LR 26:2246 (October 2000).

Dennis Manshack
Executive Director

0010#052

RULE

**Department of Economic Development
Economic Development Corporation**

Capital Access Program (LAC 19:VII.Chapter 72)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development, amends, in its entirety, Louisiana Administrative Code, Title 19, Corporations and Business;

Part VII, Economic Development Corporation; Subpart 6, Louisiana Economic Development Corporation; Chapter 72, Capital Access Program.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 6. Louisiana Economic Development Corporation

Chapter 72. Capital Access Program

§7201. Purpose

The Capital Access Program is designed to be a flexible and non-bureaucratic program to assist Louisiana financial institutions to make loans that carry a higher risk than conventional loans in a manner consistent with sound banking regulations. The purpose of the Capital Access Program is to increase the loan capital available to small business in Louisiana through a public/private loan portfolio insurance fund.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2247 (October 2000).

§7203. Definitions

A. The following terms shall have the following definitions, unless the context otherwise requires.

*Agreement*Ca contract between a Financial Institution and the Louisiana Economic Development Corporation authorizing the Financial Institution to participate in the Program under the terms and conditions specified in the Agreement.

*Borrower*Ca Qualified Business that has received or been approved for a Qualified Loan from a Lender.

a. If the Lender is a banking institution, national bank, international institution or foreign institution a Borrower may not be an executive officer, director, or principal shareholder of the Lender, or a member of the immediate family of an executive officer, director or principal shareholder of the Lender or a related interest of any such executive officer, director, principal shareholder or member of the immediate family.

b. If the Lender is a federal credit union, a credit union or an out-of-state credit union doing business in Louisiana, a Borrower may not be an official, immediate family member of an official or any individual having a common ownership, investment or other pecuniary interest in a business enterprise with an official or with an immediate family member of an official. For the purposes of this subsection an *official* shall mean any member of the board of directors, credit committee or supervisory committee of the Lender and *immediate family member* shall mean his/her children, brothers, sisters, parents, spouse, and the parents of his/her spouse.

*Common Enterprise*Ca business with common or joint ownership.

*Enrolled Loan*Ca Qualified Loan enrolled in the Program.

*Fees*Ca non-refundable fee of no less than 2 percent and no more than 3 1/2 percent of the principal amount of the Qualified Loan charged by the Lender to the Borrower. The Lender shall pay a non-refundable fee equal to the fee paid by the Borrower. LEDC shall contribute a match to the fee equal to the contribution of the Lender, but not to exceed

\$105,000 for a single Borrower and not to exceed 10 percent of a Lenders total Enrolled Loans.

Financial Institution Any Louisiana commercial financial institution regulated by either the Louisiana Office of Financial Institutions, the Federal Depository Insurance Corporation, or the Federal Reserve.

LEDC the Louisiana Economic Development Corporation.

Lender A Participating Financial Institution that has enrolled one or more Qualified Loans under the Program.

Loss Any principal amount due and not paid, accrued interest due and not paid, and documented out of pocket collection expenses, at the time the Lender determines, in a manner consistent with its normal method and time table for making such determinations that a Qualified Loan is uncollectible and is to be charged off as a loss. The amount of principal and interest included in the Loss shall not exceed the principal amount of the Enrolled Loan, plus accrued and unpaid interest on such covered principal amount, from the date the Qualified Loan is made.

Loss Reserve Account Separate accounts held and maintained by the Participating Financial Institution and the Louisiana Economic Development Corporation (LEDC), to cover Losses sustained by the Participating Financial Institution on Enrolled Loans.

Participating Financial Institution A Financial Institution that has executed an Agreement with the Louisiana Economic Development Corporation to participate in the Program.

Primary Economic Effect The majority of economic benefit resulting from a business activity occurs in Louisiana. It shall be conclusively presumed that the Primary Economic Effect is in Louisiana if the following conditions exist:

- a. at least 51 per cent of the total jobs of the Qualified Business are created or retained in Louisiana; and
- b. the Borrower's domicile and principal place of business is located in Louisiana.

Program The Capital Access Program.

Qualified Business A Louisiana corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity, and a small business as defined by the SBA doing business for profit which is authorized to conduct business in the state.

Qualified Loan A loan, specified portion of a loan, the amount of a loan or additional loan in excess of a loan that is refinanced, or the maximum amount that may be drawn down against a line of credit (not to exceed five (5) years) and its interest rate does not exceed 3.5% above New York Prime, extended by a Lender to a Qualified Business, for any business activity which has its Primary Economic Effect in Louisiana. Excluded from the term are:

- a. a loan for the construction or purchase of residential housing of any kind;
- b. a loan for the purchase or construction of real property that is not used for the business operations of the Borrower, including real estate owned for the purpose of deriving income from speculation, trade, lease or rental;
- c. a loan for the refinancing of the remaining principal balance of an existing loan;
- d. unsecured loans.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2247 (October 2000).

§7205. Authority To Implement Agreement

The Executive Director or the President, and the Secretary Treasurer of the Louisiana Economic Development Corporation are authorized to execute any document reasonably necessary or convenient to implement the Agreement.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2248 (October 2000).

§7207. Program Registration Procedure

A. A Financial Institution wishing to participate in the Program will complete a program registration application on a form provided by LEDC. LEDC shall determine the Financial Institution's eligibility to participate in the Program from the information provided, or from such other information as LEDC may deem necessary.

B. A Financial Institution that is eligible to participate in the Program shall enter into an Agreement with the LEDC on a form provided by the LEDC.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2248 (October 2000).

§7209. Agreement

A. The Agreement entered into by the Participating Financial Institution and the LEDC shall provide for:

1. a Loss Reserve Account by LEDC, owned by LEDC and for the benefit of the Participating Financial Institutions;
2. the creation of a Loss Reserve Account by the Participating Financial Institution with contributions from the Participating Financial Institution and the Borrower;
3. the liability of LEDC to the Participating Financial Institution is limited to the balance of the contributed amount in the LEDC Loss Reserve Account attributed to Enrolled Qualified Loans for the Participating Financial Institution;
4. the terms and conditions of Qualified Loans to be determined solely by agreement of the Lender and Borrower;
5. the enrollment of Qualified Loans in the Program;
6. the deposit of funds by the Borrower and the Lender into the Loss Reserve Account when the Lender makes a Qualified Loan to the Borrower;
7. the deposit of funds by LEDC into its Loss Reserve Account set up in LEDC for its match;
8. a deposit of \$50,000 seed by LEDC into the LEDC Loss Reserve Account for each Participating Financial Institution which will be reimburse as loans are enrolled;
9. a claims process for reimbursement of Losses that have been incurred from defaults on Qualified Loans;
10. payment by the LEDC from its Loss Reserve Account to a Lender to reimburse it for any Loss;
11. disposition of any recoveries from a Borrower made by the Lender subsequent to being reimbursed for any Loss by LEDC;
12. conditions for subrogation of LEDC, at LEDC's request, to the rights of the Lender in collateral, personal

guarantees, and all other forms of security for the Qualified Loan;

13. conditions for decreases by LEDC of excess balances in the LEDC Loss Reserve Account;

14. termination by LEDC of the obligation to enroll Qualified Loans under the Program;

15. conditions for termination of the Agreement, and disposition by the lender and LEDC of any remaining balance in the Loss Reserve Accounts;

16. withdrawal by a Lender from the Program, and disposition by the lender and LEDC of any remaining balance in the Loss Reserve Accounts;

17. periodic reporting to LEDC by the Lender as required;

18. inspection by LEDC of the pertinent files of the Lender relating to Enrolled Loans;

19. transmittal to LEDC by the applicable state or federal regulatory body of the Lender of any public information directly relating to the Lenders participation in Program;

20. such other terms and conditions as LEDC may require.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2248 (October 2000).

§7211. Establishing a Loss Reserve Account

A. Upon the execution of the Agreement with the Participating Financial Institution, the Lender shall establish a Loss Reserve Account to receive all fees from the Borrower and the Lender. The lender's Loss Reserve Account shall be domiciled with a financial Institution in the form of an insured, interest-bearing deposit in accordance with statutory requirements.

B. LEDC's Loss Reserve Account will be established as an account controlled by LEDC.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

§7213. Ownership, Control, Investment of Loss Reserve Account

A. All moneys in a Loss Reserve Account held at and by the bank are to be used exclusively for this program by the bank. The LEDC may withdraw funds from a Loss Reserve Account only as provided for in these Rules.

B. Any earnings on the balance in a Loss Reserve Account are deemed to be part of the Loss Reserve Account up to 10 percent above the present maximum portfolio exposure.

C. The LEDC may withdraw at any time and for use as deemed appropriate by the LEDC a maximum of 100 percent of all earnings that have been credited to the Loss Reserve Account over the present portfolio exposure, with such withdrawal limited to a maximum of 100 percent of earnings credited to the Loss Reserve Account since the last such withdrawal.

D. Should the bank opt to terminate the program, LEDC will be entitled to and claim ownership of all funds in the Loss Reserve Account held by the bank. However, any enrolled loans which are still outstanding at the time of termination will be covered by the Loss Reserve Account.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

§7215. Loan Loss Contributions

When making an Enrolled Loan, the Lender shall charge the Borrower no less than 2 percent and no more than 3.5 percent of the loan amount for their contribution to the Loan Loss Fund and the Lender shall match the contribution with a like percentage. The bank shall deposit the contributions in the Loan Loss Fund at closing. LEDC will contribute the same percentage of the loan amount as the bank at the time it is notified of the enrollment of the loan.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

§7217. Procedure for Enrollment of a Qualified Loan

A. A Lender shall enroll a Qualified Loan under the Program:

1. by notifying LEDC in writing, on a form prescribed by LEDC and within ten (10) days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Lender makes a Qualified Loan is the earlier of the date on which the Lender first disburses proceeds of the Qualified Loan to the Borrower, or the date on which the loan documents have been executed and the Lender has obligated itself to disburse proceeds of the loan; and

2. by transmitting to LEDC a deposit receipt of the contributions collected from the Lender and the Borrower in connection with the Qualified Loan.

B. LEDC shall, upon receipt of documentation from the Lender, enroll the Qualified Loan if LEDC is satisfied that the Qualified Loan is eligible. LEDC shall notify the Lender of enrollment within ten business days from receipt of documentation, in such form as will be determined by LEDC.

C. When the requirements of a Qualified Loan are met, LEDC shall also transfer funds to the LEDC Loss Reserve Account an amount equal to the banks contributed percentage of the enrolled loan amount but not to exceed \$105,000 for a single Borrower and not to exceed 10 percent of a Lenders total Enrolled Loans.

D. Prior to making a loan a Lender may request that LEDC certify that the proposed loan is an eligible loan. The lender must submit all information required in A above with such request. LEDC will certify within 10 days of receipt of the request that the loan is eligible or is not eligible. Such certification shall be binding for 30 days if no change in a material representation has occurred.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

§7219. Procedure for Making Claim for Reimbursement of Loss

A. At the time a Lender charges off all or part of an Enrolled Loan as a result of a default by the Borrower, the Lender may make a claim for reimbursement for all or part of the Loss incurred by notifying LEDC of the claim in writing on a form provided by LEDC within three calendar months of the date a loss has occurred with respect to the Enrolled Loan.

B. A Lender may make a claim for reimbursement of a Loss prior to the liquidation of collateral, or to realization on personal or their financial guarantees or from other sources, subject however to the provision in §123 on Recoveries on Loans Subsequent to Payment of Claims.

C. The Lender shall retain documentation in its files substantiating all claims.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

§7221. Payment of Claims by LEDC

A. LEDC shall pay Loss claims as submitted, except LEDC may reject a claim when the representations and warranties provided by the Lender at the time of enrolling the Qualified Loan were false.

B. Lender shall send evidence that a withdrawal of an amount equal to 66.66 percent of the loan loss has been made from the lenders Loss Reserve Account with the payment request from LEDC.

C. LEDC shall pay Loss claims in the order it receives them. If two or more Loss claims are filed simultaneously by the Lender and there are insufficient funds in the Loss reserve Account to pay them, the Lender may designate the order the Loss claims are paid by LEDC.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

§7223. Recoveries on Loans Subsequent to Payment of Claim

If subsequent to the payment of a Loss claim by LEDC the Lender recovers from the Borrower, from liquidation of collateral or from any other source, any amount for which Lender was reimbursed by LEDC, the Lender shall promptly pay to LEDC its 33.33 percent of the amount received that in aggregate exceeds the amount needed to fully cover the Lender's Loss on the Enrolled Loan, for deposit in the Loss Reserve Account.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

§7225. Available Collateral, Guarantees and Other Security not Realized

After LEDC has paid a Loss claim to the Lender from the Loss Reserve Account, and the Lender has terminated its lending relationship with the Borrower, the Lender shall, at LEDC's request, provide LEDC with details and copies of any collateral, guarantee, or other security documents which secured the Qualified Loan and which remain available.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

§7227. Subrogation

A. At LEDC's request, LEDC will be subrogated to the rights of the Lender in collateral, personal guarantees, and all other forms of security for the Qualified Loan that have not been realized upon by the Lender, when the Lender's Loss has been fully or partially covered by payment of a Loss claim, or by a combination of payment of a Loss claim and recovery from the Borrower, liquidation of collateral, or

from other sources, and the Lender has stated to LEDC that it will not take action to realize on remaining available sources of collateral or other security for recovery.

B. At the time of subrogating its rights, the Lender shall provide LEDC with all original security agreements, any documents evidencing title to real property, certificates of title, guarantees, and any other documents representing security for the Qualified Loan, duly recorded and perfected, and accompanied by enforceable assignments and conveyances to LEDC.

C. If the lender chooses not to institute proceedings and/or recover from the borrower, through the liquidation of collateral or from any other source and was reimbursed by LEDC, then LEDC will have the authority to do so and retain any and all funds recovered.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

§7229. Reporting

A. The Lender shall provide LEDC with a monthly statement providing details of the balance and the payment and receipts activity in the Loss Reserve Account for the prior month.

B. To assist LEDC in determining the progress of the program and in identifying excesses in Loss Reserve Accounts, the Lender shall on or before February 15, May 15, August 15, and November 15 of each year file a report with LEDC indicating the number and aggregate outstanding balance of all Enrolled Loans as of the previous December 31 in the case of the report due February 15, as of the previous March 31 in the case of the report due May 15, as of the previous June 30 in the case of the report due August 15, and as of the previous September 30 in the case of the report due November 15. In computing the aggregate outstanding balance of all Enrolled Loans, the balance of any Enrolled Loan shall in no event be considered to be greater than the covered amount of the Enrolled Loan.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

§7231. Withdrawal of Excess Deposits in Loss Reserve Accounts

LEDC may withdraw any excess deposits in its Loss Reserve Account if the balances in a Loss Reserve Account have exceeded the aggregate outstanding balances of Enrolled Loans continuously for a period of six calendar months. LEDC may withdraw the excess of the balance of the Loss Reserve Account over the total balance of Enrolled Loans on the last day of the sixth calendar month of such excesses, and on the last day of each calendar quarter thereafter, so long as an excess continues to exist.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

§7233. Termination of and Withdrawal from Program

A. LEDC may terminate its obligation to enroll Qualified Loans under the Program for a Lender on the date specified in LEDC's notice of termination to the Lender, or for all participating Lenders under the Program upon 90 days notice, or such earlier date should the balance in LEDC's

available budget reach zero, or should LEDC anticipate that the balance in the available budget will reach zero. Termination shall not apply to any Qualified Loans made before the date of termination.

B. Should the balance of a Lenders Loss Reserve Account be reduced to zero, LEDC may, at its sole discretion, terminate the Agreement.

C. A Participating Financial Institution may withdraw from the Program after giving written notice to LEDC. After receipt of this notice, LEDC shall, at its sole discretion, determine the disposition of any remaining balance in the Loss Reserve Account.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

§7235. Inspection of Files

LEDC may inspect the files of the Lender relating to the Enrolled Loans at any time during normal business hours.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2251 (October 2000).

§7237. Reports Of Regulatory Agencies

LEDC may apply to the applicable state or federal regulatory body of the Lender for information directly related to the Lender's participation in the program. LEDC shall, to the extent permitted by law, hold any information acquired from regulators in confidence.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2251 (October 2000).

Dennis Manshack
Executive Director

0010#051

RULE

**Department of Economic Development
Economic Development Corporation**

Seed Capital Program (LAC 19:VII.Chapter 77)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Department of Economic Development, intends to promulgate revisions, in its entirety, *Louisiana Administrative Code*, Title 19, Corporations and Business; Part VII, Economic Development Corporation; Subpart 11, Economic Development Corporation; Chapter 77, Seed Capital Program.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 11. Louisiana Seed Capital Program

Chapter 77. Seed Capital Program

§7701. Purpose

The purpose of this program is to encourage the formation of Louisiana-based seed capital funds. Funding under this program shall be limited to those qualified organizations who agree to invest such funds exclusively in companies

based in Louisiana for the purpose of financing any process, technique, product, or device which is or may be exploitable commercially, which has advanced beyond the theoretical state, and which is capable of being or has been reduced to practice without regard to whether a patent has or could be granted. Not intended for retail or professional services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2251 (October 2000).

§7703. Definitions

A. For the purposes of this program Seed Capital will be defined as:

1. an amount no less than \$25,000 of capital provided to an inventor or entrepreneur to prove a concept and to qualify for start-up capital. This may involve product development and market research as well as building a management team and developing a business plan, if the initial steps are successful;

2. research and development financing to finance product development for start-up as well as more mature companies;

3. start-up financing to companies completing product development and initial marketing. Companies may be in the process of organizing or they may already be in business for one year or less, but have sold their product commercially;

4. first-stage financing to companies that have expended their initial capital and require funds to initiate full-scale manufacturing and sales.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2251 (October 2000).

§7705. Eligibility

A. Applicant organization must be a Louisiana-based fund organized for the sole purpose of making seed investments in businesses.

B. Must be organized for profit.

C. The applicant must demonstrate that its management personnel have at least three years of experience in managing investments in individual, privately-held companies, utilizing funds provided by others to make said investments.

D. Have raised a minimum of \$250,000 to be eligible for co-investments or raised a minimum of \$500,000 to be eligible for a match investment. The minimum funds may be in cash and commitments.

E. A minimum cash investment sufficient to cover the general and administrative costs for the first year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2251 (October 2000).

§7707. Application for Co-Investment

A. Prior to a Seed Capital Fund submitting a request to be considered for co-investment by LEDC the Seed Capital Fund must submit an application for the Fund to be considered qualified. The application for qualification to the Economic Development Corporation shall consist of detailed information covering two main categories:

1. experience and qualifications of the proposed management team; and

2. the business plan for the Seed Capital Fund. The following sections specify in more detail the information that should be covered. While these sections provide a possible format, the applicant should in no way feel bound by this format. The applicant can use its own format, as long as the basic information is provided. Moreover, the applicant should feel free to provide additional information which is viewed as relevant. The Economic Development Corporation may request additional information beyond what is specified below.

B. The completed application will be submitted to the next scheduled Screening Committee meeting for recommendations. The recommendations of the Screening Committee will be submitted to the full Board of Directors at their next scheduled meeting for final approval.

C. Experience and Qualifications

1. Submit resumes, references, and personal financial statements for all principal members of the management team that are identified.

Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on the principal members of management.

2. Describe the responsibilities of each of the principal members of the management team that have been identified. If any of these people are not full time, describe their other activities.

3. Describe the responsibilities of any principal management position for which a person has not been identified.

4. Specify any directors that have been identified, and submit resumes.

5. Specify any other key people that have been identified, including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms.

Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on these key people.

D. Business Plan

1. Market

a. Describe and discuss the types of businesses that the Seed Capital Fund will finance. Discuss the extent to which the Seed Capital Fund intends to specialize in certain industries, or whether a more broad based approach is planned.

b. Describe the size range of businesses that it is contemplated the Seed Capital Fund will finance, with a general indication of where most of the focus is expected.

c. Discuss the life cycle stage or stages of the companies which the Seed Capital Fund will likely finance, with an indication of where most of the focus is contemplated.

d. Discuss the geographic area in which the Seed Capital Fund plans to focus. Specify the city or parish in which the Seed Capital Fund's principal office is planned to be located, and discuss intentions, if any, to establish any additional offices.

e. Provide any market analysis that you deem relevant.

2. Financing. Describe and discuss the financing instruments that are intended to be used by the Seed Capital Fund. Discuss the anticipated mix of the various types of

financing instruments. Discuss the anticipated size range of investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit from investments.

3. Marketing Strategy - Describe the Seed Capital Fund's plans and approach to marketing its services, including the identification of potential applicants for financing assistance.

4. Screening Process and Evaluation Criteria. Discuss the anticipated number of business firms that will be reviewed for possible investment, in comparison with the number that will actually be invested in. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide investment.

5. Fee Income. Discuss the potential for fee income, and any plans that the Seed Capital Fund might have for generating fee income.

6. Management Assistance. Discuss the plans of the Seed Capital Fund to provide management and/or technical assistance to companies for which the Seed Capital Fund provides investment. Discuss the Seed Capital Fund's plans for monitoring its investments, and enforcing provisions of investment agreements. Discuss how the Seed Capital Fund plans to handle problem investments. Discuss the Seed Capital Fund's plans to provide management assistance to companies that the Seed Capital Fund is not investing in.

7. Complementary Relationships. Discuss the nature of complementary relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions. This discussion can be based on general types of institutions and/or can identify specific institutions where complementary relationships have already been discussed.

8. Management Structure. Describe the proposed management structure for the Seed Capital Fund, and anticipated compensation for principal members of the management team.

9. Idle Funds. Describe plans for the management of the idle funds of the Seed Capital Fund.

10. Tax and Accounting Issues. Discuss relevant tax and accounting issues for the Seed Capital Fund.

12. Financial Projections

a. Provide a detailed operating budget for the first three years of the Seed Capital Fund's operation. The first year shall be month by month. The second and third years may be presented on an annual basis.

b. Provide performance projections, year by year, for a 5 year period. These projections should show cash flow, income and expense (including taxes), and balance sheet data. For these performance projections, operating expenses can be consolidated into one line item.

c. Specify the assumptions used for the performance projections. It is permissible to submit several sets of performance projections based on differing assumptions. However, if applicant submits several sets of projections based on differing assumptions, specify which set of assumptions are applicant's primary assumptions.

d. Specify computer programs used for projections, and specify formulas used.

E. The application for the co-investment project shall contain but not be limited to the identical information

provided to the eligible Seed Capital Fund requesting the co-investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26: 2251 (October 2000).

§7709. Application Requirements for Match Investment

A. To apply to the Economic Development Corporation for a commitment to invest, a prospective Seed Capital Fund shall submit detailed information covering three main categories:

1. fund raising;
2. experience and qualifications of the proposed management team; and
3. the business plan for the Seed Capital Fund. The following sections specify in more detail the information that should be covered. While these sections provide a possible format, the applicant should in no way feel bound by this format. The applicant can use its own format, as long as the basic information is provided. Moreover, the applicant should feel free to provide additional information which is viewed as relevant. The Louisiana Economic Development Corporation may request additional information beyond what is specified below.

B. All completed applications will be acted on by the requisite loan committee of the Louisiana Economic Development Corporation.

C. Fund Raising

1. Specify the amount of LEDC commitment sought.
2. Provide evidence of the amount of private capital that has been raised. Specify the ratio of actual cash to commitments raised.
3. Describe the basic legal structure of the Seed Capital Fund.
4. Describe and discuss the applicant's fund raising strategy for raising of any additional private capital.
5. Specify the principal investor sources that the applicant will be targeting.
6. What is applicant's basic proposal to prospective private investors. What expectations and objectives are the applicant specifying. This includes, for example, representations regarding reasonably expected returns on private equity investment, indirect financial benefits, if any, and social purposes, if applicable.
7. List all specific investors and financing commitments already obtained, including documentation for each. This should include the evidence of the initial \$500,000 required capital.
8. Specify whether applicant anticipates taking in all of the LEDC equity investment at closing, or whether applicant plans a phase in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of equity capital raised.

D. Experience and Qualifications

1. Submit resumes, references, and personal financial statements for all principal members of the management team that are identified.

Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on the principal members of management.

2. Describe the responsibilities of each of the principal members of the management team that have been identified. If any of these people are not full time, describe their other activities.

3. Describe the responsibilities of any principal management position for which a person has not been identified.

4. Specify any directors that have been identified, and submit resumes.

5. Specify any other key people that have been identified, including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms.

Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on these key people.

E. Business Plan

1. Market

- a. Describe and discuss the types of businesses that the Seed Capital Fund will finance. Discuss the extent to which the Seed Capital Fund intends to specialize in certain industries, or whether a more broad based approach is planned.

- b. Describe the size range of businesses that it is contemplated the Seed Capital Fund will finance, with a general indication of where most of the focus is expected.

- c. Discuss the life cycle stage or stages of the companies which the Seed Capital Fund will likely finance, with an indication of where most of the focus is contemplated.

- d. Discuss the geographic area in which the Seed Capital Fund plans to focus. Specify the city or parish in which the Seed Capital Fund's principal office is planned to be located, and discuss intentions, if any, to establish any additional offices.

- e. Provide any market analysis that you deem relevant.

2. Financing. Describe and discuss the financing instruments that are intended to be used by the Seed Capital Fund. Discuss the anticipated mix of the various types of financing instruments. Discuss the anticipated size range of investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit from investments.

3. Marketing Strategy. Describe the Seed Capital Fund's plans and approach to marketing its services, including the identification of potential applicants for financing assistance.

4. Screening Process and Evaluation Criteria. Discuss the anticipated number of business firms that will be reviewed for possible investment, in comparison with the number that will actually be invested in. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide investment.

5. Fee Income. Discuss the potential for fee income, and any plans that the Seed Capital Fund might have for generating fee income.

6. Management Assistance. Discuss the plans of the Seed Capital Fund to provide management and/or technical assistance to companies for which the Seed Capital Fund provides investment. Discuss the Seed Capital Fund's plans for monitoring its investments, and enforcing provisions of

investment agreements. Discuss how the Seed Capital Fund plans to handle problem investments. Discuss the Seed Capital Fund's plans to provide management assistance to companies that the Seed Capital Fund is not investing in.

7. **Complementary Relationships.** Discuss the nature of complementary relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions. This discussion can be based on general types of institutions and/or can identify specific institutions where complementary relationships have already been discussed.

8. **Management Structure.** Describe the proposed management structure for the Seed Capital Fund, and anticipated compensation for principal members of the management team.

9. **Idle Funds.** Describe plans for the management of the idle funds of the Seed Capital Fund.

10. **Tax and Accounting Issues .** Discuss relevant tax and accounting issues for the Seed Capital Fund.

11. **Financial Projections**

a. Provide a detailed operating budget for the first three years of the Seed Capital Fund's operation. The first year shall be month by month. The second and third years may be presented on an annual basis.

b. Provide performance projections, year by year, for a 5 year period. These projections should show cash flow, income and expense (including taxes), and balance sheet data. For these performance projections, operating expenses can be consolidated into one line item.

c. Specify the assumptions used for the performance projections. It is permissible to submit several sets of performance projections based on differing assumptions. However, if applicant submits several sets of projections based on differing assumptions, specify which set of assumptions are applicant's primary assumptions.

d. Specify computer programs used for projections, and specify formulas used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2253 (October 2000).

§7711. Application Process

A. Applications for funding under this program must be submitted to the Executive Director, Economic Development Corporation, P.O. Box 44153, Baton Rouge, 70804.

1. **Co-Investment Application**

a. The application for eligibility of the Seed Capital Fund and the co-investment project may be submitted simultaneously for consideration.

b. Once a Seed Capital Fund is deemed eligible, the Fund is not required to resubmit an eligibility application for subsequent co-investment requests.

2. All completed applications will be acted on by the requisite loan committee of the Economic Development Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26: 2254 (October 2000).

§7713. Investment

A. **Co-Investment**

1. An eligible fund that has not received a match investment from the Economic Development Corporation may apply for Co-Investment funds on a case by case basis. The co-investment of Economic Development Corporation shall not exceed the lesser of 50 percent of the total round of investment needed or \$250,000.

2. Only investments in Louisiana businesses are eligible for co-investments.

3. Co-Investments will be on the same terms and conditions as the seed capital fund has negotiated with the business.

B. **Match Investment**

1. An eligible fund may receive a match investment equal to \$1.00 of LEDC funds for each \$2.00 of privately raised funds. The maximum LEDC investment shall not to exceed \$1,000,000.

2. An eligible fund shall be a Louisiana organized and based Seed Capital Fund. For purposes of this program, "organized and based" means the seed capital applicant is registered with the Secretary of State's office and that it maintains a staffed office in Louisiana where investments may be initiated and closed.

3. The method of investment will be equal to the method of the other investors i.e. committed capital for committed capital; cash investment for cash investment, or cash and commitment for cash and commitment.

4. The terms of the investment will be negotiated on a case by case basis.

C. **Closing**

1. Prior to disbursement of funds, the secretary-treasurer and one of the following; president, chairman or executive director of the corporation, shall execute all necessary legal instruments after certification by counsel that all legal requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2254 (October 2000).

§7715. Reporting

A. Each year, on the anniversary date of the initial disbursement of funds, or on such date as may be authorized by the corporation, each recipient of funds shall provide the following:

1. list of all investors in the fund, including the amounts of investment and nature of the investment;

2. a statement of financial condition of the fund including, but not limited to, a balance sheet, profit and loss statement and changes in financial condition;

3. current reconciliation of the fund's net worth;

4. annual audited financial statement prepared by a certified public accountant (prepared within 120 days of the end of the fund's fiscal year).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26: 2254 (October 2000).

Dennis Manshack
Executive Director

0010#049

RULE

Department of Economic Development Economic Development Corporation

Small Business Loan Program (LAC 19:VII.Chapter 1)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, amends *Louisiana Administrative Code*, Title 19, Corporations and Business; Part VII, Economic Development Corporation; Subpart 1, Louisiana Economic Development Corporation; Chapter 1, Louisiana Small Business Loan Program.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 1. Louisiana Small Business Loan Program

Chapter 1. Loan Policies

§101. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana, as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The Corporation will consider sound loans so long as resources permit. The Board of the Corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), amended LR 26:2255 (October 2000).

§103. Definitions

Disabled Person's Business Enterprise Ca small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans With Disabilities Act of 1990.

Economically Disadvantaged Business Ca Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

Small Business Concern Cdefined by SBA for purposes of size eligibility as set forth by 13 CFR121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:456 (June 1989), amended LR 26:2255 (October 2000).

§105. Application Process

A. Any applicant(s) applying for either a loan guaranty or a loan participation will be required first to contact a financial lending institution that is willing to entertain such a loan with the prospect of a guaranty or a participation the bank will then contact LEDC for qualification and submit a complete application.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position,

financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, La. R.S. 44:1 se seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form to LEDC.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the Disabled Person's provision shall submit adequate information to support the disabled status.

4. The lending institution will submit to LEDC its complete analysis, proposed structure, and commitment letter. LEDC staff may do analysis, independent of the lending institution's analysis.

5. The lending institution will submit to LEDC the same pertinent data that it did to the lending institution's loan committee, whatever pertinent data the lending institution can legally supply.

6. LEDC staff will review the application and analysis, then make recommendations. The staff will work with the lending institution on terms of the loan and LEDC loan stipulations.

7. The LEDC's Board Screening Committee or designated loan committee will review only the completed applications submitted by staff and will make recommendations to the board.

8. The applicant(s) or their designated representative, and the loan officer or a representative of the lending institution are not require to attend the Screening Committee meeting.

9. LEDC's Board of Directors or designated loan committee has the final approval authority for applications.

10. The applicant will be notified within five working days by mail of the outcome of the application.

11. A LEDC commitment letter will be mailed to the bank within five working days of approval by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:446 (June 1989), amended LR 26:2255 (October 2000).

§107. Eligibility

A. Small business concerns domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana.

B. Certified economically disadvantaged businesses.

C. Disabled person's business enterprises domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana.

D. Funding requests for all but the following may be considered:

1. restaurants, except for regional or national franchises;

2. bars;

3. any project established for the principal purpose of dispensing alcoholic beverages;
4. any establishment which has gaming or gambling as its principal business;
5. any establishment which has consumer or commercial financing as its business;
6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;
7. funding for the principal purpose of refinancing existing debt;
8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;
9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.
10. funding for the purpose of buying out any family member or reimbursing any family member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:447 (June 1989), amended LR 26:2255 (October 2000).

§109. General Loan Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans.

1. The Corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, including state or federal taxes, or bankruptcy proceeding; nor shall the Corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit. Further, the Corporation shall not approve any loan or guarantee if the applicant or principle management have a criminal record.

2. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the Corporation Board shall not be amended or altered by any member of the Board or employee of the Department of Economic Development except by subsequent vote of approval by the Board or designated loan committee at the next meeting of the Board in open session with full explanation for such action.

3. The Corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees, the interest rate is to be negotiated between the borrower and the bank but may not exceed two and one half percent above New York prime as published in the Wall Street Journal at either a fixed or variable rate.

2. On all participation loans, the rate shall be determined by utilizing the rate for a U.S. Government Treasury security for the time period that coincides with the term of the participation and adding between one and two and a half percentage points.

3. The bank may apply for a linked deposit under the Small Business Linked Deposit Program on the term portion of either a guaranteed loan or a participated loan.

C. Collateral

1. Collateral-to-loan ratio will be no less than one-to-one.
2. Collateral position may be negotiated, but will be no less than a sole second position.
3. Collateral value determination.
 - a. the appraiser must be certified by recognized organization in area of collateral;
 - b. the appraisal cannot be over 90 days old.
4. Acceptable collateral may include, but not be limited to, the following:
 - a. fixed assets Cbusiness real estate, buildings, fixtures;
 - b. equipment, machinery, inventory;
 - c. personal guarantees may be used only as additional collateral and does not count towards the 1:1 coverage; if used, there must be signed and dated Personal Financial Statements;
 - d. accounts receivable with supporting aging schedule. Not to exceed 90 percent of receivable value (used with guarantee only).
5. Unacceptable collateral may include, but not be limited to the following:
 - a. stock in applicant company and/or related companies;
 - b. personal items or personal real estate;
 - c. intangibles.

D. Equity

1. Will be 20 percent of the loan amount for a start-up operation or acquisition and no less than 15 percent for an expansion. However, if 20 percent is not available for a guarantee the following chart may be applied which provides for an annual guarantee fee attached to a lesser equity position:

Equity %	Guarantee Fee
19%	2.20%
18%	2.40%
17%	2.60%
16%	2.80%
15%	3.00%
14%	3.20%
13%	3.40%
12%	3.60%
11%	3.80%
10%	4.00%

*In no case shall the equity position be less than 10%.

2. Equity is defined to be:

- a. cash;
 - b. paid-in capital;
 - c. paid-in surplus and retained earnings;
 - d. partnership capital and retained earnings.
3. No research, development expense nor intangibles of any kind will be considered equity.

E. Amount

1. For small businesses, the Corporation's guarantee shall be:
 - a. no greater than 75 percent of a loan up to \$650,000; or
 - b. no greater than 70 percent of a loan up to \$1,100,000; or

c. no greater than 65 percent of a loan up to \$2,300,000;

d. if the loan request exceeds \$2,300,000 the guaranty shall not exceed \$1,500,000.

2. For certified economically disadvantaged businesses, or disabled person's business enterprises, the Corporation's guarantee shall be:

a. no greater than 90 percent of a loan up to \$560,000; or

b. no greater than 85 percent of a loan up to \$875,000; or

c. no greater than 75 percent of a loan up to \$2,000,000;

d. if the loan request exceeds \$2,000,000, the guaranty shall not exceed \$1,500,000.

3. For small businesses, the Corporation's participation shall be no greater than 40 percent, but in no case shall it exceed \$1,500,000.

4. For certified economically disadvantaged businesses, or disabled person's business enterprises, the Corporation's participation shall be no greater than 50 percent, but in no case shall it exceed \$1,000,000.

F. Terms

1. Terms may be negotiated with the bank, but in no case shall the terms exceed 20 years.

G. Fees

1. LEDC will charge a guaranty fee on the guaranteed amount up to a maximum amount of four percent.

2. LEDC will charge a \$100 application fee.

3. LEDC will share in a pro-rata position in any fees assessed by the bank on a participation.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 25 percent of total loan with the following exception:

i. a maximum of 35 percent may be considered on a guaranteed loan but the guarantee percent will be decreased by 5 percent; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

5. Funds may not be used to buy out stockholders or equity holders of any kind, by any other stockholder or equity holder.

6. Funds may not be used to purchase any speculative investment or real estate development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 26:2256 (October 2000).

§111. General Agreement Provisions

A. Guaranty Agreement

1. The bank is responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank will sell collateral and handle the legal proceedings.

4. There will be a reduction of the guarantee:

a. in proportion to the principal reduction of the amortized portion of the loan;

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

5. The guarantee will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guarantee agreement.

B. Participation Agreement

1. The bank is responsible for administration and monitoring of the loan.

2. The lead bank will hold no less participation in the loan than that equal to LEDC's, but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

4. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

5. The bank is able to set its rate according to risk, and may blend its rate with the LEDC rate to yield a lower overall rate to a project.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the Corporation in writing and verbally in a time satisfactory to the bank and the Corporation.

C. Borrower Agreement

1. At the discretion of LEDC, the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

2. The borrower shall provide initial proof as well as an annual report of job creation, including the number of jobs, job titles and salaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 26:2257 (October 2000).

§113. Confidentiality

Confidential information in the files of the Corporation and its accounts acquired in the course of duty is to be used solely for the Corporation. The Corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion #82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), amended LR 26:2257 (October 2000).

§115. Conflict of Interest

No member of the Corporation, employee thereof, or employee of the Department of Economic Development, members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the Corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section, the same shall be null and void and no action shall be maintained thereon against the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), amended LR 26:2258 (October 2000).

Dennis Manshack
Executive Director

0010#050

RULE

**Economic Development
Office of Financial Institutions**

**Additional Fees and Charges
(LAC 10:XI.701)**

Editor's Note: This rule is being repromulgated to correct citation errors. The original rule may be viewed on pages 1991-1992 of the September 20, 2000 *Louisiana Register*.

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq, and in accordance with R.S. 9:3517(c) of the Louisiana Consumer Credit Law, R.S. 9:3510 et seq., the commissioner of financial institutions hereby promulgates the following rule to provide for the approval of additional fees and charges not inconsistent with the Louisiana Consumer Credit Law, ("LCCL").

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part XI. Consumer Credit

Chapter 9. Additional Fees and Charges

§901. Definitions

Additional Fees and Charges 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 A person who is a licensed lender as defined in R.S. 9:3516(22).

Petition 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 shall include an explanation as to which service or services will be provided and why a creditor believes a certain fee or charge is warranted for such service.

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 26:1991 (September 2000), repromulgated LR 26:2258 (October 2000).

§903. 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 26:1992 (September 2000), repromulgated 26:2258 (October 2000).

§905. 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 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 26:1992 (September 2000), repromulgated LR 26:2258 (October 2000).

Doris B. Gunn
Acting Commissioner

0010#101

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators Carnegie Credit (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The Board of Elementary and Secondary Education at its March 2000 meeting approved revisions to Standard 2.099.00 of Bulletin 741, *Louisiana Handbook for School Administrators*, regarding the awarding of Carnegie credit for mathematics and English language arts remediation courses. Two changes to the policy include:

1. Option 2 students (eighth grade students who scored *Unsatisfactory* on eighth grade LEAP 21) are eligible to receive elective Carnegie credit for remediation when they are placed in a transitional program on a high school campus and have scored at the *Basic* achievement level on eighth grade LEAP 21; and

2. increases from one to two, the maximum number of Carnegie units earned for remedial courses by high school students.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15); R.S. 17:7(5), (7), (11); R.S. 17:10, 11; R.S. 17:22(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended LR 25:2160 (November 1999), LR 26:2259 (October 2000).

Bulletin 741C Louisiana Handbook for School Administrators

Standard 2.099.00

2.099.00 In addition to completing a minimum of 23 Carnegie units of credit, the student shall also be required to pass the Graduation Exit Examination (GEE), beginning with the 1991 graduating class. This requirement shall first apply to students classified as sophomores in 1988-89 and thereafter.

The English language arts, writing, and mathematics components of the GEE shall first be administered to students in the tenth grade.

The science and social studies components of the graduation test shall first be administered to students in the eleventh grade.

Remediation and retake opportunities will be provided for students that do not pass the test.

Effective for incoming freshman 2000-2001, a student may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

Effective for the 2000-2001 school year, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the Unsatisfactory achievement level on either the English Language Arts and/or the Mathematics component of the eighth grade LEAP 21 provided the student:

1. participated in a transitional program on a traditional high school campus;
2. successfully completed specially designed elective(s) for remediation;
3. scored at or above the Basic achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the Unsatisfactory achievement level.

A student may apply a maximum of two Carnegie units of elective credit toward high school graduation by:

1. earning one elective credit through remediation for eighth grade LEAP 21 and or one elective credit through GEE 21 remediation; or
2. earning two elective credits through GEE 21 remediation.

Weegie Peabody
Executive Director

0010#029

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
Program (LAC 28:VI.107, 301, 307, 309)

The Louisiana Tuition Trust Authority (LATTA) amends rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2).

Title 28

EDUCATION

Part VI. Student Financial Assistance Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§101. Program Description and Purpose

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;
2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;
3. provide the citizens of Louisiana with financing assistance for education and protection against rising tuition costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;
4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and
5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes Education Savings Accounts by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated Beneficiary or a group of beneficiaries.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for Tuition Assistance Grants provided by the state to help offset the Beneficiary's cost of postsecondary Tuition.

2. The grant amount is determined by the Account Owner's federal annual income and total annual deposits of principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000).

§103. Legislative Authority

Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as Chapter 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3091-3099.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000).

§105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the house of representatives and state senate.

B. The LATTA administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000).

§107. Applicable Definitions

Account Owner the person(s), Independent Student, organization or group that completes a Depositors Agreement on behalf of a Beneficiary or beneficiaries and is the Account Owner of record of all funds credited to the account.

Beneficiary the person named in the Education Savings Account Depositors Agreement as the individual entitled to apply the account balance, or portions thereof, toward payment of their postsecondary Qualified Higher Education Expenses.

Depositor's Agreement the agreement for program participation executed by the Account Owner which incorporates, by reference, R.S. Chapter 22-A, Title 17, and the rules promulgated by the LATTA to implement this statute and any other state or federal law applicable to the agreement.

Education Assistance Account (EAA) an account which is eligible for Tuition Assistance Grants and is established on behalf of a designated Beneficiary by a parent, grandparent, legal guardian, or person claiming the Beneficiary as a dependent on their federal income tax or by an independent undergraduate on his own behalf.

Education Savings Account a comprehensive term which refers to the two types of accounts that may be established under the program: an *Education Assistance Account* and an *Education Scholarship Account*.

Education Scholarship Account (ESA) an account which is not eligible for Tuition Assistance Grants and is established on behalf of a Beneficiary or beneficiaries by a person or organization other than a parent, grandparent, legal guardian, Independent Student or person claiming the Beneficiary or beneficiaries as dependent(s) on that person's or organization's federal income tax return.

Educational TermCa semester, quarter, term, summer session, inter-session, or an equivalent unit.

Eligible Educational InstitutionCeither a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. secretary of education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. secretary of education or a state licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto.

Emergency RefundCa refund of the Redemption Value of an account due to an unforeseen event which has adversely impacted the Account Owner, such as termination of employment, death, or permanent disability and resulted in a severe reduction in income or extraordinary expenses.

Enrollment PeriodCthat period designated by the LATTA during which applications for enrollment in the START program will be accepted by the LATTA.

False or Misleading InformationCa statement or response made by a person which is knowingly false or misleading and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Family MemberCin reference to the account Beneficiary:

1. an ancestor of such individual;
2. the spouse of such individual;
3. step-sibling(s) and their spouse;
4. a lineal descendant of such individual, of such individual's spouse or parent of such individual or the spouse of any lineal descendant described herein. A legally adopted child of an individual shall be treated as a lineal descendant of such individual.

Fully Funded AccountCan account having a Redemption Value equal to or greater than five times the annual Tuition at the highest cost Louisiana public college or university projected to the scheduled date of the Beneficiary's first enrollment in an Eligible Educational Institution. An account which is "fully funded" is no longer eligible for accrual of Tuition Assistance Grants. However, if subsequent cost projections result in the fully funded amount being more than the account balance, then Tuition Assistance Grants may resume until the level of the most recent Fully Funded Account projection has been met.

Independent StudentCa person who is defined as an Independent Student by the Higher Education Act of 1965, as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the Beneficiary of an Education Assistance Account.

Louisiana Education Tuition and Savings Fund (the Fund)Ca special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, consisting of deposits made by Account Owners pursuant to the START Saving Application and Depositors Agreement, interest earned on said deposits as a result of investment by the Louisiana State Treasurer, accumulated penalties and forfeitures, and the Tuition Assistance Fund, which is a special sub-account designated to receive Tuition Assistance Grants appropriated by the State, and interest earned thereon.

Louisiana Office of Student Financial Assistance (LOSFA)Cthe organization responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana ResidentC

1. any person who resided in the state of Louisiana continuously during the 12 months immediately prior to the date of application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

- a. if registered to vote, is registered to vote in Louisiana;
- b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
- c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
- d. if earning an income, has complied with state income tax laws and regulations.

2. a member of the Armed Forces stationed outside of Louisiana, but who claims Louisiana as his "home of record" and is in compliance with Paragraph 1.d above, is exempt from the requirement of continuous residence in the state during the 12 months preceding the date of completion of the Depositors Agreement;

3. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

4. persons less than 21 years of age are considered Louisiana Residents if they reside with and are dependent upon one or more persons who meet the above requirements.

Louisiana Tuition Trust Authority (LATTA)Cthe statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account BalanceCthe amount, determined annually and expressed as a current dollar value, which is equal to five times the Qualified Higher Education Expenses at the highest cost institution in the state. Once the Redemption Value of an Education Assistance Account equals or exceeds the Maximum Allowable Account Balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the Maximum Allowable Account Balance, principal deposits may resume until the Redemption Value equals the most recently determined Maximum Allowable Account Balance.

Qualified Higher Education ExpensesCtuition, fees, books, supplies, equipment, and Room and Board required for the enrollment or attendance of a designated Beneficiary at an eligible institution of postsecondary education

Rate of ExpenditureCCthe rate [see §309.C] per Educational Term, at which funds may be disbursed from an Education Assistance Account to pay the Beneficiary's Qualified Higher Education Expenses at an Eligible Educational Institution.

Redemption ValueCthe cash value of an Education Savings Account attributable to the sum of the principal invested, the interest earned on principal and authorized to be credited to the account by the LATTA, any Tuition Assistance Grants appropriated by the legislature and authorized by the LATTA to be allocated to the account and the interest earned on Tuition Assistance Grants, less any

Tuition Assistance Grants or interest thereon restricted from expenditure and less any penalties required by *Internal Revenue Code*, §529(b)(3). If the account has a Redemption Value after the Beneficiary has completed his educational program, this excess value shall be treated as a refund.

Refund Recipient Cthe person authorized by the Depositors Agreement, or by operation of law, to receive refunds from the account.

Room and Board Cqualified Room and Board costs include the reasonable cost for the academic period incurred by the designated Beneficiary for Room and Board while attending an Eligible Educational Institution on at least a half time basis, not to exceed the maximum amount included for Room and Board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087II) for the Eligible Educational Institution for such period. Room and Board are only Qualified Higher Education Expenses for students who are enrolled at least half time.

Scheduled Date of First-Enrollment Cfor a dependent Beneficiary, is the month and year in which the Beneficiary turns 18 years of age. For an Independent Student, the scheduled date of first-enrollment is the expected date of enrollment reported by the Independent Student Beneficiary. This date is used to determine eligibility for Tuition Assistance Grants. See the term "*Fully Funded Account*."

Tuition Cthe mandatory educational charges required as a condition of enrollment and limited to undergraduate enrollment. It does not include nonresidence fees, laboratory fees, Room and Board nor other similar fees and charges.

Tuition Assistance Grant C a payment allocated to an Education Assistance Account, on behalf of the Beneficiary of the account, by the state. The grant amount is calculated based upon the Account Owners annual federal adjusted gross income and total annual deposits of principal. The grant and interest earned may only be used to pay the Beneficiary's Tuition, or portion thereof, at an Eligible Educational Institution.

Voucher C a negotiable draft payable from the Louisiana Education Tuition and Savings Fund. All Vouchers issued by the LATTA shall bear an expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), amended LR 25:1794 (October 1999), LR 26:2260 (October 2000).

Chapter 3. Education Savings Account

Note: Except where otherwise provided, all terms, conditions, and limitations in this Chapter shall apply to both Education Assistance Accounts and Education Scholarship Accounts.

§301. Education Assistance Accounts (EAA)

A. An Education Assistance Account is an Education Savings Account eligible for Tuition Assistance Grants, which is established on behalf of a designated Beneficiary by a parent, grandparent, legal guardian or the person claiming the designated Beneficiary of the account as a dependent on their federal income tax return, or by an Independent Student on his own behalf to acquire an undergraduate certificate, associate degree, or undergraduate degree.

B. Program Enrollment Period. An account may be opened and an eligible Beneficiary may be enrolled at any time during the calendar year.

C. Completing the Depositors Agreement

1. This agreement must be completed, in full, by the Account Owner.

2. The Account Owner shall designate a Beneficiary.

3. The Account Owner may designate a limited power of attorney to another person who would be authorized to act on the Account Owner's behalf, in the event the Account Owner became incapacitated.

4. Transfer of Account Ownership is not permitted, except in the case of the death of an Account Owner.

5. Only the Account Owner or the Beneficiary may be designated to receive refunds from the account.

D. Agreement to Terms. Upon executing a Depositors Agreement, the Account Owner certifies that he understands and agrees to the following statements:

1. Admission to a Postsecondary Educational Institution Cthat participation in the START Program does not guarantee that a Beneficiary will be admitted to any institution of postsecondary education;

2. Payment of Full Tuition Cthat participation in the START Program does not guarantee that the full cost of the Beneficiary's Tuition will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

3. Maintenance of Continuous Enrollment Cthat once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the Beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion;

4. Guarantee of Redemption Value Cthat the LATTA guarantees payment of the Redemption Value of any Education Savings Account, subject to the limitations imposed by R.S. 17:3098;

5. Conditions for Payment of Education Expenses Cthat payments for Qualified Higher Education Expenses under the START Saving Program are conditional upon the Beneficiary's acceptance and enrollment at an Eligible Educational Institution;

6. Fees Cthat except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of an account; financial institutions may be authorized by the LATTA to offer assistance in establishing a START Program account.

E. Acceptance of the Depositors Agreement

1. A properly completed and submitted Depositors Agreement will be accepted upon receipt.

2. Upon acceptance of the Depositors Agreement, the LATTA will establish the account of the named Beneficiary.

F. Citizenship Requirements. Both the Account Owner and Beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and provide copies of INS documentation with the submission of the Depositors Agreement.

G. Residency Requirements

1. On the date an account is opened, either the Account Owner or his designated Beneficiary must be a Louisiana Resident, as defined in §107 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

H. Providing Personal Information

1. The Account Owner is required to disclose personal information in the Depositor's Agreement, including:

- a. his Social Security number;
- b. the designated Beneficiary's Social Security number;
- c. the Beneficiary's date of birth;
- d. the familial relationship between the Account Owner and the designated Beneficiary;
- e. the Account Owner's prior year's federal adjusted gross income amount as reported to the Internal Revenue Service.

2. By signing the Depositor's Agreement, the Account Owner provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the Depositor's Agreement, the Account Owner certifies that both Account Owner and Beneficiary are United States Citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the Application and Depositor's Agreement, and that either Account Owner or Beneficiary is and has been a Louisiana Resident for 12 consecutive months.

4. Social Security numbers will be used for purposes of federal income tax reporting and to access individual account information for administrative purposes [see §315].

I. First Disbursement Restriction. A minimum of one year must lapse between the date the Account Owner makes the first deposit opening an account and the first disbursement from the account to pay a Beneficiary's Qualified Higher Education Expenses, which will normally be the Beneficiary's projected scheduled date of first-enrollment in an Eligible Educational Institution.

J. Number of Accounts for a Beneficiary. There is no limit on the number of Education Savings Accounts that may be opened for one Beneficiary by different Account Owners; however, the sum total of funds in all accounts for the same Beneficiary may not exceed the Maximum Allowable Account Balance for that Beneficiary and the sum of all Education Assistance Accounts will be used to determine when these accounts are fully funded for the purpose of earning Tuition Assistance Grants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000).

§303. Reserved

§305. Deposits to Education Savings Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to participants applying for a START Program account directly to the LATTA.

2. Financial institutions may be authorized by the LATTA to offer assistance in establishing a START Program account.

3. An initial deposit is not required to open an Education Savings Account; however, a deposit of at least \$10 in whole dollar amounts must be made within 60 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the Maximum Allowable Account Balance [see §107].

B. Deposit Options

1. The Account Owner shall select one of the following deposit options during the completion of the Depositor's Agreement; however, the Account Owner may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

- a. occasional lump sum payment(s);
- b. monthly payments made directly to the LATTA or to a LATTA-approved financial institution;
- c. automatic account debit, direct monthly transfer from the Account Owner's checking or savings account to the LATTA;
- d. payroll deduction, if available through the Account Owner's employer.

2. Account Owners are encouraged to maintain a schedule of regular monthly deposits.

3. After acceptance of the Depositor's Agreement and annually thereafter, the LATTA will project the amount of the monthly deposit that will assure the Account Owner of sufficient savings to meet the Qualified Higher Education Expenses of the Beneficiary at the scheduled date of enrollment at the selected institution, or the highest cost public institution if one was not preselected.

C. Limitations on Deposits

1. All deposits must be rendered in whole dollar amounts of at least \$10 and must be made in cash (check, money order, credit or debit card), defined as any of the deposit options listed in §305.B.1. tuition assistance grants.

2. A minimum of \$100 must be deposited annually for the account to be considered for award of state tuition assistance grants.

3. Once the account becomes fully funded [see §107], it will no longer be considered for Tuition Assistance Grants, regardless of the total amount of annual deposits made to the account. 4. Once the Redemption Value has reached or exceeded the Maximum Allowable Account Balance [see §107], principal deposits will no longer be accepted to the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), repromulgated LR 26:2263 (October 2000).

§307. Allocation of Tuition Assistance Grants

A. Tuition Assistance Grants are state-appropriated funds allocated to an Education Assistance Account, on behalf of the Beneficiary named in the account.

1. The grants are calculated based upon the Account Owner's annual federal adjusted gross income and total annual deposits of principal.

2. Although allocated to individual accounts, Tuition Assistance Grants are state funds and shall be held in an

escrow account maintained by the state treasurer until disbursed to pay Tuition costs at an eligible institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income

1. The Account Owner's annual federal adjusted gross income is used in computing the annual Tuition Assistance Grant allocation.

2. To be eligible in any given year for a Tuition Assistance Grant, the Account Owner of an Education Assistance Account must:

a. authorize the LATTA to access the Account Owner's state tax return filed with the Louisiana Department of Revenue; or

b. provide the LATTA a copy of his federal income tax return filed for that year.

3. In completing the Depositor's Agreement, the Account Owner of an Education Assistance Account authorizes the LATTA to access his records with the Louisiana Department of Revenue, for the purposes of verifying the Account Owner's federal adjusted gross income. In the event the Account Owner will not file his tax information with the Louisiana Department of Revenue by their May 15 deadline, he must provide the LATTA with:

a. a copy of the form filed with the Internal Revenue Service (Form 1040, 1040A, 1040EZ, or 1040TEL); or

b. a notarized statement as to why no income tax filing was required of the Account Owner.

4. To ensure timely allocation of Tuition Assistance Grants to the account, the Account Owner should provide these documents prior to July 1 following the applicable tax year. Tuition Assistance Grants will not be allocated to an Education Assistance Account until the LATTA has received verification of an Account Owner's federal adjusted gross income and interest on Tuition Assistance Grants will not accrue to the benefit of an Education Assistance Account until the LATTA has authorized the Tuition Assistance Grant allocation to the account.

5. If the Account Owner fails to provide the required tax documents by December 31 of the year following the taxable year, the account shall not be allocated a Tuition Assistance Grant for the year being considered.

C. Availability of Tuition Assistance Grants

1. The availability of Tuition Assistance Grants to be allocated to Education Assistance Accounts is subject to an appropriation by the Louisiana Legislature.

2. In the event that sufficient grants are not appropriated during any given year, the LATTA shall reduce Tuition Assistance Grant rates, pro rata, as required to limit grants to the amount appropriated.

D. Tuition Assistance Grant Rates. The Tuition Assistance Grant rates applicable to an Education Assistance Account are determined by the federal adjusted gross income of the Account Owner, according to the following schedule:

Reported Federal Adjusted Gross Income	Tuition Assistance Grant Rate*
0 to \$14,999	14 percent
\$15,000 to \$29,999	12 percent
\$30,000 to \$44,999	10 percent
\$45,000 to \$59,999	8 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	0 percent

*Rates may be reduced pro rata, to limit grants to amounts appropriated by the Legislature.

E. Restrictions on Allocation of Tuition Assistance Grants to Education Assistance Accounts. The allocation of Tuition Assistance Grants is limited to Education Assistance Accounts which have:

1. principal deposits totaling at least \$100 annually; and

2. have an Account Owner's reported federal adjusted gross income of less than \$100,000; and

3. have a Redemption Value that is less than that of a Fully Funded Account [see §107]; and

4. have an Account Owner or Beneficiary who is a resident of the State of Louisiana, as defined in §107 in the year for which a Tuition Assistance Grant is allocated.

F. Frequency of Allocation of Tuition Assistance Grants to Education Assistance Accounts. Tuition Assistance Grants will be allocated annually and reported to Account Owners after July 1, following the Account Owners' required disclosure of their prior year's reported federal adjusted gross income.

G. Rate of Interest Earned on Tuition Assistance Grants. The rate of interest earned on Tuition Assistance Grants shall be the rate of return earned on the Tuition Assistance Fund as reported by the state treasurer.

H. Restriction on Use of Tuition Assistance Grants

1. Tuition Assistance Grants, and any interest which may accrue thereon, may only be expended in payment of the Beneficiary's Tuition, or a portion thereof, at an Eligible Educational Institution.

2. Tuition Assistance Grants may not be used to pay for any Qualified Higher Education Expenses other than Tuition.

3. Tuition Assistance Grants, although allocated to a Beneficiary's account and reported on the Account Owner's annual statement, are assets of the state of Louisiana until disbursed to pay a Beneficiary's Tuition at an eligible institution. 4. Tuition Assistance Grants are not the property of the Account Owner or Beneficiary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:2263 (October 2000).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Vouchers

1. Prior to each Educational Term, the LATTA will forward to the Beneficiary a Voucher with a statement specifying the Redemption Value of the Beneficiary's account, classified as Deposits or Tuition Assistance Grants, which may be expended for Qualified Higher Education Expenses and instructions for completion and submission of the Voucher.

2. The Beneficiary shall complete the Voucher by inserting the amount of the funds to be withdrawn and then signing it. The amount of funds to be withdrawn shall not exceed the Beneficiary's actual Qualified Higher Education Expenses for the Educational Term attended.

3. Upon completion, the Beneficiary shall submit the Voucher to the institution he shall attend.

B. Rate of Expenditure

1. As authorized by the Beneficiary on a payment Voucher, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and Tuition Assistance Grants (including earnings on grants) in the same ratio as these funds bear to the Redemption Value of the account.

2. For an Educational Term, the Beneficiary may not withdraw an amount in excess of the Qualified Higher Education Expenses for that term or the Redemption Value of the account or that amount calculated under 1, above, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the Beneficiary's enrollment and the institution's receipt of a Voucher, the institution may bill the START program for the Qualified Higher Education Expenses of the Beneficiary, up to the amount specified on the Voucher or the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, whichever is less.

2. The institution shall bill the START program by endorsing the Voucher and submitting it to LATTA. Vouchers shall be submitted in batches. Submission of a Voucher is certification by an institution that the amount of the Voucher does not exceed the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, the Beneficiary has enrolled, and the Tuition Assistance Grant component of the payment was credited to Tuition.

3. Upon receipt of the Voucher(s), the LATTA will disburse funds from the appropriate accounts, consolidate and forward payment directly to the institution.

4. The LATTA will make all payments for Qualified Higher Education Expenses directly to the Eligible Educational Institution.

5. No payments by LATTA for Qualified Higher Education Expenses shall be disbursed directly to the Beneficiary.

6. Payments forwarded to an institution by LATTA on behalf of a Beneficiary which exceed institutional charges shall be promptly refunded to the Beneficiary for payment of other Qualified Higher Education Expenses.

D. Failure to Attend and Withdrawal During an Educational Term

1. If the designated Beneficiary of an Education Savings Account enrolls, but fails to attend or withdraws from the institution prior to the end of the Educational Term and disbursements from the Education Savings Account have been used to pay all or part of his Qualified Higher Education Expenses for that Educational Term, an institutional refund to the Education Savings Account may be required.

2. If any refund is due the Beneficiary from the institution, a pro rata share of any refund of Qualified Higher Education Expenses, equal to that portion of the Qualified Higher Education Expenses paid by disbursements from the Education Savings Account, shall be made by the institution to the LATTA.

3. The LATTA will credit any refunded amount to the appropriate Education Savings Account.

E. Receipt of Scholarships

1. If the designated Beneficiary of an Education Savings Account is the recipient of a scholarship, waiver of Tuition, or similar subvention which cannot be converted into money by the Beneficiary, the Account Owner or the Beneficiary may request a refund from the Education Savings Account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

2. Upon the institution's verification that the Beneficiary received a scholarship, waiver or similar subvention, the LATTA will refund, without penalty, the amount to the Account Owner or the Beneficiary, as designated in the Depositor's Agreement.

F. Advanced Enrollment. A Beneficiary may enroll in an Eligible Educational Institution prior to his scheduled date of first-enrollment [see §107] and utilize Education Savings Account funds; however, a Beneficiary may not utilize funds from an Education Savings Account prior to one year from the date the Beneficiary made the first deposit opening the account.

G Part-Time Attendance and Nonconsecutive Enrollment. A Beneficiary may utilize funds in an Education Savings Account for enrollments which are nonconsecutive and for part-time attendance at an Eligible Educational Institution. Room and Board is only a qualified higher education expense for students who are enrolled at least half time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 26:2265 (October 2000).

§311. Termination and Refund of an Education Savings Account

A. Account Contributions. Contributions to an Education Savings Account are voluntary.

B. Account Terminations

1. The Account Owner may terminate an account at any time.

2. The LATTA may terminate an account in accordance with §311.E.

3. The LATTA may terminate an account if no deposit of at least \$10 dollars in whole dollar amounts has been made within 60 days from the date on the letter of notification of approval of the account.

C. Refunds

1. A partial refund of an account may only be made as described in §311.F.3.

2. All other requests for refund will result in the refund of the Redemption Value and termination of the account.

D. Designation of a Refund Recipient

1. In the Depositor's Agreement, the Account Owner may designate the Beneficiary to receive refunds from the account; however, the Beneficiary, if so designated, must be enrolled in an Eligible Educational Institution to be eligible for receipt of any such refund, otherwise the refund will be made directly to the Account Owner or his estate.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the Beneficiary receives any refund of principal from the account, the tax consequence must be determined by the recipient.

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate a Depositor's Agreement if it finds that the Account Owner or Beneficiary provided False or Misleading Information [see §107].

2. All interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

3. An individual who obtains program benefits by providing False or Misleading Information will be prosecuted to the full extent of the law.

F. Voluntary Termination of an Account without Penalty. No penalty will be assessed for accounts which are terminated and fully refunded or partially refunded due to the following reasons:

1. the death of the Beneficiary; the refund shall be equal to the Redemption Value of the account, less unexpended Tuition Assistance Grants and interest thereon, and shall be made to the Account Owner;

2. the disability of the Beneficiary; the refund shall be equal to the Redemption Value of the account, less unexpended Tuition Assistance Grants and interest thereon, and shall be made to the Account Owner or the Beneficiary, as designated in the Depositor's Agreement;

3. the Beneficiary receives a scholarship, waiver of Tuition, or similar subvention that the LATTA determines cannot be converted into money by the Beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of Tuition, or similar subvention awarded to the Beneficiary.

G. Voluntary Termination of an Account with Penalty

1. Refunds for any reason other than those specified in §311.E and F will be assessed a penalty of 10 percent of interest earned on principal deposits accumulated in said account at the time of termination which has not been expended for Qualified Higher Education Expenses.

2. Reasons for voluntary account termination with penalty include, but are not limited to the following:

a. request by an Account Owner, an Account Owner's estate or legal successor, for reasons other than those specified in §311.E and F.

b. decision not to attend; upon notification in writing that the Beneficiary has reached 18 years of age and has stated he does not intend to attend an institution of higher education;

c. upon notification in writing that the Beneficiary has completed his educational program and does not plan to pursue further education.

3. Refunds made under the provisions of §311.G shall be equal to the Redemption Value of the Education Savings Account at the time of the refund minus 10 percent of accumulated interest earned on principal deposits which has not been expended for Qualified Higher Education Expenses, and shall be made to the person designated in the Depositor's Agreement.

H. Effective Date of Account Termination. Account termination shall be effective at midnight on the last day of the calendar quarter in which the request for account termination is received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

I. Frequency of Refund Payments. Payment of refunds shall be made on or about the forty-fifth day of the calendar quarter following the quarter in which the account was terminated. Upon receipt of a request for an Emergency Refund [See ' 107], the LATTA will verify the emergency and notify the Account Owner in writing that a refund of all principal deposited in an Education Savings Account will be made within 10 days of the close of the calendar quarter in which the request for refund was received. The refund of all interest earned on the principal, accrued through the end of the calendar quarter, will be refunded as soon as possible thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000).

§313. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The Beneficiary of an Education Assistance Account may be changed to a substitute Beneficiary provided the Account Owner completes a Beneficiary Substitution form and the following requirements are met:

1. the substitute Beneficiary is a Family Member as defined under §107.

2. the substitute Beneficiary meets the citizen/resident alien requirements of §301.F, and if the Account Owner is a nonresident of the state of Louisiana, the substitute Beneficiary meets the applicable residency requirements [see §301.G];

3. if the original Beneficiary is an Independent Student [see §107], meaning he is also the Account Owner of the account, the substitute Beneficiary must be the spouse or child of the Account Owner.

B. Assignment or Transfer of Account Ownership. The ownership of an Education Savings Account, and all interest, rights and benefits associated with such, are nontransferable.

C. Changes to the Depositor's Agreement

1. The Account Owner may request changes to the Depositor's Agreement.

2. Changes must be requested in writing and be signed by the Account Owner.

3. Changes which are accepted will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the Account Owner.

5. The Account Owner will be notified by the LATTA in writing of any changes affecting the Depositor's Agreement which result from changes in applicable federal and state statutes and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000).

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each Account Owner an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year;

b. total principal and interest accrued to the statement date; and

c. total Tuition Assistance Grants and interest allocated to the account as of the statement date.

2. Tuition Assistance Grants shall be allocated annually and reported after July 1, following the Account Owners' required disclosure of their prior year's reported federal adjusted gross income.

3. The Account Owner must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Tuition Assistance Grants. Tuition Assistance Grants shall be allocated annually and reported to Account Owners by a separate letter of notification after July 1, following the Account Owners' compliance with Section 307B of these regulations.

C. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to Account Owners after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the Fund as reported by the state treasurer and approved by the LATTA.

D. Refunded Amounts

1. Interest earned on an Education Savings Account which is refunded to the Account Owner or Beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

E. Maximum Allowable Account Balance Report

1. The Account Owner of an Education Savings Account will be notified, in writing, of the Maximum Allowable Account Balance.

2. The Maximum Allowable Account Balance is based on the cost of Qualified Higher Education Expenses for the Eligible Educational Institution designated on the Depositor's Agreement, projected to the date of the Beneficiary's Scheduled Date of First Enrollment.

3. If no Eligible Educational Institution was designated on the Depositor's Agreement, the Maximum Allowable Account Balance will be projected based upon the highest cost in-state eligible public educational institution.

4. If the Account Owner changes the institution designated on the Depositor's Agreement, a revised Maximum Allowable Account Balance will be calculated and the Account Owner will be notified of any change.

5. The Maximum Allowable Account Balance is revised and reported to Account Owners annually, and is based upon changes in the cost projections for Qualified Higher Education Expenses.

F. Rule Changes. The LATTA reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act and distributed to Account Owners for public comment prior to the adoption of final rules.

G. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

H. Individual Accounts. The LATTA will maintain an individual account for each Beneficiary, showing the Redemption Value of the account.

I. Confidentiality of Records. All records of the LATTA identifying Account Owners and designated beneficiaries of Education Savings Accounts, amounts deposited, expended or refunded, are confidential and are not public records.

J. No Investment Direction. No Account Owner or Beneficiary of an Education Savings Account may direct the investment of funds credited to an account.

K. No Pledging of Interest as Security. No interest in an Education Savings Account may be pledged as security for a loan.

L. Excess Funds

1. Principal deposits to an Education Savings Account are no longer accepted once the account total reaches the Maximum Allowable Account Balance [see §305.C]; however, the principal and interest earned thereon may continue to earn interest and any Tuition Assistance Grants allocated to the account may continue to accrue interest.

2. Funds in excess of the Maximum Allowable Account Balance may remain in the account and continue to accrue interest and may be expended to an Eligible Educational Institution in accordance with §309, or upon termination of the account, will be refunded in accordance with §311.

M. Withdrawal of Funds. Funds may not be withdrawn from an Education Savings Account except as set forth in §309 and §311.

N. NSF Procedure

1. A check received for deposit to an Education Savings Account which is returned due to insufficient funds in the depositor's account on which the check is drawn, will be redeposited and processed a second time by the START Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

O. Effect of a Change in Residency

1. On the date an account is opened, either the Account Owner or Beneficiary must be a resident of the state of Louisiana [see §301.G]; however, if the Account Owner or Beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the Depositor's Agreement.

2. The Account Owner may elect to terminate the account or request a "rollover" of account funds to a qualified state Tuition program in the new state of residence. Only the principal deposited, and interest earned thereon, may be "rolled over."

3. Tuition Assistance Grants allocated to an Education Assistance Account are not transferrable nor refundable.

P. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from participating in other federal, state or private student financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the Beneficiary may experience reduced eligibility for aid from these programs.

Q. Change in Projected School of Enrollment

1. The Account Owner may redesignate the Beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's fully funded or Maximum Allowable Account Balance, the Account Owner will be notified.

R. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000).

Mark S. Riley
Assistant Executive Director

0010#032

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students (TOPS)
High School Grade Point Average Calculation
(LAC 28:IV.301, 703, 803, 903 and 1703)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1), as follows:

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance Higher
Education Scholarship and Grant Programs**

Chapter 3. Definitions

§301. Definitions

* * *

Cumulative High School Grade Point Average the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted, including each course that is repeated. Effective for high school graduates beginning with the Academic Year (High School) 2002-2003, the Cumulative High School Grade Point Average shall be calculated by using only the course grades achieved for those courses included in the core curriculum. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade. In the event a student takes the same core course more than one time, the Cumulative High School Grade Point Average shall be calculated using the average of the grades earned in each repeated course. For example, a student who earns an F in Algebra I and who earns a B by repeating the course would add 0 for the F to 3 for the B and divide by two, resulting in a 1.5 grade for calculating the Cumulative Grade Point Average.

For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

For school's awarding a maximum of 5 points for honor's courses, the formula would be used to convert the honors course grade of A-C as shown in the following example.

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying, $5X = 12; X = 2.40$
Quality points = Credit for course multiplied by the value assigned to the letter grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 (August 1999), LR 25:1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:2268 (October 2000).

**Chapter 7. Tuition Opportunity Program for
Students (TOPS) Opportunity;
Performance and Honors Awards**

§703. Establishing Eligibility

A. - A.9. ...

B. Students qualifying under '703.A.5.a and b, must have attained a cumulative high school grade point average based on a 4.00 maximum scale, for all courses attempted of at least:

1. a 2.50 for the Opportunity Award; or
2. a 3.50 for the Performance of Honors Awards.

C. - G.1.b. ...

c. The college courses taken to satisfy core curriculum requirements and the grades reported on those courses are reflected in the student's official high school records. The student is awarded a high school diploma and the grade point average and core curriculum are certified to LASFAC by the high school in the same manner as that of other high school graduates.

G.1.d. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:67 (January 2000), LR 26:689 (April 2000), LR 26:2268 (October 2000).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. - 7. ...

8. if qualifying under §703.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted of at least 2.50; and

9. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:67 (January 2000), LR 26:2269 (October 2000).

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. - A.4.a.ii. ...

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted; or

A.4.b. - A.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 23:1650 (December 1997), repromulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1703. High School-s Certification of Student Achievement

A. - B.2.b. ...

c. Final cumulative high school grade point average for all courses attempted, converted to a maximum 4.00 scale, if applicable (Note: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum.); and

d. - e. ...

3. The responsible high school authority shall certify to LASFAC the final cumulative high school grade point average of each applicant and that average shall be inclusive

of grades for all courses attempted and shall be computed and reported on a maximum 4.00 grading scale.

B.3.a. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:2269 (October 2000).

Jack L. Guinn
Executive Director

0010#031

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Trust Authority Bylaws (LAC 28:VI. 201, 203)

The Louisiana Tuition Trust Authority (LATTA), the statutory body created by R.S. 17:3093 et seq., in compliance with the Administrative Procedure Act, R.S. 49:950 et seq., revises its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 28

EDUCATION

Part VI. Student Tuition Trust Authority

Chapter 2. Bylaws

§201. Definitions and Authority

Business of the Authority (as used in these bylaws)CActivities on behalf of the authority, including attendance at authority meetings and authority committee meetings; presentations at legislative committee hearings on issues or bills which relate to the role, scope, mission or programs assigned the authority; presentations to the public and to federal and state officials related to the role, scope, mission, or programs assigned the authority; and participation in projects, meetings or conferences related to the role, scope, mission or programs assigned the agency; all or any of the foregoing as directed by the authority, authorized by the chairman or a committee chairman, or requested by the executive director.

Services (as used in these bylaws)CConducting the Business of the Authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000).

§203. Meetings

A. - B. ...

C. Compensation

1. Members of the authority shall receive per diem as compensation for their services at the rate authorized by statute or as authorized by executive order. Members shall

be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the authority.

2. The authority is limited to twelve meetings per year for which per diem may be drawn by authority members.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000).

Mark S. Riley
Assistant Executive Director

0010#033

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Fluoroscopic X-Ray Systems (LAC 33:XV.605) (NEO26*)

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 has amended the Radiation Protection regulations, LAC 33:XV.605 (Log #NEO26*).

This Rule is identical to federal regulations found in 21 CFR 1020.32, 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 Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule will relax requirements that are stricter than the federal requirements for exposure rate limits. It adds restrictions on equipment manufactured after May 19, 1995, when high level control is provided. This action will allow the state to become more compatible with the federal regulations. The basis and rationale for this rule are to mirror the federal regulations.

This 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 rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

Chapter 6. X-Rays in the Healing Arts

§605. Fluoroscopic X-ray Systems

A. All fluoroscopic x-ray systems shall be image intensified and meet the following requirements:

[See Prior Text in A.1 - 3.a.i]

(a). during recording of fluoroscopic images;

(b). when an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 roentgens (1.29 µC/kg) per minute at the point where the center of the

useful beam enters the patient unless high level control is activated. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed; or

(c). when optional high level control is provided on equipment manufactured after May 19, 1995. When so provided, the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 10 roentgens (2.58 µC/kg) per minute at the point where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level control shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator and the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 20 roentgens (5.16 µC/kg) per minute at the point where the useful beam enters the patient. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

[See Prior Text in A.3.a.ii - 10.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2270 (October 2000).

James H. Brent, Ph.D.
Assistant Secretary

0010#020

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Incorporation by Reference Update, 40 CFR Part 61 and 63 (LAC 33:III.5116 and 5122)(AQ207*).

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 has amended the Air Quality regulations, LAC 33:III.5116 and 5122 (Log #AQ207*).

This Rule is identical to federal regulations found in 40 CFR Part 61 and 63, July 1, 1999, 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 Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference, into Chapter 51, additional federal regulations in 40 CFR Parts 61 and 63, National Emission Standards for Hazardous Organic Air

Pollutants (NESHAP), as well as removes previous references to Federal Registers. The state of Louisiana has received delegation of authority from EPA to implement NESHAP by "straight" delegation, which requires that we incorporate into the LAC rules as promulgated by EPA without changes. Louisiana incorporated certain NESHAP regulations by reference on January 20, 1997. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is now incorporating additional NESHAP regulations by reference. These changes will expedite both the EPA approval process and the state implementation of delegation of authority for the NESHAP program. The NESHAP and the authority for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, Section 112. This rulemaking is applicable to stationary sources statewide. The basis and rationale for this rule are to mirror the federal regulations.

This 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 Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR part 61, revised as of July 1, 1999, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
[See Prior Text in Subpart A - Appendix C]	

B. Corrective changes are made to 40 CFR part 61 subpart A, section 61.04(b)(T), to read as follows: State of Louisiana: Technical Support Section Program Manager, Permits Division, Office of Environmental Services, Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135.

C. Copies of documents incorporated by reference in this Chapter are available for review at the Office of Environmental Services, Environmental Assistance Division Information Center, Louisiana Department of Environmental Quality, or may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), LR

23:1658 (December 1997), amended LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1999, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	SUBPART/APPENDIX HEADING
[See Prior Text in Subpart A - Subpart Y]	
Subpart AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
Subpart BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
[See Prior Text in Subpart CC - Subpart GG]	
Subpart HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities
[See Prior Text in Subpart II - Subpart RR]	
Subpart SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process
Subpart TT	National Emission Standards for Equipment Leaks - Control Level 1
Subpart UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards
[See Prior Text in Subpart VV]	
Subpart WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
Subpart YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
Subpart CCC	National Emission Standards for Hazardous Air Pollutants For Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants
Subpart DDD	National Emission Standards for Hazardous Air Pollutants For Mineral Wool Production
[See Prior Text in Subpart EEE]	
Subpart GGG	National Emission Standards for Pharmaceuticals Production
Subpart HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities
Subpart III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production
[See Prior Text in Subpart JJJ]	
Subpart LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
Subpart MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production
Subpart NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing

40 CFR 63	SUBPART/APPENDIX HEADING
Subpart PPP	National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production
Subpart TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting
Subpart XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese
[See Prior Text in Appendix A - Appendix D]	

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999), LR 25:1798 (October 1999). amended by the Office of Environmental Assessment, Environmental Planning Division LR 26:690 (April 2000), LR 26:2271 (October 2000).

James H. Brent, Ph.D.
Assistant Secretary

0010#021

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Incorporation by Reference Update,
40 CFR Part 68 (LAC 33:III.5901) (AQ205*)

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 has amended the Air Quality regulations, LAC 33:III.5901 (Log #AQ205*).

This Rule is identical to federal regulations found in 40 CFR Part 68 through July 1, 1999, and 65 FR 13243-13250, Number 49, March 13, 2000, 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 rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The Rule incorporates by reference 40 CFR Part 68 through July 1, 1999, and 65 FR 13243-13250 air quality regulations. The federal regulation revises the list of regulated flammable substances to exclude those substances used as a fuel or held for sale as a fuel at a retail facility. This Rule will allow the facilities to comply with equivalent federal regulations. The basis and rationale for this rule are to be equivalent to federal regulations.

This 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 Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 59. Chemical Accident Prevention and
Minimization of Consequences**

Subchapter A. General Provisions

**§5901. Incorporation by Reference of Federal
Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68 (July 1, 1999), and as amended in 65 FR 13243-13250 (March 13, 2000).

* * *

[See Prior Text in B - C.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000).

James H. Brent, Ph.D.
Assistant Secretary

0010#022

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

LPDES Stormwater Phase II Regulations
(LAC 33:IX.Chapter 23)(WP039*)

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 has amended the Water Quality regulations, LAC 33:IX.Chapter 23 (Log #WP039*).

This Rule is identical to federal regulations found in 64 FR 68772-68852, Number 64, December 8, 1999, 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 Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The Phase II stormwater regulations expand the existing Louisiana Pollutant Discharge Elimination System (LPDES) stormwater program (Phase I) to address stormwater discharges from small municipal separate storm sewer systems (MS4s)(those serving less than 100,000 persons) and construction sites that disturb one to five acres. The regulations allow for the exclusion of certain sources based on a demonstration of the lack of impact on water quality, as well as the inclusion of others based on a higher likelihood of localized adverse impact on water quality. The regulations exclude from the LPDES program stormwater discharges from industrial facilities that have "no exposure" of

industrial activities or materials to stormwater. Also, the deadline by which certain industrial facilities owned by small MS4s must obtain coverage under an LPDES permit is extended from August 7, 2001 until March 10, 2003. In order to fulfill the department's responsibility as defined in the existing Memorandum of Agreement between the LDEQ and the US EPA, the department is required to develop and maintain the legal authority (including state regulations) to carry out all aspects of the LPDES program. The basis and rationale for this Rule are to enable Louisiana to retain its authorization and ensure that effective stormwater management will be practiced by a larger portion of the state.

This 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 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 3. Permits

§301. Scope

* * *

[See Prior Text in A-D.1]

2. except as otherwise provided in this Chapter, storm sewer systems including canals and pumping stations operated and maintained by local, state, or federal agencies solely for the purposes of conveyance of storm water runoff, unless a particular storm water discharge has been identified by the office as a significant contributor to pollution; and the operator of such discharge has been notified of such determination. Such storm sewer systems are considered to be waters of the state and any facility or activity discharging into storm sewer systems shall be required to have permits according to the requirements of these regulations;

* * *

[See Prior Text in D.3-N]

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 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000).

Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Subchapter B. Permit Application and Special LPDES Program Requirements

§2341. Storm Water Discharges

A. Permit Requirement

* * *

[See Prior Text In A.1-8]

9. The state administrative authority may not require a permit for discharges of storm water as provided in Subsection A.2 of this Section or agricultural storm water runoff, which is exempted from the definition of point source at LAC 33:IX.2313 and 2315.

a. On and after October 1, 1994, for discharges composed entirely of storm water for which a permit is not required by Subsection A.1 of this Section, operators shall be required to obtain an LPDES permit only if:

i. the discharge is from a small MS4, as defined in Subsection B.17 of this Section, required to be regulated in accordance with LAC 33:IX.2347;

ii. the discharge is a storm water discharge associated with small construction activity in accordance with Subsection B.15 of this Section;

iii. either the state administrative authority or the EPA regional administrator determines that storm water controls are needed for the discharge based on wasteload allocations that are part of *total maximum daily loads* (TMDLs) that address the pollutant(s) of concern; or

iv. either the state administrative authority or the EPA regional administrator determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.

b. Operators of small MS4s designated in accordance with Subsection A.9.a.i, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with LAC 33:IX.2348 - 2350. Operators of nonmunicipal sources designated in accordance with Subsection A.9.a.ii, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with Subsection C.1 of this Section.

c. Operators of storm water discharges designated in accordance with Subsection A.9.a.iii and iv of this Section shall apply to the Office of Environmental Services, Permits Division for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the department.

B. Definitions

* * *

[See Prior Text in B.1-4]

a. located in an incorporated place with a population of 250,000 or more as determined by the 1990 Census by the Bureau of Census (LAC 33:IX.Chapter 23.Appendix F); or

* * *

[See Prior Text in B.4.b-7]

a. located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Census by the Bureau of Census (LAC 33:IX.Chapter 23.Appendix G); or

* * *

[See Prior Text In B.7.b-14.i]

j. construction activity including clearing, grading, and excavation activities, except operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more; and

k. facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25.

15. *Storm Water Discharge Associated with Small Construction Activity*^C

a. the discharge from construction activities, including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The state administrative authority may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

i. the value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M Street, SW, Washington, DC 20460. An operator must certify to the state administrative authority that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

ii. storm water controls are not needed based on a TMDL established by the department or by EPA and approved by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this Clause, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the state administrative authority that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis; or

b. the discharge from any other construction activity designated by the state administrative authority or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the state.

Exhibit 1. Summary of Coverage of "Storm Water Discharge Associated with Small Construction Activity" Under the LPDES Storm Water Program	
Automatic Designation: Required Coverage	Construction activities that result in a land disturbance of equal to or greater than one acre and less than five acres. Construction activities disturbing less than one acre if part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and less than five acres (see Subsection B.15.a of this Section).
Potential Designation: Optional Evaluation and Designation by the State Administrative Authority or EPA Regional Administrator	Construction activities that result in a land disturbance of less than one acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants (see Subsection B.15.b of this Section).
Potential Waiver: Waiver from Requirements as Determined by the State Administrative Authority	Any automatically designated construction activity where the operator certifies: (1) a rainfall erosivity factor of less than five, or (2) that the activity will occur within an area where controls are not needed based on a TMDL or, for nonimpaired waters that do not require a TMDL, an equivalent analysis for the pollutant(s) of concern (see Subsection B.15.a of this Section).

16. *Small Municipal Separate Storm Sewer System*^{Ca} municipal separate storm sewer system that:

a. is owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or in accordance with state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;

b. is not defined as a *large* or *medium* municipal separate storm sewer system in accordance with Subsection B.4 and 7 of this Section, or designated under Subsection A.1.e of this Section; and

c. includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

17. *Small MS4*^{Ca} small municipal separate storm sewer system.

18. *Municipal Separate Storm Sewer System*^{Ca} separate storm sewer that is defined as a *large*, *medium*, or *small* municipal separate storm sewer system in accordance with Subsection B.4, 7, and 16 of this Section, or designated under Subsection A.1.e of this Section.

19. *MS4*^{Ca} municipal separate storm sewer system.

20. *Uncontrolled Sanitary Landfill*^{Ca} landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on or runoff controls established in accordance with subtitle D of the Solid Waste Disposal Act.

C. Application Requirements for Storm Water Discharges Associated with Industrial Activity and with Small Construction Activity

1. Individual Application. Dischargers of storm water associated with industrial activity and of storm water associated with small construction activity are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water that the state administrative authority is evaluating for designation (see LAC 33:IX.2443.C) under Subsection A.1.e of this Section, and is not a municipal separate storm sewer, and that is not part of a group application described under Subsection C.2 of this Section, shall submit an LPDES application in accordance with the requirements of LAC 33:IX.2331 as modified and supplemented by the provisions of the remainder of this Paragraph. Applicants for discharges composed entirely of storm water shall submit Form 1 and Form 2F. Applicants for discharges composed of storm water and non-storm water shall submit Form 1, Form 2C, and Form 2F. Applicants for new sources or new discharges (as defined in LAC 33:IX.2313) composed of storm water and non-storm water shall submit Form 1, Form 2D, and Form 2F.

* * *

[See Prior Text in C.1.a-a.vii]

b. The operator of an existing or new storm water discharge that is associated with industrial activity solely under Subsection B.14.j of this Section, or is associated with small construction activity solely under Subsection B.15 of this Section, is exempt from the requirements of LAC 33:IX.2331.G and Subsection C.1.a of this Section. Such operator shall provide a narrative description of:

* * *

[See Prior Text In C.1.b.i-E]

1. Individual Applications

* * *

[See Prior Text in E.1.a]

b. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, power plant, or uncontrolled sanitary landfill, the permit application must be submitted to the state administrative authority by March 10, 2003.

* * *

[See Prior Text In E.2-4.c]

5. A permit application shall be submitted to the state administrative authority within 180 days of notice, unless permission for a later date is granted by the administrative authority (see LAC 33:IX.2443) for:

a. a storm water discharge that is determined by either the state administrative authority or the EPA regional administrator to contribute to a violation of a water quality standard or is determined to be a significant contributor of pollutants to waters of the state (see Subsection A.1.e of this Section);

b. a storm water discharge subject to LAC 33:IX.2341.C.1.e.

* * *

[See Prior Text in E.6-7.c]

8. Any storm water discharge associated with small construction activity identified in Subsection B.15.a of this Section requires permit authorization by March 10, 2003, unless designated for coverage before then.

9. For any discharge from a regulated small MS4, the permit application made under LAC 33:IX.2348 must be submitted to the state administrative authority:

a. by March 10, 2003, if designated under LAC 33:IX.2347.A.1, unless the MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing schedule (see LAC 33:IX.2348.C.1); or

b. within 180 days of notice, unless the state administrative authority grants a later date, if designated under LAC 33:IX.2347.A.2 (see LAC 33:IX.2348.C.2).

F. Petitions

* * *

[See Prior Text in F.1-3]

4. Any person may petition the state administrative authority for the designation of a large, medium, or small municipal separate storm sewer system as defined in Subsection B.4.d or 7.d of this Section.

5. The state administrative authority shall make a final determination on any petition received under this Section within 90 days after receiving the petition, with the exception of petitions to designate a small MS4, in which case the state administrative authority shall make a final determination on the petition within 180 days after its receipt.

G Conditional Exclusion for *No Exposure* of Industrial Activities and Materials to Storm Water. Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is *no exposure* of industrial materials and activities to rain, snow, snowmelt, and/or runoff and the discharger satisfies the conditions in Subsection G.1-4 of this Section. *No exposure* means that all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

1. Qualification. To qualify for this exclusion, the operator of the discharge must:

a. provide a storm-resistant shelter to protect industrial materials and activities from exposure to rain, snow, snowmelt, and/or runoff;

b. complete and sign (according to LAC 33:IX.2333) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in Subsection G.2 of this Section;

c. submit the signed certification to the state administrative authority once every five years;

d. allow the state administrative authority to inspect the facility to determine compliance with the no-exposure conditions;

- e. allow the state administrative authority to make any no-exposure inspection reports available to the public upon request; and
- f. for facilities that discharge through an MS4, upon request, submit a copy of the certification of no exposure to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

2. Industrial Materials and Activities Not Requiring Storm-Resistant Shelter. To qualify for this exclusion, storm-resistant shelter is not required for:

- a. drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak (*sealed* means banded or otherwise secured and without operational taps or valves);
- b. adequately-maintained vehicles used in material handling; and
- c. final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

3. Limitations

a. Storm water discharges from construction activities identified in Subsection B.14.j and 15 of this Section are not eligible for this conditional exclusion.

b. This conditional exclusion from the requirement for an LPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be no-exposure discharges, individual permit requirements should be adjusted accordingly.

c. If circumstances change and industrial materials or activities become exposed to rain, snow, snowmelt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for unpermitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

d. Notwithstanding the provisions of this Subparagraph, the state administrative authority retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

4. Certification. The no-exposure certification must require the submission of the following information, at a minimum, to aid the department in determining if the facility qualifies for the no-exposure exclusion:

- a. the legal name, address, and phone number of the discharger (see LAC 33:IX.2331.B);
- b. the facility name and address, the parish name, and the latitude and longitude where the facility is located;
- c. a statement that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:
 - i. using, storing, or cleaning industrial machinery or equipment, and areas where residuals from using, storing, or cleaning industrial machinery or equipment remain;
 - ii. materials or residuals on the ground or in storm water inlets from spills/leaks;
 - iii. materials or products from past industrial activity;

iv. material handling equipment (except adequately maintained vehicles);

v. materials or products during loading/unloading or transporting activities;

vi. materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

vii. materials contained in open, deteriorated, or leaking storage drums, barrels, tanks, and similar containers;

viii. materials or products handled/stored on roads or railways owned or maintained by the discharger;

ix. waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

x. application or disposal of process wastewater (unless otherwise permitted); and

xi. particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow; and

d. the following certification statement, signed in accordance with the signatory requirements of LAC 33:IX.2333:

"I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of no exposure and obtaining an exclusion from LPDES storm water permitting, and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under LAC 33:IX.2341.G.2). I understand that I am obligated to submit a no-exposure certification form once every five years to the state administrative authority and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the state administrative authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an LPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000).

§2345. General Permits

* * *

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

e. Discharges other than discharges from publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the state administrative authority, be authorized to discharge under a general permit without submitting a notice of intent where the state administrative authority finds that a notice of intent requirement would be inappropriate. In making such a finding, the state administrative authority shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The state administrative authority shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

* * *

[See Prior Text In B.2.f- C.3]

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000).

§2346. What are the Objectives of the Storm Water Regulations for Small MS4s?

A. LAC 33:IX.2346-2352 are written in a *readable regulation* format that includes both department guidance, which is not legally binding, as well as code requirements. This format is used to make it easier to understand the regulatory requirements. Like other department regulations, this establishes enforceable legal requirements. For these sections, *I* and *you* refer to the owner/operator. The department has clearly distinguished its recommended guidance from the code requirements by putting the guidance in a separate paragraph headed by the word *guidance*.

B. Under the statutory mandate in section 402(p)(6) of the Clean Water Act, the purpose of this portion of the storm water program is to designate additional sources that need to be regulated to protect water quality and to establish a comprehensive storm water program to regulate these sources. (Because the storm water program is part of the Louisiana Pollutant Discharge Elimination System (LPDES) program, you should also refer to LAC 33:IX.2311, which addresses the broader purpose of the LPDES program.)

C. Storm water runoff continues to harm the nation's waters. Runoff from lands modified by human activities can harm surface water resources in several ways, including by changing natural hydrologic patterns and by elevating pollutant concentrations and loadings. Storm water runoff may contain or mobilize high levels of contaminants, such as sediment, suspended solids, nutrients, heavy metals, pathogens, toxins, oxygen-demanding substances, and floatables.

D. The department strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and consistently protecting and restoring aquatic ecosystems and protecting public health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2277 (October 2000).

§2347. As an Operator of a Small MS4, am I Regulated Under the LPDES Storm Water Program?

A. Unless you qualify for a waiver under Subsection C of this Section, you are regulated if you operate a small MS4 including, but not limited to, systems operated by federal, state, tribal, and local governments, including state departments of transportation, and:

1. your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or

2. you are designated by the state administrative authority, including where the designation is based upon a petition under LAC 33:IX.2341.F.4.

B. You may be the subject of a petition to the state administrative authority to require an LPDES permit for your discharge of storm water. If the state administrative authority determines that you need a permit, you are required to comply with LAC 33:IX.2348-2350.

C. The state administrative authority may waive the requirements otherwise applicable to you if you meet the criteria of Subsection D or E of this Section. If you receive this waiver, you may subsequently be required to seek coverage under an LPDES permit in accordance with LAC 33:IX.2348.A if circumstances change.

D. The state administrative authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:

1. your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the LPDES storm water program; and

2. if you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, storm water controls are not needed based on wasteload allocations that are part of a department-established *total maximum daily load* (TMDL) that addresses the pollutant(s) of concern.

E. The department may waive permit coverage if your MS4 serves a population under 10,000 and you meet the following criteria:

1. the department has evaluated all waters of the state, including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4;

2. for all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of a TMDL established by the department or by EPA and approved by EPA that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

3. for the purpose of this Subsection, the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation), pathogens, oil and grease, and any pollutant that has been identified as a

cause of impairment of any water body that will receive a discharge from your MS4; and

4. the department has determined that future discharges from your MS4 do not have the potential to result in noncompliance with water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2277 (October 2000).

§2348. If I Am an Operator of a Regulated Small MS4, How Do I Apply for an LPDES Permit and When Do I Have to Apply?

A. If you operate a regulated small MS4 under LAC 33:IX.2347, you must seek coverage under an LPDES permit issued by the Department of Environmental Quality, Office of Environmental Services, Permits Division.

B. You must seek authorization to discharge under a general or individual LPDES permit, as follows:

1. if the Office of Environmental Services, Permits Division has issued a general permit applicable to your discharge and you are seeking coverage under the general permit, you must submit a Notice of Intent (NOI) that includes the information on your best management practices and measurable goals required by LAC 33:IX.2349.D. You may file your own NOI or you and other municipalities or governmental entities may jointly submit a NOI. If you want to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, you must submit a NOI that describes which minimum measures you will implement and identify the entities that will implement the other minimum measures within the area served by your MS4. The general permit will explain any other steps necessary to obtain permit authorization;

2.a. if you are seeking authorization to discharge under an individual permit and wish to implement a program under LAC 33:IX.2349, you must submit an application to the Department of Environmental Quality, Office of Environmental Services, Permits Division that includes the information required under LAC 33:IX.2331.F and 2349.D, an estimate of square mileage served by your small MS4, and any additional information that the Permits Division requests. A storm sewer map that satisfies the requirement of LAC 33:IX.2349.B.3.a will satisfy the map requirement in LAC 33:IX.2331.F.7;

b. if you are seeking authorization to discharge under an individual permit and wish to implement a program that is different from the program under LAC 33:IX.2349, you will need to comply with the permit application requirements of LAC 33:IX.2341.D. You must submit both parts of the application requirements in LAC 33:IX.2341.D.1 and 2 by March 10, 2003. You do not need to submit the information required by LAC 33:IX.2341.D.1.b and 2 regarding your legal authority, unless you intend for the permit writer to take such information into account when developing your other permit conditions; and

c. if approved by the Office of Environmental Services, Permits Division, you and another regulated entity may jointly apply under either Subsection B.2.a or b of this Section to be co-permittees under an individual permit;

3. if your small MS4 is in the same urbanized area as a medium or large MS4 with an LPDES storm water permit and that other MS4 is willing to have you participate in its storm water program, you and the other MS4 may jointly seek a modification of the other MS4 permit to include you as a limited co-permittee. As a limited co-permittee, you will be responsible for compliance with the permit's conditions applicable to your jurisdiction. If you choose this option you will need to comply with the permit application requirements of LAC 33:IX.2341, rather than the requirements of LAC 33:IX.2349. You do not need to comply with the specific application requirements of LAC 33:IX.2341.D.1.c,d, and 2.c (discharge characterization). You may satisfy the requirements in LAC 33:IX.2341.D.1.e and 2.e (identification of a management program) by referring to the other MS4's storm water management program; and

4. guidance in referencing an MS4's storm water management program, you should briefly describe how the existing plan will address discharges from your small MS4 or would need to be supplemented in order to adequately address your discharges. You should also explain your role in coordinating storm water pollutant control activities in your MS4 and detail the resources available to you to accomplish the plan.

C. If you operate a regulated small MS4:

1. designated under LAC 33:IX.2347.A.1, you must apply for coverage under an LPDES permit or apply for a modification of an existing LPDES permit under Subsection B.3 of this Section by March 10, 2003, unless your MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing; and

2. designated under LAC 33:IX.2347.A.2, you must apply for coverage under an LPDES permit, or apply for a modification of an existing LPDES permit under Subsection B.3 of this Section within 180 days of notice, unless the state administrative authority grants a later date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000).

§2349. As an Operator of a Regulated Small MS4, What Will My LPDES MS4 Storm Water Permit Require?

A. Your LPDES MS4 permit will require, at a minimum, that you develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable (MEP), to protect water quality and to satisfy the appropriate water quality requirements of the Louisiana Water Control Law and the federal Clean Water Act. Your storm water management program must include the minimum control measures described in Subsection B of this Section unless you apply for a permit under LAC 33:IX.2341.D. For purposes of this Section, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the MEP) and to protect water quality. Implementation of best management practices consistent with the provisions of the storm water management program

required in accordance with this Section and the provisions of the permit required in accordance with LAC 33:IX.2348 constitutes compliance with the standard of reducing pollutants to the maximum extent practicable. Your state administrative authority will specify a time period of up to five years from the date of permit issuance for you to develop and implement your program.

B. Minimum Control Measures

1. Public Education and Outreach on Storm Water Impacts

a. You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

b. Guidance. You may use storm water educational materials provided by your state, tribe, EPA, environmental, public interest or trade organizations, or other MS4s. The public education program should inform individuals and households about the steps they can take to reduce storm water pollution, such as ensuring proper septic system maintenance, ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil or household hazardous wastes. The department recommends that the program inform individuals and groups how to become involved in local stream and beach restoration activities as well as activities that are coordinated by youth service and conservation corps or other citizen groups. The department recommends that the public education program be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities. Examples of strategies include distributing brochures or fact sheets, sponsoring speaking engagements before community groups, providing public service announcements, implementing educational programs targeted at school age children, and conducting community-based projects such as storm drain stenciling and watershed and beach cleanups. In addition, the department recommends that some of the materials or outreach programs be directed toward targeted groups of commercial, industrial, and institutional entities likely to have significant storm water impacts. Examples of this would include providing information to restaurants on the impact of grease clogging storm drains and to garages on the impact of oil discharges. You are encouraged to tailor your outreach program to address the viewpoints and concerns of all communities, particularly minority and disadvantaged communities, as well as any special concerns relating to children.

2. Public Involvement/Participation

a. You must, at a minimum, comply with state, tribal, and local public notice requirements when implementing a public involvement/participation program.

b. Guidance. The department recommends that the public be included in developing, implementing, and reviewing your storm water management program and that the public participation process should make efforts to reach out and engage all economic and ethnic groups. Opportunities for members of the public to participate in program development and implementation include serving as citizen representatives on a local storm water

management panel, attending public hearings, working as citizen volunteers to educate other individuals about the program, assisting in program coordination with other pre-existing programs, or participating in volunteer monitoring efforts. (Citizens should obtain approval where necessary for lawful access to monitoring sites.)

3. Illicit Discharge Detection and Elimination

a. You must develop, implement, and enforce a program to detect and eliminate illicit discharges (see LAC 33:IX.2341.B.2) into your small MS4.

b. You must:

i. develop, if not already completed, a storm sewer system map showing the location of all outfalls and the names and location of all waters of the state that receive discharges from those outfalls;

ii. to the extent allowable under state, tribal, or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;

iii. develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system; and

iv. inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

c. You need to address the following categories of non-storm water discharges or flows (e.g., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the state).

d. Guidance. The department recommends that the plan to detect and address illicit discharges include the following four components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; procedures for removing the source of the discharge; and procedures for program evaluation and assessment. The department recommends visually screening outfalls during dry weather and conducting field tests of selected pollutants as part of the procedures for locating priority areas. Illicit discharge education actions may include storm drain stenciling, a program to promote, publicize, and facilitate public reporting of illicit connections or discharges, and distribution of outreach materials.

4. Construction Site Storm Water Runoff Control

a. You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre.

Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the state administrative authority waives requirements for storm water discharges associated with small construction activity in accordance with LAC 33:IX.2341.B.15.a, you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. Your program must include the development and implementation of, at a minimum:

- i. an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state, tribal, or local law;
- ii. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
- iii. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;
- iv. procedures for site plan review that incorporate consideration of potential water quality impacts;
- v. procedures for receipt and consideration of information submitted by the public; and
- vi. procedures for site inspection and enforcement of control measures.

c. Guidance: Examples of sanctions to ensure compliance include non-monetary penalties, fines, bonding requirements, and/or permit denials for noncompliance. The department recommends that procedures for site plan review include the review of individual preconstruction site plans to ensure consistency with local sediment and erosion control requirements. Procedures for site inspections and enforcement of control measures could include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. You are encouraged to provide appropriate educational and training measures for construction site operators. You may wish to require a storm water pollution prevention plan for construction sites within your jurisdiction that discharge into your system. See LAC 33:IX.2361.R (LPDES permitting authorities' option to incorporate qualifying state, tribal, and local erosion and sediment control programs into LPDES permits for storm water discharges from construction sites). Also, see LAC 33:IX.2350.B. (The state administrative authority may recognize that another government entity, including the administrative authority, may be responsible for implementing one or more of the minimum measures on your behalf.)

5. Post-Construction Storm Water Management in New Development and Redevelopment

a. You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must

ensure that controls are in place that would prevent or minimize water quality impacts.

b. You must:

- i. develop and implement strategies that include a combination of structural and/or non-structural BMPs appropriate for your community;
- ii. use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state, tribal, or local law; and
- iii. ensure adequate long-term operation and maintenance of BMPs.

c. Guidance. If water quality impacts are considered from the beginning stages of a project, new development and, potentially, redevelopment provide more opportunities for water quality protection. The department recommends that the BMPs chosen be appropriate for the local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions. In choosing appropriate BMPs, the department encourages you to participate in locally-based watershed planning efforts that attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, the department recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs, and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, you should provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters, and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. The department recommends that you ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design,

construction, or operation and maintenance. Storm water technologies are constantly being improved, and the department recommends that your requirements be responsive to these changes, developments, or improvements in control technologies.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. You must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, your state, tribe, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

b. Guidance. The department recommends that, at a minimum, you consider the following in developing your program: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural storm water controls to reduce floatables and other pollutants discharged from your separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by you, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices. Operation and maintenance should be an integral component of all storm water management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary. Properly developed and implemented operation and maintenance programs reduce the risk of water quality problems.

C. If an existing qualifying local program requires you to implement one or more of the minimum control measures of Subsection B of this Section, the state administrative authority may include conditions in your LPDES permit that direct you to follow that qualifying program's requirements rather than the requirements of Subsection B of this Section. A qualifying local program is a local, state, or tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of Subsection B of this Section.

D.1. In your permit application (either a notice of intent for coverage under a general permit or an individual permit application) you must identify and submit to the Office of Environmental Services, Permits Division the following information:

a. the BMPs that you or another entity will implement for each of the storm water minimum control measures at Subsection B.1-6 of this Section;

b. the measurable goals for each of the BMPs including, as appropriate, the months and years in which you

will undertake required actions, interim milestones, and the frequency of the action; and

c. the person or persons responsible for implementing or coordinating your storm water management program.

2. If you obtain coverage under a general permit, you are not required to meet any measurable goal(s) identified in your notice of intent in order to demonstrate compliance with the minimum control measures in Subsection B.3-6 of this Section unless, prior to submitting your NOI, the Office of Environmental Services, Permits Division has provided or issued a menu of BMPs that addresses each such minimum measure. Even if that office does not issue the menu of BMPs, however, you still must comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum measures.

3. Guidance. Either EPA or the department will provide a menu of BMPs. You may choose BMPs from the menu or select others that satisfy the minimum control measures.

E.1. You must comply with any more stringent effluent limitations in your permit, including permit requirements that modify, or are in addition to, the minimum control measures based on an approved TMDL or equivalent analysis. The department may include such more stringent limitations based on a TMDL or equivalent analysis that determines such limitations are needed to protect water quality.

2. Guidance. EPA has strongly recommended that until the evaluation of the storm water program in LAC 33:IX.2352, no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4, except where an approved TMDL or equivalent analysis provides adequate information to develop more specific measures to protect water quality.

F. You must comply with other applicable LPDES permit requirements, standards, and conditions established in the individual or general permit, developed consistently with the provisions of LAC 33:IX.2355-2369, as appropriate.

G Evaluation and Assessment

1. Evaluation. You must evaluate program compliance, the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals. [Note: The state administrative authority may determine monitoring requirements for you in accordance with state/tribal monitoring plans appropriate to your watershed. Participation in a group monitoring program is encouraged.]

2. Recordkeeping. You must keep records required by the LPDES permit for at least three years. You must submit your records to the state administrative authority only when specifically asked to do so. You must make your records, including a description of your storm water management program, available to the public at reasonable times during regular business hours (see LAC 33:IX.2323 for confidentiality provision). You may assess a reasonable charge for copying. You may require a member of the public to provide advance notice.

3. Reporting. Unless you are relying on another entity to satisfy your LPDES permit obligations under LAC

33:IX.2350.A, you must submit annual reports to the state administrative authority for your first permit term. For subsequent permit terms, you must submit reports in years two and four unless the state administrative authority requires more frequent reports. Your report must include:

a. the status of compliance with permit conditions, an assessment of the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals for each of the minimum control measures;

b. results of information collected and analyzed, including monitoring data, if any, during the reporting period;

c. a summary of the storm water activities you plan to undertake during the next reporting cycle;

d. a change in any identified best management practices or measurable goals for any of the minimum control measures; and

e. notice that you are relying on another governmental entity to satisfy some of your permit obligations (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000).

§2350. As an Operator of a Regulated Small MS4, May I Share the Responsibility to Implement the Minimum Control Measures with Other Entities?

A. You may rely on another entity to satisfy your LPDES permit obligations to implement a minimum control measure if:

1. the other entity, in fact, implements the control measure;

2. the particular control measure, or component thereof, is at least as stringent as the corresponding LPDES permit requirement; and

3. the other entity agrees to implement the control measure on your behalf. In the reports you must submit under LAC 33:IX.2349.G.3, you must also specify that you rely on another entity to satisfy some of your permit obligations. If you are relying on another governmental entity regulated under LAC 33:IX.Chapter 23 to satisfy all of your permit obligations, including your obligation to file periodic reports required by LAC 33:IX.2349.G.3, you must note that fact in your NOI, but you are not required to file the periodic reports. You remain responsible for compliance with your permit obligations if the other entity fails to implement the control measure (or component thereof). Therefore, the department encourages you to enter into a legally binding agreement with that entity if you want to minimize any uncertainty about compliance with your permit.

B. In some cases the Office of Environmental Services, Permits Division may recognize, either in your individual LPDES permit or in an LPDES general permit, that another governmental entity is responsible under an LPDES permit for implementing one or more of the minimum control measures for your small MS4 or that the department itself is responsible. Where the Office of Environmental Services, Permits Division does so, you are not required to include such minimum control measure(s) in your storm water

management program (e.g., if a state or tribe is subject to an LPDES permit that requires it to administer a program to control construction site runoff at the state or tribal level and that program satisfies all of the requirements of LAC 33:IX.2349.B.4, you could avoid responsibility for the construction measure, but would be responsible for the remaining minimum control measures). Your permit may be reopened and modified to include the requirement to implement a minimum control measure if the entity fails to implement it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000).

§2351. As an Operator of a Regulated Small MS4, What Happens if I Don't Comply with the Application or Permit Requirements in LAC 33:IX.2348-2350?

A. In accordance with LAC 33:IX.2355.A violators of provisions of the LPDES system or permit conditions are subject to enforcement actions and penalties. If you are covered as a co-permittee under an individual permit or under a general permit by means of a joint notice of intent, you remain subject to the enforcement actions and penalties for the failure to comply with the terms of the permit in your jurisdiction, except as set forth in LAC 33:IX.2350.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000).

§2352. Will the Small MS4 Storm Water Program Regulations at LAC 33:IX.2347-2351 Change in the Future?

A. EPA will evaluate the small MS4 regulations at LAC 33:IX.2347-2351 after December 10, 2012, and recommend any necessary revisions. Required revisions will then be incorporated into the LPDES program by the Office of Environmental Services, Permits Division. (EPA intends to conduct an enhanced research effort and compile a comprehensive evaluation of the NPDES MS4 storm water program. EPA will re-evaluate the regulations based on data from the NPDES MS4 storm water program, from research on receiving water impacts from storm water, and the effectiveness of BMPs, as well as other relevant information sources.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000).

Subchapter C. Permit Conditions

§2361. Establishing Limitations, Standards, and Other Permit Conditions

In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.

* * *

[See Prior Text In A-K.1]

2. authorized under section 402(p) of the CWA for the control of storm water discharges;

- 3. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA; or
- 4. numeric effluent limitations are infeasible.

* * *

[See Prior Text In L-Q]

R. Qualifying State, Tribal, or Local Programs

1. For storm water discharges associated with small construction activity identified in LAC 33:IX.2341.B.15, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. When a qualifying state, tribal, or local program does not include one or more of the elements in this Subsection, the state administrative authority must include those elements as conditions in the permit. A qualifying state, tribal, or local erosion and sediment control program is one that includes:

- a. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
- b. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;
- c. requirements for construction site operators to develop and implement a storm water pollution prevention plan. (A storm water pollution prevention plan includes site descriptions, descriptions of appropriate control measures, copies of approved state, tribal, or local requirements, maintenance procedures, inspection procedures, and identification of non-storm water discharges); and
- d. requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.

2. For storm water discharges from construction activity identified in LAC 33:IX.2341.B.14.j, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. A qualifying state, tribal, or local erosion and sediment control program is one that includes the elements listed in Subsection R.1 of this Section and any additional requirements necessary to achieve the applicable technology-based standards of *best available technology* and *best conventional technology* based on the best professional judgment of the permit writer.

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 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000).

Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits

§2383. Modification or Revocation and Reissuance of Permits

When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for

modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407.B and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407.B.2). If cause does not exist under this Section or LAC 33:IX.2385, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in LAC 33:IX.Chapter 23.Subchapters E and F followed.

* * *

[See Prior Text In A-A.13]

14. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in LAC 33:IX.2349.B when:

- a. the permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s); and
- b. the other entity fails to implement measure(s) that satisfy the requirement(s).

* * *

[See Prior Text In A.15- B.2]

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 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000).

**Subchapter F. Specific Decisionmaking Procedures
Applicable to LPDES Permits**

§2443. Permits Required on a Case-by-Case Basis

* * *

[See Prior Text in A-B]

C. Prior to a case-by-case determination that an individual permit is required for a storm water discharge under this Section (see LAC 33:IX.2341.A.1.e, C.1.e, and G.1.a), the state administrative authority may require the discharger to submit a permit application or other information regarding the discharge under Section 308 of the CWA. In requiring such information, the state administrative authority shall notify the discharger in writing and shall send an application form with the notice. The discharger must apply for a permit within 180 days of notice, unless permission for a later date is granted by the state administrative authority. The question whether the initial designation was proper will remain open for consideration during the public comment period under LAC 33:IX.2417 and in any subsequent hearing.

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000).

James H. Brent, Ph.D.
Assistant Secretary

0010#023

RULE

**Office of the Governor
Division of Administration
Property Assistance Agency**

**Items of Property to be Inventoried
(LAC 34:VII.307)**

Editor's Note: This rule is being repromulgated in its entirety to correct an error. The original rule may be viewed in the September 20, 2000 issue of the *Louisiana Register* on page 2005.

In accordance with the R.S. 49:950, et seq., the Division of Administration, Louisiana Property Assistance Agency, hereby amends LAC 34:VII.307.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part VII. Property Control

Chapter 3. State Property Inventory

§307 Items of Property to be Inventoried

A. All items of moveable property having an original acquisition cost, when first purchased by the state of Louisiana, of \$1000 or more, all gifts and other property having a fair market value of \$1000 or more, and all weapons, regardless of cost, with the exception of items specifically excluded in §307.F and §307.G, must be placed on the statewide inventory system. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent inventory information must be forwarded to the Louisiana Property Assistance Agency Director or his designee within 45 days after receipt of these items.

B. Gifts of moveable property must be given a fair market value as agreed upon between the donor and head of the receiving agency and recorded in the inventory if the fair market value is \$1000 or more.

C. Agencies manufacturing moveable property for use within the agency must determine the estimated cost based on the cost of labor and materials and include such items in the inventory provided that estimated cost is \$1000 or more.

D. Agencies which are eligible to receive federal surplus property must place on inventory all items acquired from Federal Surplus which would ordinarily be classified as moveable property and which have an acquisition cost of \$1000 or more. The acquisition date will be the date of

acquisition by the state agency and the acquisition cost will be the actual cost incurred by the state agency.

Note: There are federal regulations regarding accountability for federal surplus property. State agencies should contact the Federal Surplus Property section for information regarding these regulations.

E. Livestock acquired for breeding, dairy, and experimental purposes are classified as property and, with the exception of fowl, and rodents, and any other similar type small mammals, must be recorded in the inventory regardless of the value per animal. Animals acquired for slaughter need not be placed on inventory. When an agency acquires livestock by birth and determination is made that such animals will be used for breeding, dairy, or experimental purposes, the animals shall be included in the inventory and noted as having been acquired by birth and given an appraised fair market value. At each annual inventory, the value of livestock acquired by birth and used for breeding, dairy, or experimental purposes will be re-appraised by the agency property manager and the acquisition cost will be adjusted on the inventory in accord with current fair market value. When an agency acquires livestock by birth and determination is made that such animals will be slaughtered for food, the animals shall not be included in the inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control, LR 2.241 (August 1976), amended LR 8.144 (March 1982), amended by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 12:103 (February 1986), LR 26:2005 (September 2000), repromulgated LR 26:2284 (October 2000).

Irene C. Babin
Director

0010#018

RULE

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacy Education (LAC 46:LIII.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1163 et seq.), the Louisiana Board of Pharmacy hereby repeals the current contents of the referenced chapter and adopts the entire chapter.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 7. Pharmacy Education

§701. Statutory Authority

A. All applicants for licensure by examination shall have obtained practical experience in the practice of pharmacy concurrent with attending or after graduation from an approved college of pharmacy. The practical experience shall be predominately related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and making of reports as required under state and federal law. The practical experience obtained shall have

been under the direct and immediate supervision of a certified pharmacist preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2284 (October 2000).

§703. Student Registration and Internship Program

A. Qualifications

1. a student enrolled in an approved college of pharmacy, or

2. a graduate of an approved college of pharmacy or a graduate who has established educational equivalency through a program approved by the Board, or

3. an individual participating in a residency or fellowship.

a. *Residency* Can organized, directed postgraduate training program in a defined area of pharmacy practice.

b. *Fellowship* Ca directed, highly individualized, postgraduate program designed to prepare the participant to become an independent researcher.

4. The intern applicant shall be non-impaired.

a. The applicant may be required to submit to confidential random drug screen testing or evaluations.

b. A positive drug screen test result may be self-evident as proof of improper drug use.

B. Requirements

1. All students and graduates shall be registered with the Board. The failure to register may result in disciplinary action by the Board.

a. The properly completed application shall be submitted no later than the end of the first semester of the first professional year.

b. The Board may issue an Intern Registration/Work Permit to the applicant, upon receipt of a properly completed application and the appropriate fee.

c. The Intern Registration/Work Permit shall expire no later than one year after the date of graduation from an approved college of pharmacy.

d. The Intern Registration/Work Permit shall be posted in the preceptor site.

e. The Board shall reserve the right to refuse to issue or to recall any Intern Registration/Work Permit.

f. In the presence of extraordinary circumstances, an intern may petition the Board, in writing, for an extension of the expiration date of the Intern Registration/Work Permit.

2. While on duty, an intern shall wear appropriate attire and be properly identified with name, status, and college of pharmacy.

C. Practical Experience Hours

1. Interns shall supply by affidavit a minimum of 1500 hours of practice experience in order to apply for pharmacist licensure.

a. Hours shall be listed on a form supplied by the Board, signed by the preceptor and intern, notarized, and submitted to the Board for approval and credit.

i. An intern may receive credit for a maximum of 50 hours per week.

ii. A separate affidavit shall be required from each preceptor site.

b. Hours obtained outside the State of Louisiana shall be certified to the Louisiana Board of Pharmacy by the

board of pharmacy in the state in which the hours were obtained. Upon written request by the intern, the Board may certify practical experience hours earned in Louisiana to other boards of pharmacy.

c. For interns enrolled in a B.S. program:

i. at least 600 hours shall be earned in the internship program prior to and as a prerequisite for obtaining a maximum credit of 400 hours for the structured didactic program or demonstration project offered by an approved college of pharmacy;

ii. a minimum of 500 hours shall be earned in the internship program after certification of graduation from an approved college of pharmacy;

iii. all 1500 hours may be earned in the internship program after certification of graduation from an approved college of pharmacy.

d. For interns enrolled in a Pharm.D. program:

i. at least 400 hours of practical experience shall be earned in the internship program as a prerequisite for obtaining a maximum credit of 1100 hours for the structured didactic program of an approved college of pharmacy. A maximum of 200 hours may be earned in a non-permitted pharmacy practice, as defined in LAC 46:LIII.913;

ii. a maximum credit of 1100 hours may be earned upon the satisfactory completion of the structured didactic program or demonstration project offered by an approved college of pharmacy. Of the 1100 hours maximum allowed in the structured program, a minimum of 300 hours shall be earned in community pharmacy practice and a minimum of 300 hours shall be earned in hospital or health-system pharmacy practice;

iii. all 1500 hours of practical experience may be earned in the internship program after certification of graduation from an approved college of pharmacy.

e. An intern shall not work in a permitted site that is on probation or with a pharmacist preceptor who is on probation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2285 (October 2000).

§705. Preceptor Program

A. Qualifications for Pharmacist Preceptor Applicants

1. The applicant shall be currently licensed and actively practicing for not less than two years prior to the date of application.

2. The applicant shall not be on probation at the time of application.

B. Requirements

1. The applicant shall complete a Board approved preceptor training program.

2. The applicant shall complete an Application for Pharmacist Preceptor Certificate. The Board shall issue a Pharmacist Preceptor Certificate after verification that all requirements have been satisfied.

a. The Pharmacist Preceptor Certificate shall expire five years from the date of issue, and may be renewed upon application to the Board and verification that all requirements have been satisfied.

b. The Board shall reserve the right to refuse to issue or to recall any Pharmacist Preceptor Certificate.

c. The Pharmacist Preceptor Certificate shall be conspicuously displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1202.C.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2285 (October 2000).

§707. Continuing Education Program

A. The Board, recognizing that professional competency is a safeguard for the health, safety, and welfare of the public, shall require continuing pharmacy education as a prerequisite for annual licensure renewal for pharmacists.

1. Definitions

ACPEAmerican Council on Pharmaceutical Education

CPEContinuing Pharmacy Education, a structured postgraduate educational program for pharmacists to enhance professional competence.

CPE UnitA standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to ten credit hours.

2. Requirements

a. A minimum of one and one-half ACPE or Board approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal.

b. Pharmacists shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the Board.

c. When deemed appropriate and necessary by the Board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the Board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

3. Compliance

a. Complete compliance with CPE rules is a prerequisite for pharmacist licensure renewal.

b. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241.A.(2) and shall constitute a basis for the Board to refuse licensure renewal.

c. The failure to maintain an individual record of personal CPE activities, or falsification of CPE documents, shall be considered a violation of R.S. 37:1241.A.(22).

d. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the Board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1210.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2286 (October 2000).

Malcolm J. Broussard, RPH
Executive Director

0010#016

RULE

Department of Health and Hospitals Board of Pharmacy

Pharmacy Technicians (LAC 46:LIII.Chapter 8)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy amends the rule as it was published in the April 2000 *Louisiana Register*.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 8. Pharmacy Technicians

§801. Qualifications

A. A pharmacy technician trainee (hereinafter referred to as trainee) shall meet the following conditions.

1. Age At least 18 years of age, as evidenced by copy of birth certificate.

2. Character Good moral character and be non-impaired.

3. Submit copy of current criminal background check.

4. Education High school graduate or GED equivalent, as evidenced by copy of credential.

5. Experience Obtain a minimum of 500 hours practical experience in a pharmacy permitted by the board, as evidenced by signed affidavit.

6. Examination Submit evidence that trainee has passed a Board approved pharmacy technician examination.

B. Exception. A pharmacist or pharmacist intern whose license has been denied, revoked, suspended, or restricted for disciplinary reasons by any Board of Pharmacy shall not be a trainee or a pharmacy technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2286 (October 2000).

§803. Experience

A. Upon receipt of a properly completed application for a Pharmacy Technician Trainee Work Permit, the board shall issue a work permit to the trainee in order to obtain the necessary practical experience.

1. The work permit shall be displayed in the prescription department.

2. The work permit shall expire one year from the effective date.

3. After expiration of an initial work permit, the trainee shall not apply for another work permit for a period of 18 months.

4. A trainee shall notify the board, in writing, within ten days of a change in the mailing and/or home address, giving their name and social security number, as well as old and new addresses.

5. The board shall reserve the right to refuse or recall any work permit for just cause.

B. A trainee shall supply by affidavit evidence of a minimum 500 hours practical experience earned under the direct and immediate supervision of a pharmacist.

1. The ratio of pharmacist to trainee on duty shall not exceed one-to-one.

2. Hours shall be listed on an affidavit supplied by the board, signed by the pharmacist and the trainee, notarized, and submitted to the board for approval and/or credit.

3. A trainee may receive credit for a maximum of 50 hours per week.

4. A trainee shall not obtain hours in a permitted site that is on probation or with a pharmacist who is on probation.

5. A separate affidavit shall be required for each permitted site.

6. Hours submitted on an affidavit shall be valid for not more than one year following the expiration date of the work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2286 (October 2000).

§805. Examination

A. A board approved pharmacy technician examination shall consist of integrated subject disciplines, as the board may deem appropriate.

B. A pharmacy technician examination may be offered when necessary as determined by the board.

C. A trainee shall pass a board approved pharmacy technician examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

§807. Pharmacy Technician Certificate

A. Upon receipt of a properly completed and notarized application and the appropriate fee, and following verification that all requirements have been satisfied, the board shall issue a pharmacy technician certificate to the trainee.

B. The pharmacy technician certificate shall be displayed in a conspicuous place in the prescription department in such a manner as to be visible to the public. The annual renewal shall be attached or posted next to the pharmacy technician certificate.

C. In the event of loss or destruction of a pharmacy technician certificate, the board may issue a duplicate upon receipt of a properly completed and notarized affidavit and the appropriate fee.

D. The pharmacy technician annual renewal shall expire and become null and void on June 30 of each year.

1. The board shall mail no later than May 1 of each year an application for renewal to all pharmacy technicians.

2. An application for a lapsed pharmacy technician renewal, accompanied by all outstanding fees, shall be referred to the board's reinstatement committee for consideration.

E. A pharmacy technician shall notify the board, in writing, within ten days of any change in mailing and/or

home address, giving their name and certificate number, as well as old and new addresses.

F. A pharmacy technician shall notify the board, in writing, within ten days of a change in employment, listing the name, address, and permit numbers of old and new employment pharmacies, as well as their name and certificate number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

§809. Continuing Education

A. A minimum of one ACPE or board approved CPE unit, or ten hours, shall be required each year as a prerequisite for annual renewal.

B. Certified pharmacy technicians shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the board.

C. If judged appropriate by the board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the board shall notify all pharmacy technicians prior to the beginning of the year in which the CPE is required.

D. Complete compliance with CPE rules is a prerequisite for renewal of a pharmacy technician certificate.

1. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241.A.(2), and shall constitute a basis for the board to refuse annual renewal.

2. The failure to maintain an individual record of personal CPE activities or falsifying CPE documents shall be considered a violation of R.S. 37:1241.A.(22).

3. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

§811. Impaired Pharmacy Technician

A. An impaired pharmacy technician is one who suffers from a condition that may cause an infringement on the ability to work safely or accurately. The impairment may be caused by, but not limited to, the following factors: substance abuse or addiction, mental illness, physical illness or injury.

B. The board may require an impaired pharmacy technician to comply with the Louisiana Board of Pharmacy Recovery Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

§813. Implementation

A. This chapter shall become effective December 1, 2000.

B. All trainee work permits issued on or before November 30, 2000 shall expire on December 31, 2000.

C. On December 1, 2000, trainees who are in need of additional practical experience to meet the requirement of 500 hours may apply for one new work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

Malcolm J. Broussard, RPh
Executive Director

0010#017

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code Water Supplies (LAC 51:XI.12:001)

Editor's Note: This rule is being repromulgated in its entirety to correct an error. The original rule may be viewed in the August 20, 2000 edition of the *Louisiana Register* on pages 1624-1625.

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) hereby amends 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 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 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 adopts this rule by reference.

The second amendment 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 amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which authorizes 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 also adopts this rule by reference.

The 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) was 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 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 amended as follows.

Title 51

PUBLIC HEALTHCSANITARY CODE

Chapter XII. Sanitary CodeCWater 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*Cregulations 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 26:1037 (May 2000), repromulgated LR 26:1275 (June 2000), amended LR 26:1625 (August 2000), repromulgated LR 26:2289 (October 2000).

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), repromulgated LR 26:1039 (May 2000),

LR 26:1277 (June 2000), amended LR 26:1625 (August 2000), repromulgated LR 26:2289 (October 2000).

David W. Hood
Secretary

0010#028

RULE

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

Bureau of Health Services Financing
Substance Abuse ClinicsC Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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.

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.

David W. Hood
Secretary

0010#091

RULE

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

Sanitary CodeCChapter XIII (Sewage Disposal)

In accordance with provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Section 13:011-3 of Chapter XIII (Sewage Disposal) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as amended

by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942. Predominantly, the amendment to this portion of the Louisiana Sanitary Code is necessary in order to comply with the requirements of Act 505 of the 1995 Regular Session of the Legislature. Act 505 mandated installation of effluent reduction systems following approved individual sewerage systems up through 1,500 gpd capacity, and gave the Department of Health and Hospitals authority to require such effluent reduction systems. Chapter XIII of the Louisiana Sanitary Code is proposed to be amended as follows:

Insert Section 13:011-3 to read as follows:

13:011-3 Effective October 20, 2000, this rule applies to new individual sewerage system installations, upgrades and/or modifications to existing systems required as a result of an investigation by the Office of Public Health (OPH) into an allegation that a violation of Chapter XIII of the Louisiana Sanitary Code has occurred or is occurring, and has the potential for causing harm or creating a nuisance to the general public (R.S. 46:5 Section 1:001). Such individual sewerage systems with a capacity up to and including 1,500 gpd, that produce treated effluent, and which, by design, do not significantly reduce the amount of off-site effluent, shall be followed by an effluent reduction system constructed as described in Section IX of Appendix A of this Chapter.

IX. Effluent Reduction System Requirements For Treated Wastewater

A:9.1 Disinfectants

Where effluent discharges are required to be disinfected, and chlorine is used as the disinfectant, a chlorine contact chamber is required. Calcium hypochlorite, labeled for wastewater disinfection, shall be added in sufficient concentrations to maintain a minimum residual of 0.5 ppm total chlorine in the effluent. In order to achieve the required chlorine contact time, a baffled chlorine contact chamber (Figure 11, Figure 12) designed to meet the needs for each system with the specified liquid holding capacity shall be used as follows:

Disinfectant Chamber Minimum Liquid Capacity	
Treatment Capacity Of Sewerage System	Contact Chamber Liquid Capacity
500 gpd or less	30 Gallons
501 - 750 gpd	45 Gallons
751 - 1000 gpd	60 Gallons
1001 - 1500 gpd	90 Gallons

Any other disinfectant proposed for use should provide an equivalent level of disinfection.

A:9.2 Pumping Stations. Pumping station, when required, must be constructed of approved materials, and must comply with the applicable provisions of this Code.

A:9.3 Effluent Reduction Systems. Individual sewage systems, with a capacity up to and including 1,500 gpd, that produce a treated, off-site effluent, shall include an effluent reducer as part of the overall system (Figure 14).

A:9.4 Special situations may arise where an individual on-site wastewater treatment system is allowed as per paragraph 13:011-2 of this Code, but it is physically

impossible to install the required size of the effluent reduction system or the effluent reduction system itself due to lot size or when a limited use sewerage system is installed in a marsh/swamp area or located over water. The size of the effluent reduction system can be reduced to the maximum amount the lot can accommodate or the installation waived with the authorization of the Sanitarian Parish Manager. Written notification of such authorization must be submitted to the Sanitarian Regional Director and a copy attached to the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47).

A:9.5 All effluent reduction systems shall be installed by a licensed installer. Existing field lines can not be used as the effluent reduction system.

A:9.6 The size of the effluent reduction system installed has to correspond with the recommended size of the sewerage system. For example if a 750 gpd plant is required on the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47), the applicant may install a 1,000 gpd plant, however the size of the effluent reduction system only has to correspond to the minimum size required for a 750 gpd plant.

A:9.7 The sample port for a sewerage system must be installed immediately downstream of the system and in accordance with the appropriate edition and section of NSF Standard 40, as currently promulgated, as well as the applicable provisions of this Code.

Effluent Reduction Options

A:9.8-1 Effluent Reduction Field

This system is installed downstream of a mechanical treatment plant or other sewage treatment system listed in Appendix A of this Code that produces an effluent, but does not by design significantly reduce that effluent. The effluent reduction field is essentially a soil absorption field as described in Section 3 of this Appendix, but with modification as noted in this Section. Figure 15 has a diagram with specifications and cross-sections of the Effluent Reduction Field.

A:9.8-2 If there is not sufficient grade to install the sewerage system and the Effluent Reduction Field with gravity flow to the discharge point, then a pump station in compliance with applicable provision of this Code must be installed.

A:9.8-3 The force of the pumped effluent must be reduced by use of a distribution box, "Tee", or similar appurtenance.

A:9.8-4 The Effluent Reduction Field trenches shall be at least 18 inches wide and between 16 to 24 inches in depth.

A:9.8-5 The bottom of the Effluent Reduction Field must be level.

A:9.8-6 The fill or cover material shall be of porous soil or sand which allows the passage of water in all directions, with sod started on top. Fill should be at least 4 to 6 inches above grade and spread at least three to four feet on either side of the trench.

A:9.8-7 The Effluent Reduction Field must be installed a minimum of ten feet from any property line. In addition the ERF field location shall comply with the minimum distance requirements from water wells and suction lines, etc., as contained in Chapter 12 of this Code.

A:9.8-8 The minimum length of the Effluent Reduction Field shall be determined by the treatment capacity of the Sewerage System:

Treatment Capacity of Sewerage System	Minimum Total Length Per Field
500 gpd or less	100 FT
501 - 750 gpd	150 FT
751 - 1000 gpd	200 FT
1001 - 1500 gpd	300 FT

A:9.8-9 If more than one absorption trench is used to provide the minimum required length of the effluent reduction field, the distance between individual trenches must be at least six feet with one discharge pipe provided.

A:9.8-10 The pipe from the end of the Effluent Reduction Field to the discharge point must be solid.

A:9.8-11 A check valve must be provided at the end of the effluent reduction field whenever the discharge line is less than 12 inches above the ditch flow-line.

A:9.8-12 Each individual trench must not be greater than 100 feet in length. Clam or oyster shells may be substituted for gravel in the Effluent Reduction Field. If used, gravel must be clean, graded and 2-inch to 2 1/2 inches in diameter. Other media may be considered for use if determined to have acceptable characteristics and properties.

A:9.8-13 Gravelless pipe or other distribution chambers may be used in lieu of conventional soil absorption pipe. If gravelless pipe is used, the fill must be porous soil or sand which allows the passage of water in all directions, with a 6-inch layer below the pipe and filled 4 to 6 inches above grade and spread 3 to 4 feet on either side of the trench.

A:9.9-1 Rock-Plant Filter

All rock plant filters must be a minimum of five feet wide to a maximum of ten feet wide.

A:9.9-2 The square footage will be determined by the treatment capacity of the Sewerage System as follows:

Treatment Capacity of Sewerage System	Rock Plant Filter Size
500 gpd or less	150 square feet
501 - 750 gpd	225 square feet
751 - 1000 gpd	300 square feet
1001 - 1500 gpd	450 square feet

Refer to Figure 16 for a schematic and cross section of a rock plant filter with a sewerage system installation.

A:9.9-3 The rock plant filter must be installed a minimum of ten feet from any property line. In addition, the RPF location shall comply with the minimum distance requirements from water wells and suction lines, etc., as contained in Chapter 12 of this Code.

A:9.9-4 If there is not sufficient grade to install the sewerage system and the Rock Plant Filter with gravity flow to the discharge point, then a pumping station in compliance with applicable provisions of this Code must be installed.

A:9.9-5 In order to prevent backflow, a check valve is required whenever the discharge line is less than 12 inches above the ditch flow-line.

A:9.9-6 Only a standard shape bed may be installed with a minimum width of five feet and of such length as to provide the required square footage.

A:9.9-7 Plans for any other configuration must be submitted for review and approval to the Sanitarian Regional Director.

A:9.9-8 A liner will be required when the ground water level is within 24 inches of the bottom of the trench.

A:9.9-9 The polyethylene liner may be of more than one layer provided a total thickness of 16 mil is achieved.

A:9.9-10 When a liner is not required, the use of landscape fabric is highly recommended to prevent weed intrusion.

A:9.9-11 The bottom of the bed must be level and be no deeper than 14 inches.

A:9.9-12 A depth of approximately 10 to 12 inches is best.

A:9.9-13 Gravel must be 2-3 inches in diameter and laid to a depth of 12 inches.

A:9.9-14 An 8-inch water level must be maintained. Gravel should fill the filter bed to above surface grade to prevent erosion.

A:9.9-15 The minimum four-inch perforated inlet pipe must be located no closer than 4 inches from the bottom of the bed and supported by a footing of noncorrosive material, such as concrete or treated timber.

A:9.9-16 The inlet should extend no more than two feet into the rock plant bed and must be provided with a "Tee" (with ends capped) extending the width of the bed to within one foot of the side walls.

A:9.9-17 The outlet pipe shall also be set in a footing of noncorrosive material (concrete or treated timber) on the bottom of the bed with the same "Tee" and configuration. The outlet must be elbowed up and out (Figure 17).

A:9.9-18 Do not allow plants to grow within three feet of the inlet and outlet of the bed.

A:9.9-19 A levee support system around the perimeter of the filter should be constructed to exclude surface water. The use of landscape timbers for this purpose is acceptable. Other materials, such as concrete, can also be used.

A:9.10-1 Spray Irrigation

The spray irrigation system (Figure 18) uses an electric pump that distributes the effluent to the yard through sprinkler heads. The effluent from the treatment system collects in a pumping chamber. At a predetermined level, a float switch activates a pump that forces the effluent through piping to pop-up or elevated rotating type sprinkler heads. Evaporation and soil infiltration of the dispersed effluent should prevent any run-off from occurring.

A:9.10-2 A pump station system must be sized according to use and comply with the applicable provisions of this Code.

A:9.10-3 The pressure pump must be a minimum of 1/2 horsepower capable of producing a minimum flow of 12 gallons per minute and maintaining 25 psi at all sprinkler heads.

A:9.10-4 The pump will be activated by a high/low water switch through a manual on/off switch. The pump must be deactivated through a low-volume cut off.

A:9.10-5 A time cycle device may be used to allow for specific sprinkling times (e.g., nighttime, afternoon). The pump chamber must be of adequate liquid capacity to allow sufficient storage to accommodate the desired time settings.

A:9.10-6 A minimum of three 4-inch type heads coded for wastewater effluent, spaced a minimum of 40 feet apart are required.

A:9.10-7 The spray irrigation sprinklers shall comply with American Society of Agricultural Engineers (ASAE) Standard S 398.1 (Procedure for Sprinkler Testing and Performance Reporting).

A:9.10-8 The edge of the spray must be a minimum of 50 feet from the nearest well and 10 feet from any property line. The slope of the land must be such as to facilitate drainage away from the well. In addition, the edge of the spray shall comply with the minimum distance requirements for water wells, lines, etc., as contained in Chapter 12 of this Code.

A:9.10-9 Exceptions due to lot size, topography or other constraints may be authorized by the Sanitarian Parish Manager with written notification of such authorization to the Sanitarian Regional Director and a copy attached to the LHS-47.

A:9.11-1 Overland Flow

When the size of the property is 3 acres or more, an overland flow may be utilized (Figure 19).

A:9.11-2 The discharge through perforated pipe must be distributed in such a manner as to confine the effluent on the property owned by the generator.

A:9.11-3 The location of the overland discharge must have a permanent vegetative cover.

A:9.11-4 The discharge point and the field of flow must be a minimum of 50 feet from the nearest well and the slope of the land must be such as to facilitate drainage away from the well. In addition, the discharge point and the field of flow shall comply with the minimum distance requirements from water wells, lines, etc., as contained in Chapter 12 of this Code.

A:9.11-5 A header should be used at the end of the discharge line to help disperse the effluent and to discourage channelization. The point of discharge must be such that there is at least a 200-foot flow of effluent over the property of the generator.

A:9.11-6 Construction of the system should be such that it is not closer than 20 feet from the property line.

A:9.12 Mound System or Subsurface Drip Disposal (Figure 20; Figure 21)

Either can be considered by DHH-OPH on a case to case basis. Plans and specifications must be submitted to DHH-OPH Engineering Services in consultation with the Sanitarian Regional Director for review and approval prior to construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Office of Public Health, LR 10:802 (October 1984); LR 11:1086 (November 1985); amended by the Department of Health and Hospitals, Office of Public Health, LR 19:49 (January 1993); LR 26:2289 (October 2000).

CHLORINATOR

STACK FEED CHLORINATORS

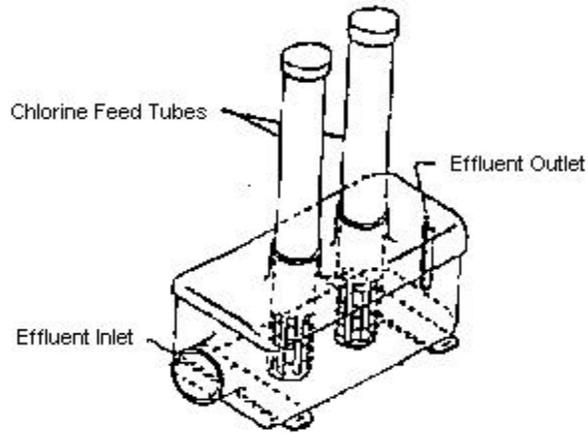


Figure 11

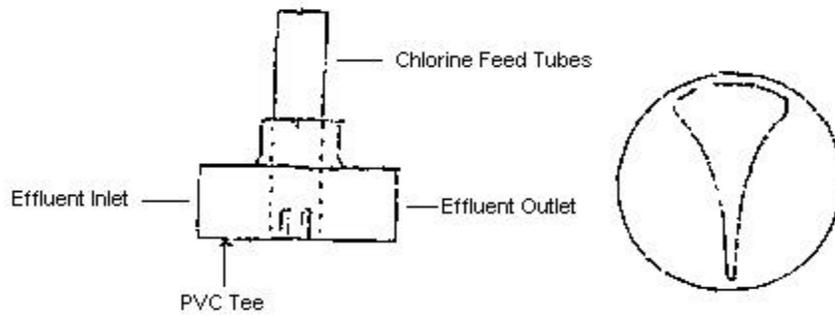
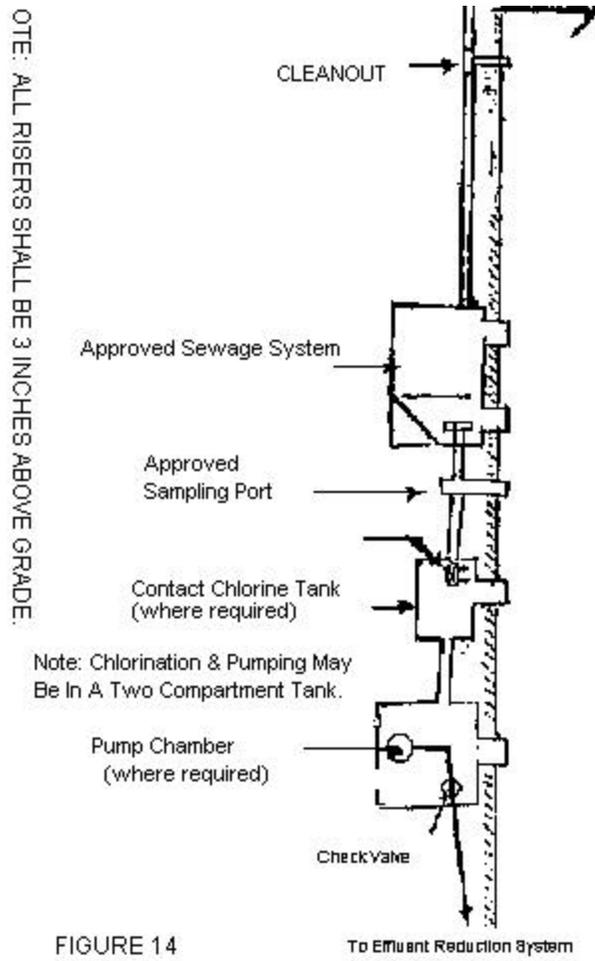


Figure 12

Figure 13

Chlorinators can be purchased premanufactured (as in Figure 11), or can be constructed onsite using the following minimum criteria - (Figure 12) Use a four-inch minimum PVC Tee with a restrictive insert (see Figure 13) to control the effluent flow. This allows the tablets to be contacted by the effluent in proportion to the amount of flow. The insert is cemented onto the PVC Tee with the restriction pointing down.

EFFLUENT REDUCTION TANKAGE



EFFLUENT REDUCTION FIELD

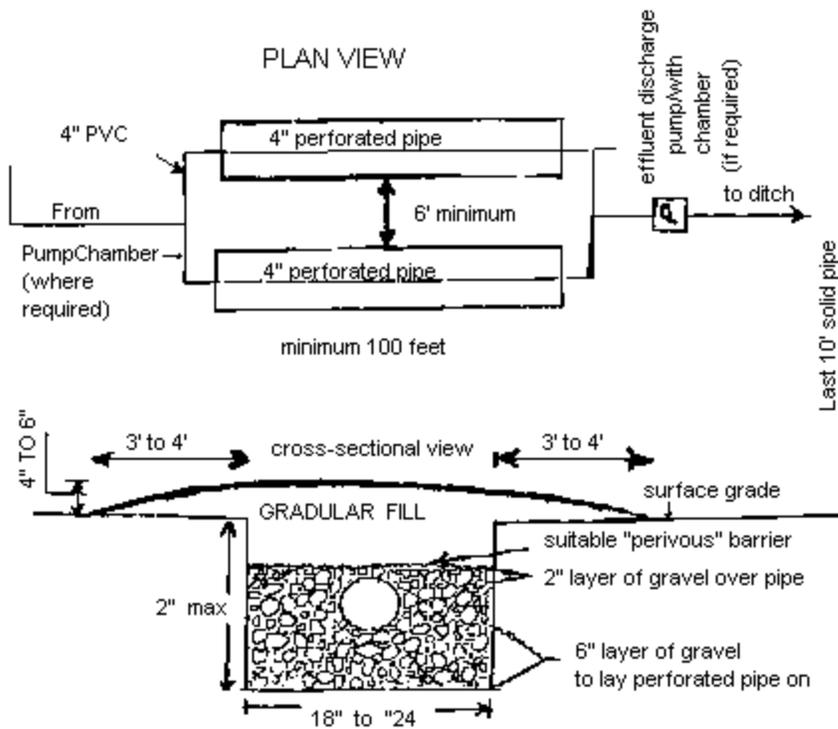


Figure 15

ROCK PLANT

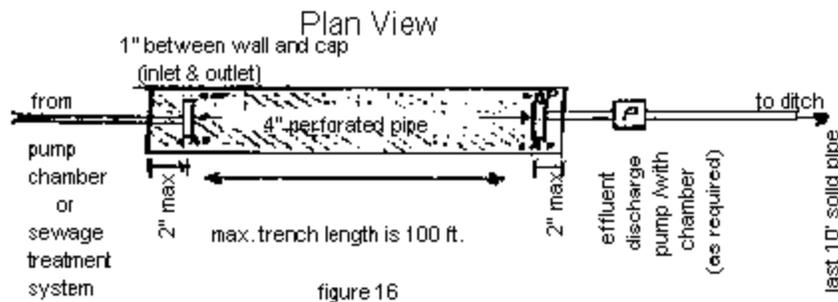


figure 16

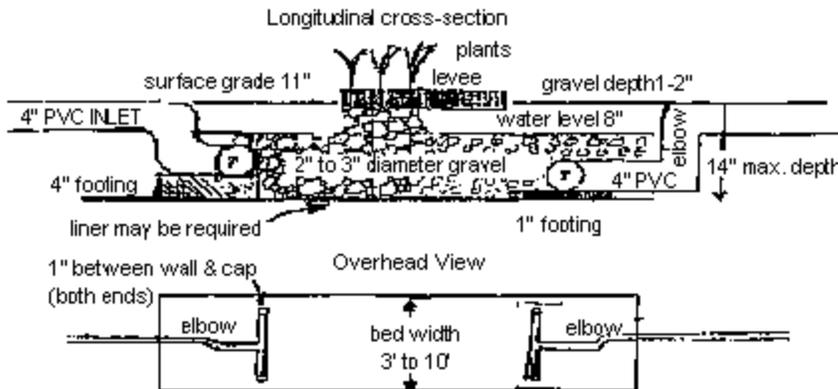


figure 17

SPRAY IRRIGATION SCHEMATIC

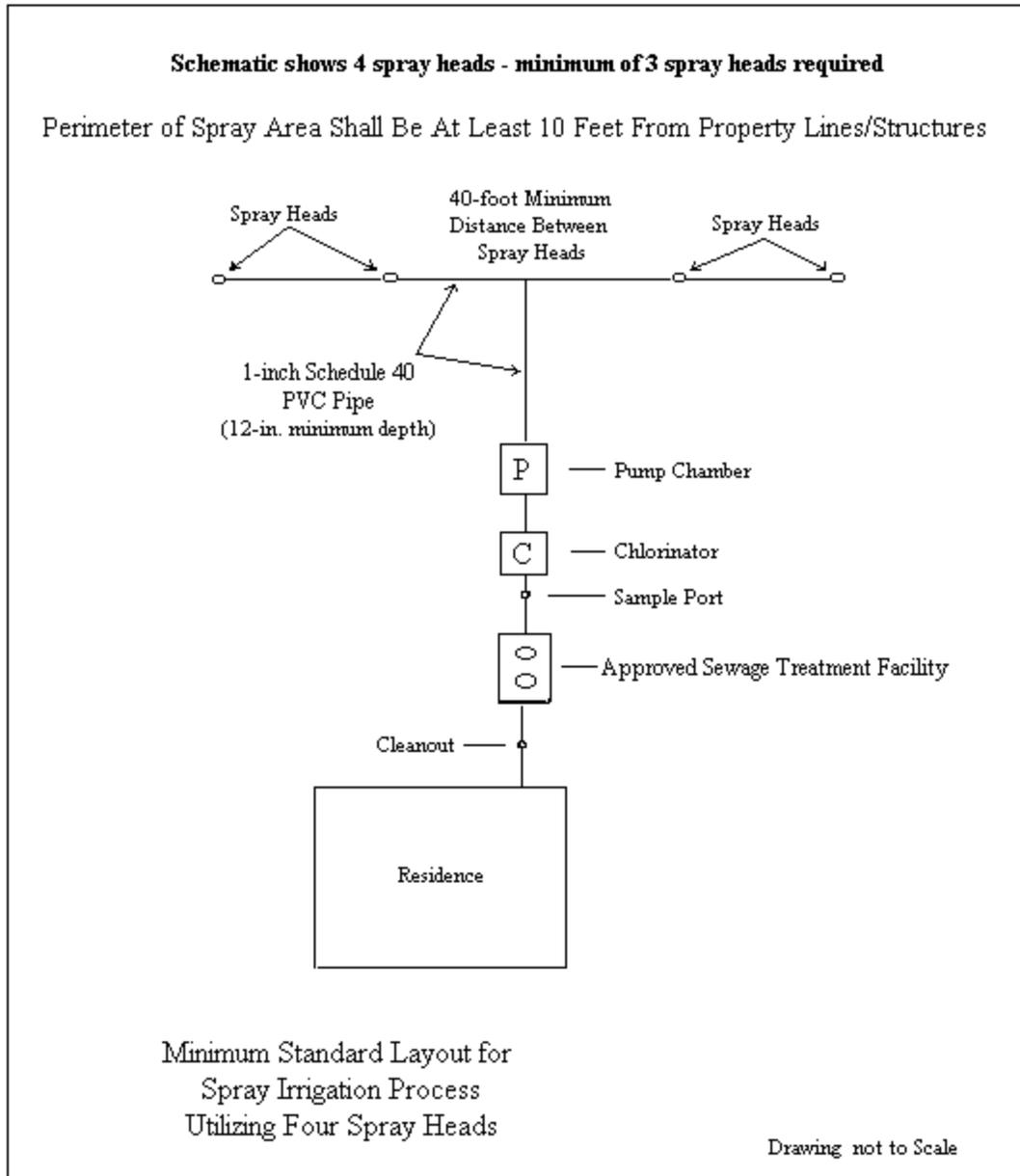


Figure 18

OVERLAND FLOW

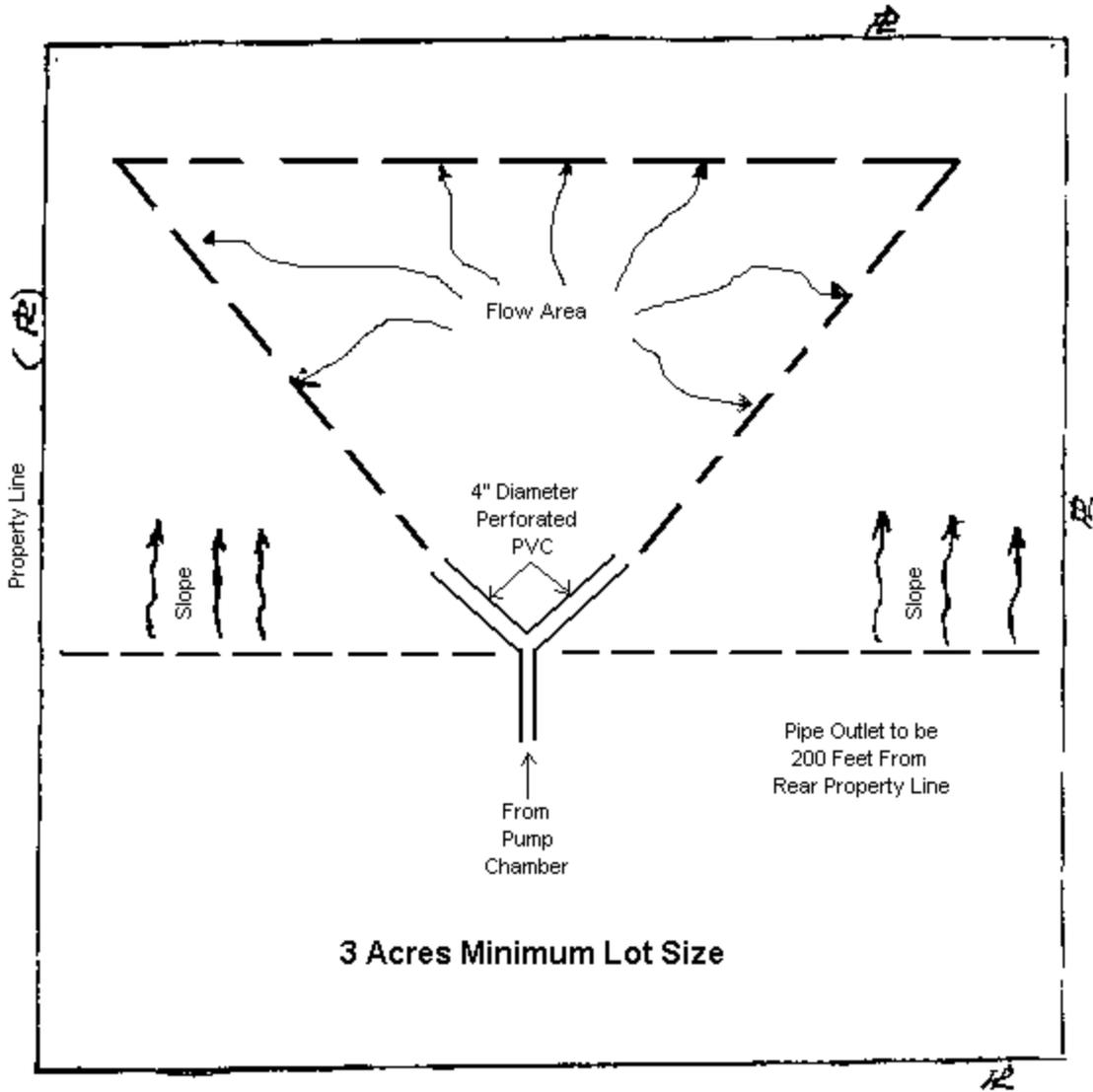
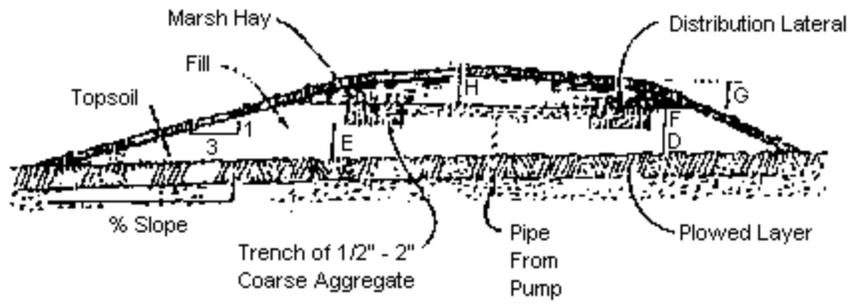
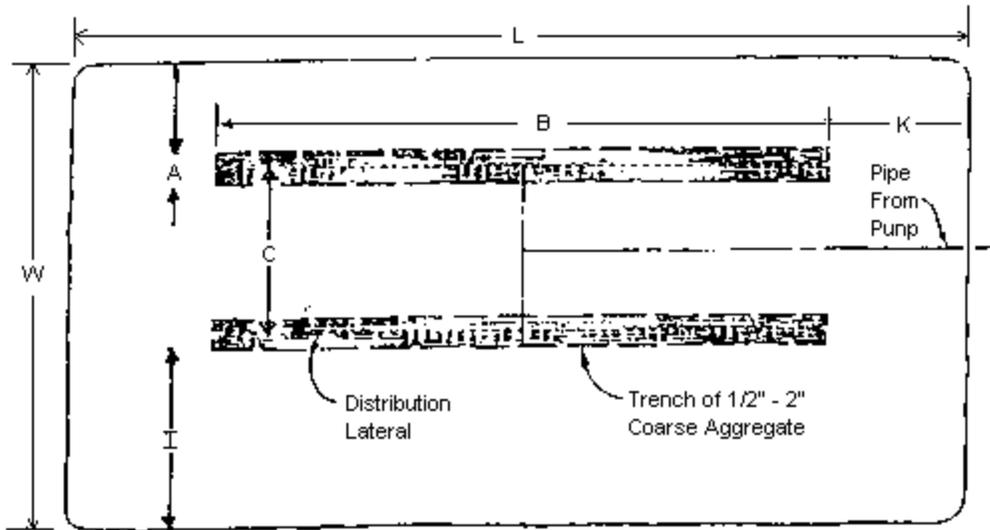


Figure 19

MOUNDS



Cross Section of Mound System Using 2 Trenches for Absorption Area



Plan View of Mound System Using 2 Trenches for Absorption Area

Figure 20

NOTE: MUST BE APPROVED BY OPH - ENGINEERING SERVICES
IN CONSULTATION WITH SANITARIAN REGIONAL DIRECTOR

DRIP DISPOSAL SYSTEM

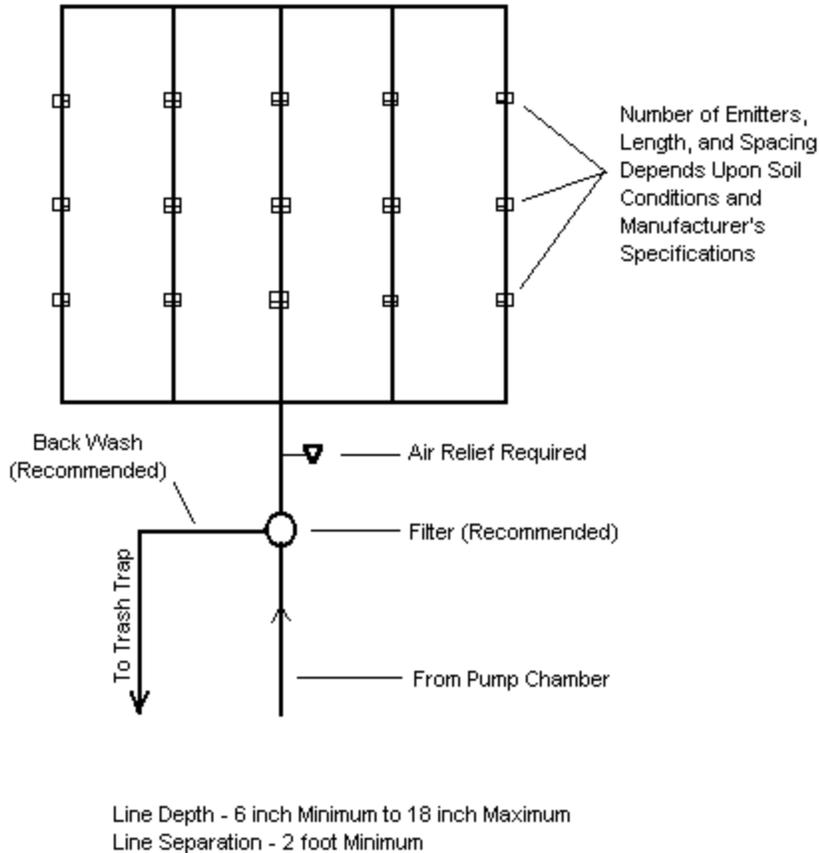


Figure 21

Copies of the proposed rule (including accompanying drawings) are available for public review at the Office of State Register, 1051 North Third Street, Baton Rouge, Louisiana 70802, (225) 342-5015, and at the following Office of Public Health offices during normal business hours: 6867 Bluebonnet Boulevard, Baton Rouge, LA; 1500 Lee Street, Alexandria, LA; 1772 Wooddale Boulevard, Baton Rouge, LA; 1525 Fairfield Avenue, Room 569, Shreveport, LA; 206 East Third Street, Thibodaux, LA; 2913 Betin Street, Monroe, LA; 825 Kaliste Saloom Road, Suite

100, Lafayette, LA; 520 Old Spanish Trail, Slidell, LA; 4240 Senator J. Bennett Johnston Avenue, Lake Charles, LA.

David W. Hood
Secretary

0010#094

RULE

**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 adopts 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.

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.

David W. Hood
Secretary

0010#087

RULE

**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 adopts 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

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.

David W. Hood
Secretary

0010#088

RULE

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

Nursing Facilities Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses nursing facilities for Skilled Nursing-Infectious Disease (SN/ID) and Skilled Nursing-Technology Dependent Care (SN/TDC) services under a prospective reimbursement methodology. This methodology utilizes the skilled nursing (SN) rate inflated to the applicable rate year plus an average allowable cost per day. The allowable cost per day is determined through the department's audit process in accordance with allowable cost guidelines for SN/ID and SN/TDC and based on cost reports for the provision of these services plus a five percent incentive factor inflated to the midpoint of the year preceding the rate year.

A. Reimbursement Methodology. Reimbursement for SN/ID and SN/TDC services shall be set at the rate paid for skilled nursing level of care plus a prospective statewide enhancement to ensure reasonable access to appropriate services. The enhancement shall be based on average allowable incremental costs of all acceptable cost reports for the year on which the rates are based and in accordance with

guidelines for allowable incremental costs and inflated forward to reflect current costs. In addition, the following requirements must be met.

1. The facility must have a valid Title XIX provider agreement for provision of nursing facility services;

2. The facility must be licensed to provide nursing facility services; and

3. The facility must have entered into a separate contractual agreement with the Bureau to provide SN/ID and/or SN/TDC services in accordance with standards for the care of individuals with infectious diseases or technological dependency and meet all applicable staffing and services requirements.

B. Allowable Incremental Costs for SN/ID

1. Direct Nursing Costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services. Nursing services personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. A minimum of 4.0 nursing hours per patient day for infectious disease residents is required. Costs for direct patient care in excess of 9.6 hours per patient day are not allowable on the SN/ID supplemental cost report;

b. The marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/ID cost.

2. Other Direct Care Services are based on demonstrated appropriate services including the following.

a. Respiratory therapy, social services or any other specialized services that are directly attributable to SN/ID status and not otherwise covered in the SN rate.

b. Specialized nursing supplies related to SN/ID status must be supported by detailed justification that substantiate the cost of any specialized nursing supplies.

c. Specialized dietary needs related to SN/ID status must be supported by detailed justification that substantiate the cost of any specialized dietary needs.

3. Plant & Maintenance costs are based on demonstrated dependency of SN/ID special equipment. Costs associated with demonstrated enhanced infection control measures are included. Capitalized purchases are not included.

4. Allocated Costs are based on the ratio of direct nursing hours required for SN/ID service not covered in the regular skilled rate (1.4 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative and general, nursing administration (DON), housekeeping, medical supplies and dietary.

5. Incentive Factor is equal to five percent of the average allowable incremental costs added to the enhanced rate in order to assure reasonable access to SN/ID services.

C. Allowable Incremental Costs for SN/TDC.

1. Direct Nursing Costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services. Nursing service personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse

assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. a minimum of 4.5 nursing hours per patient day for technology dependent care residents is required. Costs for direct patient care in excess of 9.6 hours per patient day are not allowable on the SN/TDC supplemental cost report;

b. the marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/TDC cost.

2. Other Direct Care Services are based on demonstrated appropriate services including the following:

a. respiratory therapy, social services or any other specialized services that are directly attributable to SN/TDC status and not otherwise covered in the SN rate;

b. specialized nursing supplies related to SN/TDC status must be supported by detailed justification that substantiate the cost of any specialized nursing supplies;

c. specialized dietary needs related to SN/TDC status must be supported by detailed justification that substantiate the cost of any specialized dietary needs.

3. Plant & Maintenance costs are based on demonstrated dependency of SN/TDC special equipment. Capitalized purchases are not included.

4. Allocated Costs are based on the ratio of direct nursing hours required for SN/TDC service not covered in the regular skilled rate (1.9 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative and general, nursing administration (DON), housekeeping, medical supplies and dietary.

5. Incentive Factor is equal to five percent of the average allowable incremental costs added to the enhanced rate, in order to assure reasonable access to SN/TDC services.

Facilities shall submit cost reports at the end of each 12 month period. Providers shall be required to segregate SN/ID or SN/TDC costs from other long term care costs and to submit a supplemental cost report which shall be subject to audit. No duplication of costs shall be allowed and allowable costs shall be in accordance with Medicare cost principles.

Rates for SN/ID and SN/TDC services will be re-based as determined necessary by the department to ensure that appropriate services are reimbursed on a reasonable cost basis, recognizing the need for accountability for public funds, as well as the provider's right to a fair payment for services rendered. Base rate adjustments will result in a new base rate component which will be used to calculate the rate for subsequent years. A base rate adjustment may be made when the event, or events, causing the adjustment is not one that would be reflected in inflationary indices.

Annual inflationary adjustments shall be contingent upon appropriations by the Legislature.

David W. Hood
Secretary

0010#090

RULE

**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 adopts 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.

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.

David W. Hood
Secretary

0010#089

RULE

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

Sanitary Code Chapter XIII (Sewage Disposal)

In accordance with provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Paragraph 6.5 of Appendix A of Chapter XIII (Sewage Disposal) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as amended by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942.

Paragraph 6.5 of Appendix A of Chapter XIII (Sewage Disposal) of the Louisiana Sanitary Code is revised to read as follows:

A:6.5 All individual mechanical plants currently approved for installation in Louisiana as of the effective date of these regulations shall not be required to meet the requirements of paragraph 6.4 until March 1, 2001. Until March 1, 2001, plants shall continue to comply with the standards under which they were approved. Effective March 1, 2001, all plants shall comply with the standard as stated in paragraph 6.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Office of Public Health, LR 10:802 (October 1984); amended by the Department of Health and Hospitals, Office of Public Health, LR 19:49 (January 1993); LR 25:49 (January 1999); LR 25:2408 (December 1999), LR 26:2302 (October 2000).

David W. Hood
Secretary

0010#096

RULE

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established fees.

Title 43

NATURAL RESOURCES

**Part XIX. Office of Conservation - General Operations
Subpart 2. Statewide Order No. 29-R-00/01**

Chapter 7. Fees

§701. Definitions

Application Fee Can amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation. The total revenue collected from the application fees shall not exceed \$2,250,000 for Fiscal Year 2000-2001 and thereafter.

Application for Automatic Custody Transfer Can application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq.), or successor regulations.

Application for Commercial Class I Injection Well Can application to construct a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells) Can application to construct additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class II Injection Well Can application to construct a commercial Class II or Class V injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.129 et seq.) or Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells) Can application to construct additional Class II or Class V injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.129 et seq.), or successor regulations.

Application for Multiple Completion Can application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:1301 et seq.), or successor regulations.

Application for Noncommercial Injection Well Can application to construct a Class I, II, III, or V noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.129 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), and 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Permit to Drill (Minerals) Can application to drill in search of minerals, as authorized by La. R.S. 30:28.

Application for Public Hearing Can application for a public hearing as authorized by R.S. 30:1, et. seq..

Application for Substitute Unit Well Can application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit Can application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit Can application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit Can application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination Can application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application for Well Classification (NAPA) Can application requesting the classification of a well, as authorized by Section 503 of the Natural Gas Policy Act of 1978.

Application to Amend Permit to Drill (Injection or Other) Can application to alter, amend, or change a permit to drill an injection, or other well after its initial issuance, as authorized by R.S. 30:21.

Application to Amend Permit to Drill (Minerals) Can application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by La. R.S. 30:28.A.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single

completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the application fee provided herein.

Application to Commingle Can application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq. and LAC 43:XIX.1700 et seq.), or successor regulations.

Application to Process Form R-4 Application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

Application to Renew Permit to Drill (Injection or Other) Can application to renew a permit to drill an injection, or other well, as authorized by R.S. 30:21.

Application to Renew Permit to Drill (Minerals) Can application to renew a permit to drill for minerals, as authorized by R.S. 30:28.B.

BOE annual barrels oil equivalent. Gas production is converted to BE by dividing annual mcf by a factor of 7.

Capable Gas natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well Ca Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 (LAC 43:XVII.101 et seq.) or 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well Ca Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class III Well Ca Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance C emergency authorization to transport oil from lease.

Production Fee Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$2,250,000 for Fiscal Year 2000 - 2001 and thereafter. Incapable oil,

stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

Production Well Any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells certified by the Severance Tax Division of the Department of Revenue and Taxation.

Regulatory Fee Can amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed \$875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility Commercial oilfield waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.129 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

Type B Facility Commercial oilfield waste disposal facilities within the State that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.129 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:758 (March, 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000).

§703. Fee Schedule for Fiscal Year 2000-2001

A. Application Fees	Amount
Application for Unit Determination	\$ 233
Application for Substitute Unit Well	\$ 233
Application for Public Hearing	\$ 700
Application for Multiple Completion	\$ 233
Application to Commingle	\$ 233

Application for Automatic Custody Transfer	\$ 233
Application for Noncommercial Injection Well	\$ 233
Application for Commercial Class I Injection Well	\$1,165
Application for Commercial Class I injection Well (Additional Wells)	\$ 582
Application for Commercial Class II Injection Well	\$ 582
Application for Commercial Class II Injection Well (Additional Wells)	\$ 290
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 117
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 582
Application for Permit to Drill - Minerals: 10,001' +	\$1,165
Drill Minerals Deeper (> 3,000')	\$ 466
Drill Minerals Deeper (> 10,000')	\$ 582
Application to Amend Permit to Drill - Minerals	\$ 117
Application to Amend Permit to Drill - Injection or Other	\$ 117
Application for Surface Mining Exploration Permit	\$ 60
Application for Surface Mining Development Operations Permit	\$ 87
Application for Surface Mining Permit	\$2,039
Application to Process Form R-4	\$ 34
Application to Reinstate Suspended Form R-4	\$ 60
Application for Emergency Clearance Form R-4	\$ 60

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,650 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,825 per facility.

3. Operators of record of permitted Class II injection/disposal wells are required to pay \$ 550 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$ 550 per well.

C. Class I Well Fees. Operators of permitted Class I wells are required to pay \$9,090 per well.

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

	Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0	13
Tier 2	1 - 5,000	67
Tier 3	5,001 - 15,000	190
Tier 4	15,001 - 30,000	318
Tier 5	30,001 - 60,000	508
Tier 6	60,001 - 110,000	699
Tier 7	110,001 - 9,999,999	857

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:758 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000).

§705. Failure to Comply

Operators of operations and activities defined in §701 are required to timely comply with this order. Failure to comply

within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-00/01, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-00/01) supercedes Statewide Order No. 29-R-99/00.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000).

Philip N. Asproditis
Commissioner of Conservation

0001#064

RULE

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

Accounting Regulations; Internal Controls, Slots
(LAC 42:VII.2723, IX.2723 and XIII.2723)

The Louisiana Gaming Control amends LAC 42:VII.2723.F, G and H, 42:IX.2723.F, G and H and 42:XIII.2723.F, G and H, and repeals 42:VII.2715.P and XIII.2715.P in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950, et seq.

**Part VII. Pari-Mutuel Live Racing
Facility Slot Machine Gaming**

Chapter 27. Accounting Regulations

§2715. Internal Control; General

A. - O. ...

P. The value of tokens issued to a patron upon the extension of credit, the receipt of a check or other instrument or via a complimentary distribution program shall be included in the computation of net gaming proceeds.

Q. The licensed eligible facility shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the act and the division's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2305 (October 2000).

§2716. Clothing Requirements

A. All authorized persons accessing any count room when unaudited funds are present shall wear clothing without any pockets or other compartments with the exception of division agents, Security, Internal Audit, and External Audit.

B. Cage employees shall not bring purses, handbags, briefcases, bags or any other similar item into the cage unless it is transparent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2305 (October 2000).

§2717. Reserved

§2719. Internal Controls; Handling of Cash

A. Each gaming employee, owner, or licensed eligible facility who receives currency of the United States from a patron in the gaming area of a gaming establishment shall promptly place the currency in the appropriate place in the cashiers' cage cash register, or other repository approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:748 (April 2000) amended by the Gaming Control Board, LR: 26:2305 (October 2000).

§2723. Internal Controls, Slots

A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the casino operator or casino manager shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:728 (April 2000) amended by the Gaming Control Board, LR: 26:2305 (October 2000).

Part IX. Landbased Casino Gaming

Chapter 27. Accounting Regulations

§2723. Internal Controls, Slots

A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the casino operator or casino manager shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR:26:2305 (October 2000).

Part XIII. Riverboat Gaming

Chapter 27. Accounting Regulations

§2715. Internal Control; General

A. - O. ...

P. The value of chips or tokens issued to a patron upon the extension of credit, the receipt of a check or other instrument or via a complimentary distribution program shall be included in the computation of net gaming proceeds.

Q. The licensee shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and the Division's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming

Control Board, LR 25:2235 (November 1999), amended by the Gaming Control Board LR 26:2306 (October 2000).

§2723. Internal Controls, Slots

A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the licensee shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2242 (November 1999), amended LR 26:2306 (October 2000).

Hillary J. Crain
Chairman

0010#001

RULE

**Office of Public Safety
Gaming Control Board**

Land Based Casino Gaming
(LAC 42:IX.Chapter 41)

The Louisiana Gaming Control Board has amended LAC 42:IX.4103 and adopted LAC 42:IX.4201 through 4219 and repealed LAC 42:IX:4327 through 4357 in accordance with 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 on 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 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)
Chapter 19	Policy		
1905		\$10,000	18
Chapter 21	Licenses and Permits		
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
Chapter 23	Compliance, Inspections, and Investigations		
2325	Sanctions	\$2,500	12
Chapter 25	Transfers of Interest in the Casino Operator and Permittee; Loans and Restrictions		
2521	Loans and Lines of Credit	\$75,000	60
Chapter 27	Accounting Regulation		
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	Record 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	Security of Cards and Dice	\$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
	Permitee 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
Chapter 29	Operating Standards		
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	\$1,000	24

	Title 27:58.10)		
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
Chapter 31	Rules of Play		
	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
Chapter 33	Surveillance and Security		
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
Chapter 35	Patron Disputes		
3501	Division Notification	\$1,000	12
Chapter 37	List of Excluded Persons		
3705	Duty of Casino Operator, Casino Manager and Permittees to Exclude	\$5,000	12
Chapter 41	Enforcement Actions		
4103	Enforcement Actions of the Board	\$20,000	18
Chapter 42	Electronic Gaming Devices		
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
Chapter 43	Specifications for Gaming Devices And Equipment		
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
Title 27	Louisiana Gaming Control Law		
Chapter 4	The Louisiana Riverboat Economic Development and Gaming Control Act		
Part I	General Provisions		
27: 250A and 27:230E	License or permit required	\$10,000	60
Part V	Conducting of Gaming Operations		
27:260 A(1)(2)	No one under 21 allowed	\$10,000	12
27:244A(7)	Adequate insurance	\$25,000	60
Part VIII	Issuance of Permits to Manufacturers, Suppliers, and Others		

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 26:2306 (October 2000).

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 26:2310 (October 2000).

§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 26:2310 (October 2000).

§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 26:2311 (October 2000).

§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 26:2313 (October 2000).

§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 26:2313 (October 2000).

§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 26:2314 (October 2000).

§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 26:2314 (October 2000).

§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.

1. 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'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 Subparagraph 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 26:2314 (October 2000).

§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:2923 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 26:2318 (October 2000).

§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 26:2319 (October 2000).

§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 26:2320 (October 2000).

§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 26:2320 (October 2000).

§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 26:2320 (October 2000).

§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 26:2320 (October 2000).

§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 26:2320 (October 2000).

§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 26:2321 (October 2000).

§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 26:2321 (October 2000).

§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 26:2321 (October 2000).

Hillary J. Crain
Chairman

0010#005

RULE

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

Requirements for Licensing (LAC 42:XI.2405)

The Louisiana Gaming Control Board hereby amends LAC 42:XI.2405.B. in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950, et seq.

Title 42

LOUISIANA GAMING

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A. - B.6 ...

B. Requirements for Licensing

7. All applications shall include the name of the owner(s) of the premises on which the establishment is located. Proof of current tax filings and payments, including tax clearance certificates from the state and all appropriate local taxing authorities shall be submitted to the division along with the annual fee as provided in Subsection B.4. no later than July 1 of each year.

B.8 - C.7 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2321 (October 2000).

Hillary J. Crain
Chairman

0010#002

RULE

**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 has adopted 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 26:2322 (October 2000).

§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 26:2323 (October 2000).

§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 26:2323 (October 2000).

§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 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 26:2324 (October 2000).

§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 26:2325 (October 2000).

§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 26:2326 (October 2000).

§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 26:2326 (October 2000).

§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 26:2327 (October 2000).

§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 26:2327 (October 2000).

§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 26:2329 (October 2000).

§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 26:2329 (October 2000).

J Renea Austin-Duffin
Secretary

0010#060

RULE

**Department of Transportation and Development
Office of the General Counsel**

**Outdoor Advertising Unique Traffic Generators
(LAC 70:I.112 and 205)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Transportation and Development hereby promulgates a rule entitled "Outdoor Advertising Unique Traffic Generators," in accordance with R.S. 48:461 and R.S. 32:238(B).

Title 70.

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertisement

Subchapter A. Outdoor Advertising Signs

§112. Unique Traffic Generators

A. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Specific Services Signing (LOGO). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 and R.S. 32:238(B).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 26:2330 (October 2000).

**Chapter 2. Installation of Tourist Oriented
Directional Signs (TODS)**

§205. Unique Traffic Generators

A - G. ...

H. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Tourist Oriented Directional Signs (TODS). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 12:1596 (December 1993), LR 22:230 (March 1996), LR 26:2330 (October 2000).

Kam K. Movassaghi, P.E., Ph.D
Secretary

0010#013

RULE

**Department of Transportation and Development
Office of Weights and Standards**

**Annual Heavy Equipment Permit
(LAC 73:I.315)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Transportation and Development hereby promulgates a rule entitled "Weights and Standards Annual Heavy Equipment Permit," in accordance with R.S. 32:387.14.

Title 73

TRANSPORTATION

Part I. Office of Weights and Standards

Chapter 3. Oversize and Overweight Permit

§315. Annual Heavy Equipment Permit

A. Requirements

1. Maximum Weight. This permit may be issued by the department for the operation of vehicles transporting heavy equipment with a gross vehicle weight not to exceed 120,000 pounds.

2. Maximum Dimensions. Oversize dimensions of 14 feet 4 inches in maximum height, 12 feet 0 inches in maximum width, 90 feet 0 inches in maximum length, and a maximum rear overhang of 15 feet 0 inches shall be allowed under this permit and included in the cost of this permit. Loads with dimensions exceeding the envelope vehicle described above must obtain a separate oversize/overweight trip permit.

B. Routing. Vehicles which are issued this permit are prohibited from crossing bridges with posted weight limits and from travel in restricted construction zones. Routing, which includes all vertical clearances, will be the responsibility of the permittee.

C. Permit Price. The cost of the permit is \$2,500.00 per year, the maximum price set forth in R.S. 32:387.14. Permits expire one year from the beginning movement date. The permit will be issued for the pulling unit and is non-transferable and non-refundable.

D. Axle Requirements

1. Overweight vehicle combinations with a gross vehicle weight from 80,000 pounds to 108,000 pounds are required to have a minimum of five load-carrying axles.

2. Overweight vehicle combinations with a gross vehicle weight from 108,000 pounds to 120,000 pounds are required to have a minimum of six load-carrying axles.

E. Methods of Payment. The cost of the permit may be paid by the following methods:

- 1. charge account;
- 2. credit card (master card or visa);

3. check;
4. cashier's check; or
5. money order.

Permittee must send the appropriate payment or payment information (account number, credit card information, etc.), accompanied by a completed application form and signed agreement form, to the Truck Permit Office, Department of Transportation and Development, P.O. Box 94042, Baton Rouge, Louisiana 70804-9042.

F. Permit Conditions

1. This permit must be carried within the vehicle using same, and must be available at all times for inspection by the appropriate authorities.

2. This permit is subject to revocation or cancellation by the department at any time.

3. The permittee assumes responsibility for and obligates himself to pay for any damages caused to highways, roads, bridges, structures, or any other state-owned property while using this permit. Issuance of the permit is not assurance or warranty by the state or the Department of Transportation and Development that the highways, roads, bridges and structures are capable of carrying the vehicle and load for which this permit is issued; nor shall issuance stop the state or said department from any claim which may arise for damage to its property.

G. Indemnification. The permittee accepts the permit at his own risk. The permittee must agree to defend, indemnify and hold harmless the department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, cost or expense including attorney fees sustained by reason of the exercise of the permit, whether or not the same may have been caused by negligence of the department, its agents or employees. By exercising this permit, permittee certifies that the information supplied by him contained in his permit application is correct; that he made application to induce the issuance of the permit; that he fully understands all the provisions and requirements of the permit and of said R.S. 32:388(B)(I) and 32:387.14; and that he accepts all conditions and assumes all of the obligations imposed thereby.

H. Movement Days and Times. Vehicles exercising this permit are prohibited from traveling on certain holidays designated by the department. If all of the oversize dimensions are within legal limits, and the load being transported is completely within the confines of the hauling vehicle, the vehicle will be granted 24 - hour movement, as well as holiday movement.

I. Weather. Permitted vehicles are prohibited from traveling during weather which is physically severe, such as extremely heavy rain, heavy fog, icy road conditions, heavy snow, or any continuous condition which creates low visibility for drivers or hazardous driving conditions.

J. Speed Limits. The permitted vehicle is not to exceed a speed limit of 55 miles per hour.

K. Curfews. The load may not cross any bridge spanning the Mississippi River in the New Orleans area or be within two miles of such bridge from 6:30 - 9:00 a.m. and from 3:30 - 6:00 p.m. Monday through Friday.

L. Flags and Warning Signs. Flags not less than 18 inches square are required for vehicles and loads which exceed the legal width. Vehicles and loads exceeding 10 feet in width, exceeding legal length or the legal rear end

overhang must display signs with the wording oversize load. All warning signs must be at least 7 feet long and 18 inches high. The background must be yellow and the letters black. Letters must be at least 10 inches high with a brush stroke of 1 1/2.

M. Following is a model of the permit application form.
Heavy Equipment Annual Permit Application

Customer Number:	Requested Beginning Date:
Company Name:	
Address: City: State: Zip:	
Truck Make/Model:	Serial Number (Vin):
License Number:	State:

Permittee Signature

Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:387.14.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 26:2330 (October 2000).

John P. Basilica, Jr.
Undersecretary

0010#014

RULE

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

**Black Drum Size Limit, Daily Take Possession
Limits and Quotas (LAC 76:VII.331)**

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.331, abolishing the monthly reporting requirement for the commercial take of black drum over 27 inches total length. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§331. Black Drum Size Limits, Daily Take, Possession Limits, and Quotas

A. - A.2. ...

3. The maximum legal size for the recreational taking of black drum shall be 27 inches total length; provided however that recreational fishermen shall be allowed to take and possess no more than one black drum per day over 27 inches. It is provided further that commercial harvesters using legal gear shall be allowed to take and possess and sell black drum over 27 inches in unlimited quantities until the annual quota has been met in compliance with all other rules and regulations.

4. The annual commercial quota for 16 to 27 inch black drum shall be 3,250,000 pounds.

5. The annual commercial quota for black drum over 27 inches shall be 300,000 fish.

6. The fishing year for black drum shall begin on September 1, 1990 and every September 1 thereafter.

7. Once the black drum commercial quota(s) has been met, the purchase, barter, trade or sale of black drum taken in Louisiana after the closure is prohibited. The commercial taking or landing of black drum in Louisiana, whether caught within or without the territorial waters of Louisiana after the closure is prohibited. Nothing in this rule shall be deemed to prohibit the possession of fish legally taken prior to the closure order.

8. The secretary of the Department of Wildlife and Fisheries shall, by public notice, close the commercial fishery(s) for black drum when the quota(s) has been met or is projected to be met. The closure shall not take effect for at least 72 hours after notice to public.

AUTHORITY NOTE: Promulgated in accordance with, R.S. 56:6(10), R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990), amended LR 26:2331 (October 2000).

Thomas M. Gattle, Jr.
Chairman

0010#038

RULE

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

Harvest of Mullet
(LAC 76:VII.343)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.343, abolishing the monthly reporting requirement for the commercial harvest of striped mullet. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishing
§343. Rules for Harvest of Mullet**

A. - D. ...
E. Permits

1. - 3. ...

4. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take mullet and shall be forever barred from receiving any permit or license to commercially take mullet.

F. General Provisions. Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of mullet legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

G...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1, R.S. 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992) amended LR 21:37 (January 1995), LR 22:236 (March 1996), LR 24:359 (February 1998), LR 26:2332 (October 2000).

Thomas M. Gattle, Jr.
Chairman

0010#036

RULE

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

Pompano Permits (LAC 76:VII.703)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.703, abolishing the monthly reporting requirement for the commercial harvest of Florida pompano. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program

§703. Pompano Permits

A. Harvest Regulations

1. - 2. ...

3. When operating under the conditions of a permit, only pompano can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

4. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferable without written permission from the department secretary.

5. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

6. Any violation of the conditions of the permit shall result in the immediate suspension of the permit, and may result in the permanent revocation of the permit.

7. For permitting purposes, a pompano net shall be defined as a pompano strike net not exceeding 2400 feet in length and not smaller than 2-1/2 inches bar or 5 inches stretched mesh, that is not anchored or secured to the water bottom and that is actively worked while being used. A pompano net shall not be constructed of monofilament.

8. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the operator's permit number printed on it in at least eight-inch high letters on a contrasting background so

as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

9. Pompano strike nets may be used during the period from August 1 through October 31 of each year in waters in excess of seven feet in depth and beyond 2,500 feet from land (excluding islands) within the Chandeleur and Breton Sound area described in R.S. 56:406(A)(2).

10. No person shall fish under this permit during the hours after sunset and before sunrise. No person shall fish under this permit on Saturday or Sunday of any week during the open season, or on Labor Day.

11. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take pompano. The department shall not issue any tag to a person who does not have a social security number.

12. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

13. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

14. - B. 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a) and R.S. 56:406A(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:846 (December 1986), amended by the Office of Fisheries, LR 16:322 (April 1990), LR 22:859 (September 1996), amended by the Wildlife and Fisheries Commission, LR 26:2332 (October 2000).

Thomas M. Gattle, Jr.
Chairman

0010#035

RULE

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

**Spotted Seatrout Management Measures
(LAC 76:VII.341)**

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.341, abolishing the monthly reporting requirement for the commercial harvest of spotted seatrout. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. - 4.c. ...

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and

shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

B. Commercial Taking of Spotted Seatrout Using Mullet Strike Nets, Seasons

B.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); R.S. 56:325.3; R.S. 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000).

James H. Jenkins, Jr.
Secretary

0006#089

RULE

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

Traversing Permit (LAC 76:VII.403)

The Wildlife and Fisheries Commission does promulgate a Rule, LAC 76:VII.403, abolishing the monthly reporting requirement for traversing permit holders. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 4. License and License Fees

§403. Traversing Permit

A. - G. ...

H. Permittees will be required to abide by the following conditions.

1. - 2. ...

3. When permitted gear is on board the permitted vessel or in possession of the permittee, the permittee and the vessel are assumed to be operating under authority of the permit. No gear other than gear allowed under the Traversing Permit may be on board the vessel or in possession of the permittee.

4. The vessel authorized for use under the Traversing Permit shall have distinguishing signs so that it may be identified as such. The signs shall have the letters "EEZ" and assigned numbers printed on them in at least 10-inch high letters and numbers on a contrasting background in block style so as to be visible and legible from low-flying aircraft and from any vessel in the immediate vicinity. The assigned numbers shall be situated on both sides and on top of the vessel.

5. The department reserves the right to observe the operations taking place under the Traversing Permit and, at its request, the department may assign aboard any permitted vessel an enforcement agent as an observer.

6. All permittees shall notify the department four hours prior to leaving port to traverse or fish under the conditions of the Traversing Permit and immediately upon returning from the permitted trip. The department shall be notified by calling a designated phone number.

7. The permittee must report to the department the name of the buyer who will purchase the fish product

obtained under the Traversing Permit. This information shall be provided at the time that permittee notifies the department of his return.

8. When quotas have been met or seasons have been closed, no fish affected by such quotas or seasons may be possessed on board a vessel while having commercial gear on board traveling state waters.

9. Any violation of the conditions of the Traversing Permit and any violation of any fisheries regulation shall be punishable as defined by R.S. 56:320.2.D.(1) in accordance with Act 1316 of the 1995 Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:305.B, and R.S. 56:320.2.E.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:240 (March 1996), amended LR 26:2333 (October 2000).

James H. Jenkins, Jr.
Secretary

0010#034