

# Rules

## RULE

### Department of Economic Development Office of the Secretary

#### Regional Initiatives Program (LAC 13:I:Chapter 70)

In accordance with R.S. 51:2341, the Department of Economic Development, Office of the Secretary promulgates rules in LAC 13:I:Chapter 70 for the Regional Initiatives Program.

#### Title 13

#### ECONOMIC DEVELOPMENT

#### Part I. Commerce and Industry

#### Subpart 3. Financial Incentives

#### Chapter 70. Regional Initiatives Program

##### §7001. Purpose

The purpose of the program is to stimulate regional economic development efforts by encouraging existing public and private organizations to combine financial and leadership resources to market their shared strengths to overcome their common deficits. The program serves to help create a "spirit of regional cooperation."

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

##### §7003. Definitions

*Applicant*—the entity requesting financial assistance from DED under this program.

*Award*—grant funding approved under this program for eligible applicants.

*Awardee*—an applicant receiving an award under this program.

*DED*—Louisiana Department of Economic Development.

*Operating Costs*—ongoing administrative, salary and travel expenses of the organization(s) applying for program funds.

*Program*—the Regional Initiatives Program.

*Secretary*—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

##### §7005. General Principles

The following principles will direct the administration of the Regional Initiatives Program:

1. awards should be considered to be one time only funding to achieve a specific goal for a regional (multiparish) economic development organization or coalition of organizations;

2. grant proposals must delineate clearly what is proposed and what is to be achieved by the award;

3. awards are not for the purpose of replacing existing costs, creating new, additional organizations, paying salaries, construction of facilities or acquisition of equipment;

4. projects to be funded must augment the Louisiana Economic Development Council's plan and the objectives and strategies of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

##### §7007. Eligibility

An eligible applicant for the grant award can include, but is not limited to, one of the following:

1. an existing regional economic development organization;

2. local chambers of commerce;

3. local economic development organizations;

4. multiparish organizations funded by local governing authorities and the federal government with an agreement signed by parish heads of government authorizing the group to apply for funds under the Regional Initiatives Program;

5. consortium of local economic development organizations as evidenced by a written agreement to enter into a proposal for the purposes of the Regional Initiatives Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

##### §7009. Criteria

A. Preference will be given to projects that are regional (multiparish) in scope.

B. Projects must have a positive economic impact on at least an entire parish.

C. Preference will be given to projects that enhance, expand or are intended to foster cooperation among both public and private development entities on a regional basis.

D. Preference will be given to rural areas and to proposals from organizations not already receiving economic development funds from the state.

E. No DED award funds can be used to fund ongoing operating costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

##### §7011. Application Procedure

The applicant must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. a narrative proposal (maximum of three pages) that states the objectives and details of the project, what is to be accomplished, the duration of the project, how the proposed

project will have a positive economic impact on the parish or region and how the proposed effort will be continued beyond the funding requested;

2. copy of letter(s) notifying the applicant's local governments, area legislators, and the prevailing economic development organization of intent to apply for R.I.P. funding.

3. quantifiable objectives and deliverables for the project and plans to measure the effectiveness of the project according to those objectives and deliverables;

4. a detailed budget for the project including sources of funds and letters of commitment from the funding sources as well as written commitment of the 25 percent match to be used for the project;

5. résumé(s) of consultants involved with the project;

6. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

### **§7013. Submission and Review Procedure**

A. Applicants must submit their completed application and proposal to the secretary of DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and region;

2. determine whether the project's funding requirements are best met by the proposed award;

3. validate the information presented;

4. determine the overall feasibility of the applicant's plan.

B. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary. If the secretary finds the application complies with the requirements of this program, he may approve the application for funding.

1. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

2. The secretary will issue a letter of commitment to the applicant within five working days of the application review and approval.

3. The final 10 percent of the award amount will not be paid until DED staff reviews the deliverables of the grant agreement to assure that all work has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:429 (March 1998).

### **§7015. General Award Provisions**

A. Award Agreement. A grant agreement will be executed between DED and the awardee. The agreement will specify the performance objectives and deliverables expected of the awardee and the compliance requirements to be enforced

in exchange for state assistance including, but not limited to, time lines for program completion.

#### **B. Use of Funds**

1. Any salary of the applicant related to the project is to be funded through the applicant's match.

2. Project costs ineligible for award funds include, but are not limited to:

a. ongoing operating costs;

b. furniture, fixtures, computers, transportation equipment, rolling stock or equipment.

#### **C. Amount of Award**

1. The portion of the total project costs financed by the award may not exceed 75 percent of the total project cost.

2. The applicant shall provide at least 25 percent of the total cost; 12½ percent of the total project cost may be in-kind. For the purposes of this program, in-kind is the use, as a match, of the awardee's own resources to accomplish the goals of the project being funded.

3. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

#### **D. Conditions for Disbursement of Funds**

1. Upon notification of the award by the secretary, the awardee can begin spending funds on the project.

2. Award funds will be available to the awardee upon execution of a grant agreement.

3. Award funds will not be available for disbursement until:

a. DED receives signed commitments by the project's other financing sources (public and private);

b. all other closing conditions specified in the award agreement have been satisfied.

#### **E. Compliance Requirements**

1. The awardee shall be required to submit progress reports, as specified in the award agreement, describing the progress toward the performance objectives specified in the award agreement.

2. In the event an awardee fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the awardee in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event an awardee knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:429 (March 1998).

Kevin P. Reilly, Sr.  
Secretary

9803#069

## RULE

### Department of Economic Development Office of the Secretary Division of Economically Disadvantaged Business Development

Economically Disadvantaged Business  
Development Program and Small Business  
Bonding Program (LAC 19:II.Chapters 1 and 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development hereby amends rules relative to the Economically Disadvantaged Business Development Program.

#### Title 19

### CORPORATIONS AND BUSINESS

#### Part II. Economically Disadvantaged Business Development Program

#### Chapter 1. General Provisions

##### §105. Definitions

When used in these regulations, the following terms shall have meanings as set forth below:

\* \* \*

*Economically Disadvantaged Person*—a citizen of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

*RFP*—Request for Proposal.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998).

##### §107. Eligibility Requirements for Certification

A. - B. ...

1. Citizenship. The person is a citizen of the United States.
2. Louisiana Residency. The person has resided in Louisiana for at least one year.
3. Net Worth. Each individual owner's personal net worth may not exceed \$150,000.

4. Income. Each individual owner must submit personal federal income tax returns for the past three years.

C. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1751, 1752, and 1754.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998).

#### Chapter 9. Small Business Bonding Program

##### §901. Small Business Bonding Assistance

A.1. - 6.d. ...

7. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998).

##### §903. Direct Bonding Assistance

A. Direct Bonding Assistance. All certified economically disadvantaged construction businesses that have been accredited by the LCAI and all other certified economically disadvantaged businesses (nonconstruction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or \$200,000 on any single project. All obligations whether contractual or financial will require the approval of the undersecretary.

B. Application Process

1. Application for surety bond guarantee assistance including contractor or business underwriting data as prescribed by surety companies shall be submitted by agent to the manager of the Bonding Assistance Program (BAP) and surety coordinator.

2. Manager of BAP or designee will:

- a. determine and document that business is eligible to participate in program;
- b. secure proof that project has been awarded to contractor or business, in the case of performance and payment bonds;
- c. determine worthiness of the project based on advice and input from surety coordinator and management construction/risk management company; and
- d. make recommendation to executive director as required pertaining to specific project.

C. Surety Companies

1. Criteria for Eligibility and Continuation in the Program. A surety company must have a certificate of authority from and its rates approved by the Department of Insurance, and appear in the most current edition of the *U.S. Treasury Circular 570*.

a. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/Letters of Credit (LC) to a participating surety where the administration finds any of the following:

- i. fraud or misrepresentation in any of the sureties business dealings, BAP-related or not;
- ii. imprudent underwriting standards;
- iii. excessive losses (as compared to other participating sureties);

- iv. failure of a surety to consent to BAP audit;
- v. evidence of discriminatory practices; and
- vi. consideration of other relevant factors.

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

2. Subsuretyship. A lead or primary surety must be designated by those sureties who desire to bond a contract together. BAP will recommend a guarantee only to one surety. This does not mean that surety agreements cannot be entered. In a default situation, BAP will recommend to indemnify only the lead or primary surety, which will have an indemnification agreement with its re-insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998).

**§905. Calculation of Guarantee Fee Deduction**

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

1. The surety underwriter shall pay BAP a bond guarantee fee not to exceed 2 percent of the bond guarantee or LC.

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

- a. authorized by the state insurance department rules or by applicable statutes; and
- b. a minimum bond premium regardless of the contract price, if this minimum charge does not exceed \$250 and has been authorized by the appropriate state insurance department.

B. BAP will not recommend approval of an application for a bond guarantee where the surety makes any charge above the standard premium for the bond, except where other services are performed for the contractor and the additional charge or fee is permitted by the appropriate state insurance department.

C. BAP will not approve placement or finder's fees, fees for the use or attempted use of influence in obtaining or trying to obtain a surety bond guarantee or any part thereof. Agents and brokers shall be compensated by surety companies for their efforts through the commission system, based upon fees charged to the applicant contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998).

**§907. Management Construction/Risk Management Company**

A. Surety may require contractor to engage a management construction/risk management company to do, at a minimum, an independent take off and review of all low bid projects and advise BAP of their findings. Surety may also require contractor to engage a management construction/risk management company to provide the following services:

- 1. review of the initial bond request for compatibility of the contractor with the scope of work as outlined in the solicitation;
- 2. job cost breakdown and bid preparation assistance;
- 3. monitor all projects once awarded. This will include a full (critical path) reporting throughout the life of the contract;
- 4. funds receipt and disbursement through a job-specific account on each project. This will include compliance with all lien waivers, releases and vendor payment verification;
- 5. make itself immediately available for project completion on any defaults at no additional fee to the project cost.

B. Management construction/risk management company engaged by contractor shall be pre-approved by BAP and surety. BAP shall not receive any portion of any fees paid to management construction/risk management company by contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998).

**§909. Underwriting a BAP Guaranteed Bond**

A. In underwriting a BAP guaranteed bond, the surety is required to adhere to the surety industry's general principles and practices used in evaluating the credit and capacity; and is also required to adhere to those rules, principles, and practices as may be published from time to time by the BAP.

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

- 1. Bonds
  - a. There must be a specific contract amount in dollars or obligee estimate of the contract amount, in writing, on other than firm fixed price contracts.
  - b. There must be nothing in the contract or the proposed bond that would prevent the surety, at its election, from performing the contract rather than paying the penalty.
  - c. BAP, having guaranteed the bid bond, may refuse to recommend guarantee of the required payment and performance bonds when the actual contract price exceeds the original bid and the higher amount. In such an instance, the

surety would either issue the payment and performance bond without BAP's guarantee, or suffer default in fulfilling the bid bond, which should result in claims against the surety and surety's claim against BAP.

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

3. Ineligible Bond Situations and Exceptions

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

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

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

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

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

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

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

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

C. The surety must satisfy to BAP that there is reasonable expectation that the economically disadvantaged business will perform the covenants and conditions of the contract with respect to which a bond is required. BAP's evaluation will consider the economically disadvantaged business' experience, reputation, and its present and projected financial condition. Finally, BAP must be satisfied as to the reasonableness of cost and the feasibility of successful completion of the contract. The BAP's determination will take into account the standards and principles of the surety industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998).

**§911. Guarantee**

A. Amount of Guarantee. Providing collateral in the form of an irrevocable letter of credit to the surety may be posted

on an individual project basis at the discretion of the Department of Economic Development.

B. Surety Bond Guarantee Agreement

1. Terms and Conditions

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

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

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

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

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

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

v. the surety shall inform BAP of any suit or claim filed against it on any guaranteed bond within 30 days of surety's receipt of notice thereof. Unless BAP decides otherwise, and so notifies surety within 30 days of BAP's receipt of surety's notice, surety shall take charge of the suit for claim and compromise, settle or defend such suit or claim until so notified. BAP shall be bound by the surety's actions in such matters;

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

vii. the surety shall pay BAP a portion of the bond premium in accordance with BAP rules.

c. When contractor successfully completes bonded job a status inquiry report is signed by appropriate parties and is forwarded to surety's collateral department. Surety shall release standby letter of credit within 90 days of recordation of acceptance date shown on status inquiry report.

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

may file an appeal with the secretary of the Department of Economic Development. The secretary will render the final decision.

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

3. Default

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

b. Default Claims, Indemnity Pursuit, and Settlement

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

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

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

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

v. The surety shall advise BAP of attempts made to contact indemnitor or to attach other assets, and the outcome of these attempts. The surety shall insure that BAP is credited with its respective apportionment of all recovery within 90 days of the recovery.

vi. At the culmination of subrogation and indemnity recovery efforts, the surety shall notify the obligor of the total amount outstanding. A copy of the notice sent to the contractor shall be promptly forwarded to the BAP. After recovery efforts have been exhausted, the surety and BAP will make final reconciliation on the defaulted case, and close the file on that

particular contractor's project. Prior to closing the file, surety shall conduct a recapitulation of the account to assure that BAP has been correctly credited with all funds recovered from any and all sources.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:432 (March 1998).

**§913. Audits**

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998).

**§915. Ancillary Authority**

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998).

Henry Stamper  
Executive Director

9803#040

## RULE

### Board of Elementary and Secondary Education

Bulletin 1794—Textbook  
Grievance Procedure (LAC 28:I.919)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Elementary and Secondary Education has amended Bulletin 1794, referenced in LAC 28:I.919. The amendments add a grievance procedure incorporated into the bid invitation.

#### Title 28

#### EDUCATION

#### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

#### §919. Textbook Adoption Standards and Procedures

##### A. Bulletin 1794

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.  
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:434 (March 1998).

#### Bulletin 1794—Textbook Adoption Policies and Procedures

\* \* \*

#### Chapter 10. State Encyclopedias and Encyclopedic Reference Adoption Procedures

##### A. - F. ...

*(Editor's Note: the following unedited Subsection G is being published as originally submitted to the Office of the State Register, at the request of the agency.)*

##### G. Hearing Process

Annually, the state reference adoption hearings shall be held the first week of December. Publishers responding to the invitation to bid will be given an opportunity to present their materials to the state committee. Publishers responding to the invitations to bid but not requesting time before the state committee materials must be reviewed and evaluated during the hearings, just as if there were a representative present. Materials are reviewed and evaluated on the state criteria, not oral presentations.

The hearing process begins with an in-service training session for all committee members, followed by publishers' presentations. All committee members are expected to be in attendance for the duration of the hearings (normally four days).

At the conclusion of presentations each day, committee members will discuss the materials presented, entertain questions, exchange comments, then prepare to vote.

At the time of the vote, publishers are allowed to witness the vote but are not allowed to make comments. Materials receiving a majority vote (nine) of the committee are recommended to the Board of Elementary and Secondary Education for approval. Materials receiving less than a majority vote (nine) of the committee are not recommended to the Board of Elementary and Secondary Education for approval. For all materials not recommended by the committee, the reason(s) for rejection must be given.

Publishers who have had materials rejected by this process will be so notified within one week of the end of the reference adoption hearings. Those who wish to appeal the committee's decision, or who otherwise wish to express a grievance relating to the adoption process, shall have 30 days from this notification deadline to make a written request to appear on the agenda of the next textbook and media committee meeting of the State Board of Elementary and Secondary Education. The textbook and media committee shall schedule and hear any such appeals or grievances and pass its recommendations on to the full board.

H. - J. ...

Weegie Peabody  
Executive Director

9803#041

## RULE

### Board of Elementary and Secondary Education

Bulletin 1868—Personnel Manual (LAC 28:I.922)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. It should be noted that the clause "exclusive of the central office staff" which appeared after Special School District Number 1 has been eliminated from the bulletin. The salary schedule for technical colleges has been deleted from the bulletin.

Copies of this bulletin have been provided to all entities under the jurisdiction of the Board of Elementary and Secondary Education and listed below:

- 1) each technical college;
- 2) BESE's special schools—Louisiana School for the Deaf, Louisiana School for the Visually Impaired, Louisiana Special Education Center;
- 3) each site operated by Special School District Number 1;
- 4) Louisiana Association of Educators and Louisiana Federation of Teachers.

Bulletin 1868 is referenced at LAC 28:922.A.

A printed copy of the bulletin may be seen in the Office of the State Register, located on the fifth floor of the Capitol Annex; in the office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge; in the Office of Vocational Education; or in the

office of Special School District Number 1 located on the third floor of the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:43 and 17:540.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:434 (March 1998).

Weegie Peabody  
Executive Director

9803#072

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws of the Advisory Committee to the  
Student Financial Assistance Commission

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021, et seq., in compliance with §952 of the Administrative Procedure Act, hereby adopts bylaws to govern the Advisory Committee to the commission, its meetings, officers and executive staff, order of business, committees, communications to the commission, rights, duties and responsibilities of the executive staff, responsibilities of commission members, amendment or repeal of bylaws, rules and regulations.

#### Article I. Purpose and Authority

##### Section 1. Purpose of the Committee

The purpose of the advisory committee shall be to consider those matters relating to student financial assistance programs that, from time to time, shall be referred to it by the Louisiana Student Financial Assistance Commission (LASFAC) or its executive staff, and to provide technical advice and recommendations to the commission and its staff on such matters. In establishing the committee, the commission seeks to ensure that its programs are administered to the maximum benefit of Louisiana's students and institutions of higher education, both public and private.

##### Section 2. Authority of the Committee

The advice and recommendations of the committee are only advisory in nature and are not binding upon the commission, its members or officers. All such advice and recommendations offered by the committee shall, insofar as possible, represent the consensus of the Louisiana Association of Student Financial Aid Administrators (LASFAA).

#### Article II. Meetings

##### Section 1. Regular Meetings

The committee shall hold regular meetings which are limited in number to six per year. All regular meetings shall be held at the meeting place designated by the executive director of the Office of Student Financial Assistance (OSFA). Proxy voting shall be permitted provided that the proxy holder is an officer or employee of the organization represented by the appointed

member and that a proxy does not represent the appointed member at more than two of the meetings scheduled annually.

##### Section 2. Special Meetings

Special meetings of the committee may be called by the executive director of the Office of Student Financial Assistance at any time, provided the purposes of the meeting are specified, the members notified at least three calendar days before the time of the meeting, and sufficient members to form a quorum confirm their planned attendance.

##### Section 3. Compensation

Members of the committee shall be reimbursed for their travel expenses incurred in attending meetings, in accordance with applicable state travel regulations. No other compensation is authorized.

##### Section 4. Quorum

Five voting members of the committee shall constitute a quorum for the transaction of business and a simple majority of the members present at any meeting voting for or against a particular item shall be the recommendation of the committee.

#### Article III. Membership and Officers of the Committee

##### Section 1. Membership

The committee shall be composed of 10 members, eight of whom shall be appointed by the Louisiana Association of Student Financial Aid Administrators (LASFAA) from its membership, subject to confirmation by the Louisiana Student Financial Assistance Commission. The criteria for LASFAA's selection of members shall be defined by that organization but said criteria shall ensure that appointees adequately represent LASFAA's membership. The term of all members appointed by LASFAA and confirmed by the commission shall be for two years and members may not serve two consecutive terms. Beginning in October 1997, 50 percent or four of the non-ex officio members of the committee shall be appointed annually to provide for staggered terms of the regular membership. The executive director of the Office of Student Financial Assistance shall be an ex officio, nonvoting member of the committee. The president of LASFAA shall be an ex officio, voting member.

##### Section 2. Chairman and Vice-Chairman

The committee chairman shall be designated annually by the president of LASFAA, from among the serving or newly appointed committee members. The committee shall annually elect a vice-chairman from its membership. The chairman of the committee shall preside over all meetings of the committee, serve as ex officio member of all subcommittees, designate the duties of the vice-chairman, appoint the membership of all subcommittees, and present the committee's recommendations to the commission for its consideration. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

##### Section 3. Ex Officio Member, the Executive Director of the Office of Student Financial Assistance (OSFA)

The executive director of the Office of Student Financial Assistance shall:

- a. ensure that the functions of the committee promote the purpose for which it was established and that the committee is in conformity with all applicable statutes and rules and regulations of the commission;
- b. prepare the business agenda;

- c. provide administrative support to the committee within the resources of his/her office allocated for that purpose;
- d. approve the travel of committee members;
- e. in the absence of the committee chairman or vice-chairman, present the recommendations of the committee to the commission; and
- f. in conjunction with the chairman, schedule meetings of the committee.

**Article IV. Business Rules**

**Section 1. Rules of Order**

When not in conflict with any of the provisions of these bylaws, *Roberts' Rules of Order* shall constitute the rules of parliamentary procedure applicable to all meetings of the committee.

**Section 2. Order of Business**

The order of business of regular meetings of the committee shall be as follows:

- a. roll call;
- b. corrections and approval of minutes of the preceding regular meeting and of all special meetings held subsequent thereto;
- c. reports and recommendations of subcommittees;
- d. unfinished business; and
- e. new business.

**Section 3. Meetings**

Meetings shall be conducted in accordance with the state law governing public bodies. It shall be the policy of the committee that all meetings are open to the public and that parties with interest in the proceedings are encouraged to attend.

**Section 4. Agenda**

Prior to each regular or special meeting of the committee, the executive director of OSFA shall prepare a tentative agenda and forward it to each member of the committee at least five working days prior to such meeting. With the concurrence of its members, all matters supportive of the purpose of the committee may be discussed even though not scheduled on the agenda. The agenda shall be used to focus the committee's deliberations on issues of importance to the commission and it is not intended to inhibit discussion of issues of importance to members that fall within the committee's purpose.

**Section 5. Minutes**

At a minimum, the minutes of the committee shall record official motions or recommendations that are voted on by the committee. The minutes may contain a summary of reports and pertinent discussion of issues. Each recommendation shall be reduced to writing and presented to the committee before it is acted on. The minutes of meetings of the committee become official when approved by the committee at its next scheduled meeting but, prior to such occurrence, the minutes may be presented to the commission by the chairman, vice-chairman, or executive director as the unofficial action of the committee.

**Section 6. Meeting Attendance**

Members unable to continue their service on the committee shall so notify the chairman and the president of LASFAA and

request that a replacement be named. Members who fail to regularly attend meetings without just cause, as determined by the chairman, may be removed from membership by the president of LASFAA, upon the recommendation of the chairman.

**Section 7. Subcommittees**

Subcommittees may be appointed by the chairman to perform specific functions defined by the committee. The membership, chairmanship, and function of subcommittees shall be determined by the chairman. Generally, the business rules defined herein shall be applicable to subcommittees.

**Article V. Approval and Amendment of Bylaws**

**Section 1. Approval of Bylaws**

To receive the commission's consideration, committee bylaws must be favorably recommended by the committee and the executive director of OSFA. Bylaws become effective upon approval by the commission.

**Section 2. Amendments to Bylaws**

The committee, at any of its scheduled regular meetings, may recommend the amendment or repeal of the provisions herein upon a simple majority vote of the entire membership of the committee.

Jack L. Guinn  
Executive Director

9803#011

**RULE**

**Tuition Trust Authority  
Office of Student Financial Assistance**

Student Tuition Assistance and Revenue Trust  
(START) Saving Program—1997 Enrollment Period  
(LAC 28:VI.301)

The Louisiana Tuition Trust Authority (LATTA) hereby revises the Student Tuition Assistance and Revenue Trust (START) Saving Program 1997 enrollment period. Section 301.B.1 of the Student Tuition Assistance and Revenue Trust (START) Saving Program (LAC 28:VI.301) is revised to read as follows.

**Title 28  
EDUCATION**

**Part VI. Student Financial Assistance—Higher  
Education Savings**

**Chapter 3. Education Savings Account**

**§301. Education Assistance Account (EAA)**

\* \* \*

**B. Program Enrollment Period**

1. All eligible beneficiaries during 1997 may be enrolled between July 1 and December 1, 1997. Thereafter, all eligible beneficiaries may be enrolled between July 1 and November 1 of each year.

\* \* \*

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).

Jack L. Guinn  
Executive Director

9803#010

## RULE

### Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

#### Appraisal (LAC 46:LX.503)

The Licensed Professional Counselors Board of Examiners, under the authority of the Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends the following to include the definition of "Appraisal":

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LX. Licensed Professional Counselors Board of Examiners

#### Chapter 5. License and Practice of Counseling

##### §503. Definitions

For purposes of this rule, the following definitions will apply.

*Board*—the Louisiana Licensed Professional Counselors Board of Examiners

*Licensed Professional Counselor*—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

*Mental Health Counseling Services*—those acts and behaviors coming within the "practice of mental health counseling" as defined in R.S. 37:1103. However, nothing in these rules shall be construed to authorize any person licensed hereunder to administer or interpret psychological tests or engage in the practice of psychology in accordance with the provisions of R.S. 37:2352(5).

*Practice of Mental Health Counseling*—rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but are not limited to:

a. *Mental Health Counseling*—assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to

plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

i. *Mental Health Counseling Practicum*. Licensure requires the completion of a mental health counseling practicum totaling 100 clock hours. The practicum includes:

(a). a minimum of 40 hours of direct counseling with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member;

(c). a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

ii. *Mental Health Counseling Internship*. Licensure requires the completion of a mental health counseling internship totaling 300 clock hours. The internship includes:

(a). a minimum of 120 hours of direct counseling with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an LPC working in conjunction with the faculty member;

(c). a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements by the university.

b. *Consulting*—interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations.

c. *Referral Activities*—the evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. *Research Activities*—reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. *Appraisal*—

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting client progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas:

(a). abilities—those normative-based individual and group administered instruments used to measure general mental ability vis-a-vis specific abilities.

(b). interests—those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations,

intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c). aptitudes—those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use tests of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the *Louisiana Administrative Code*, Title 46, Part LX, Chapter 21, Code of Conduct for Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in Chapter 5. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences. Formal training shall include a practicum and supervised practice with appraisal instruments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Licensed Professional Counselors Board of Examiners, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:303 (April 1990), LR 18:51 (January 1992), LR 22:102 (February 1996), LR 24:437 (March 1998).

Gary S. Grand  
Chairman

9803#018

## RULE

### Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

#### Code of Conduct (LAC 46:LX.Chapter 21)

The Licensed Professional Counselors Board of Examiners, under authority of the Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends its present Code of Conduct to be consistent with the new American Counseling Association Code of Ethics which became effective for the association on July 1, 1995, as the ethical rules governing the practice of mental health counseling in the state of Louisiana.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part LX. Licensed Professional Counselors Board of Examiners

#### Chapter 21. Code of Conduct

##### §2101. Preamble

A. The Licensed Professional Counselors Board of Examiners is dedicated to the enhancement of the worth, dignity, potential, and uniqueness of each individual in the state of Louisiana.

B. Specification of a code of conduct enables the board to clarify to present and future counselors and to those served by counselors the responsibilities held in common by persons practicing mental health counseling.

C. *Mental Health Counseling*, as defined in the licensure law, is "assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers."

D. The existence of this code of conduct serves to govern the practice of mental health counseling and the professional functioning of the Licensed Professional Counselors Board of Examiners in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:438 (March 1998).

##### §2103. The Counseling Relationship

###### A. Client Welfare

1. Primary Responsibility. The primary responsibility of counselors shall be to respect the dignity and to promote the welfare of clients.

2. Positive Growth and Development. Counselors shall encourage client growth and development in ways that foster the clients' interest and welfare; counselors shall avoid fostering dependent counseling relationships.

3. Counseling Plans. Counselors and their clients shall work jointly in devising integrated, individual counseling plans that offer reasonable promise of success and are consistent with abilities and circumstances of clients. Counselors and clients shall regularly review counseling plans to ensure their continued viability and effectiveness, respecting clients' freedom of choice.

4. Family Involvement. Counselors shall recognize that families are usually important in clients' lives and shall strive to enlist family understanding and involvement as a positive resource, when appropriate.

5. Career and Employment Needs. Counselors shall work with their clients in considering employment in jobs and circumstances that are consistent with the clients' overall abilities, vocational limitations, physical restrictions, general temperament, interest and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs. Counselors shall neither place nor participate in placing clients in positions that will result in

damaging the interest and the welfare of clients, employers, or the public.

#### B. Respecting Diversity

1. **Nondiscrimination.** Counselors shall not condone or engage in discrimination based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, marital status, or socioeconomic status.

2. **Respecting Differences.** Counselors shall actively attempt to understand the diverse cultural backgrounds of the clients with whom they work. This includes, but is not limited to, learning how the counselor's own cultural/ethnic/racial identity impacts her/his values and beliefs about the counseling process.

#### C. Client Rights

1. **Disclosure to Clients.** When counseling is initiated, and throughout the counseling process as necessary, counselors shall inform clients of the purposes, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed, and other pertinent information. Counselors shall take steps to ensure that clients understand the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements. Clients shall have the right to expect confidentiality and to be provided with an explanation of its limitations, including supervision and/or treatment team professionals; to obtain clear information about their case records; to participate in the ongoing counseling plans; and to refuse any recommended services and be advised of the consequences of such refusal.

2. **Freedom of Choice.** Counselors shall offer clients the freedom to choose whether to enter into a counseling relationship and to determine which professional(s) will provide counseling. Restrictions that limit choices of clients shall be fully explained.

3. **Inability to Give Consent.** When counseling minors or persons unable to give voluntary informed consent, counselors shall act in these clients' best interests.

D. **Clients Served by Others.** If a client is receiving services from another mental health professional, counselors, with client's consent, shall inform the professional persons already involved and develop clear agreements to avoid confusion and conflict for the client.

#### E. Personal Needs and Values

1. **Personal Needs.** In the counseling relationship, counselors shall be aware of the intimacy and responsibilities inherent in the counseling relationship, maintain respect for clients, and shall avoid actions that seek to meet their personal needs at the expense of clients.

2. **Personal Values.** Counselors shall be aware of their own values, attitudes, beliefs, and behaviors and how these apply in a diverse society, and shall avoid imposing their values on clients.

#### F. Dual Relationships

1. **Avoid When Possible.** Counselors shall be aware of their influential positions with respect to clients, and they shall avoid exploiting the trust and dependency of clients. Counselors shall make every effort to avoid dual relationships with clients that could impair professional judgement or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, or close

personal relationships with clients.) When a dual relationship cannot be avoided, counselors shall take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs.

2. **Superior/Subordinate Relationships.** Counselors shall not accept as clients superiors or subordinates with whom they have administrative, supervisory, or evaluative relationships.

#### G. Sexual Intimacies with Clients

1. **Current Clients.** Counselors shall not have any type of sexual intimacies with clients and shall not counsel persons with whom they have had a sexual relationship.

2. **Former Clients.** Counselors shall not engage in sexual intimacies with former clients within a minimum of two years after terminating the counseling relationship. Counselors who engage in such relationship after two years following termination shall have the responsibility to thoroughly examine and document that such relations did not have an exploitative nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, adverse impact on the client, and actions by the counselor suggesting a plan to initiate a sexual relationship with the client after termination.

H. **Multiple Clients.** When counselors agree to provide counseling services to two or more persons who have a relationship (such as husband and wife, or parents and children), counselors shall clarify, at the outset, which person or persons are clients and the nature of the relationships they will have with each involved person. If it becomes apparent that counselors may be called upon to perform potentially conflicting roles, they shall clarify, adjust, or withdraw from roles appropriately.

#### I. Group Work

1. **Screening.** Counselors shall screen prospective group counseling/therapy participants. To the extent possible, counselors shall select members whose needs and goals are compatible with goals of the group, who will not impede the group process, and whose well-being will not be jeopardized by the group experience.

2. **Protecting Clients.** In a group setting, counselors shall take reasonable precautions to protect clients from physical or psychological trauma.

#### J. Fees and Bartering

1. **Advance Understanding.** Counselors shall clearly explain to clients, prior to entering the counseling relationship, all financial arrangements related to professional services including the use of collection agencies or legal measures for nonpayment.

2. **Establishing Fees.** In establishing fees for professional counseling services, counselors shall consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, assistance shall be provided in attempting to find comparable services of acceptable cost.

3. **Bartering Discouraged.** Counselors shall ordinarily refrain from accepting goods or services from clients in return for counseling services because such arrangements create inherent potential for conflicts, exploitation, and distortion of

the professional relationship. Counselors may participate in bartering only if the relationship is not exploitive, if the client requests it, if a clear written contract is established, and if such arrangements are an accepted practice among professionals in the community.

4. Pro Bono Service. Counselors shall contribute to society by devoting a portion of their professional activity to services for which there is little or no financial return (pro bono).

#### K. Termination and Referral

1. Abandonment Prohibited. Counselors shall not abandon or neglect clients in counseling. Counselors shall assist in making appropriate arrangements for the continuation of treatment, when necessary, during interruptions such as vacations, and following termination.

2. Inability to Assist Clients. If counselors determine an inability to be of professional assistance to clients, they shall avoid entering or immediately terminate a counseling relationship. Counselors shall be knowledgeable about referral resources and suggest appropriate alternatives. If clients decline the suggested referral, counselors shall discontinue the relationship.

3. Appropriate Termination. Counselors shall terminate a counseling relationship, securing client agreement when possible, when it is reasonably clear that the client is no longer benefiting; when services are no longer required; when counseling no longer serves the client's needs or interests; or when agency or institution limits do not allow provision of further counseling services.

#### L. Computer Technology

1. Use of Computers. When computer applications are used in counseling services, counselors shall ensure that:

- a. the client is intellectually, emotionally, and physically capable of using the computer application;
- b. the computer application is appropriate for the needs of the client;
- c. the client understands the purpose and operation of the computer applications;
- d. a follow-up of client use of a computer application is provided to correct possible misconceptions, discover inappropriate use, and assess subsequent needs.

2. Explanation of Limitations. Counselors shall ensure that clients are provided information as a part of the counseling relationship that adequately explains the limitations of computer technology.

3. Access to Computer Applications. Counselors shall provide for equal access to computer applications in counseling services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:438 (March 1998).

### **§2105. Confidentiality**

#### A. Right to Privacy

1. Respect for Privacy. Counselors shall respect their clients' right to privacy and avoid illegal and unwarranted disclosures of confidential information.

2. Client Waiver. The right to privacy may be waived by

the client or their legally recognized representative.

3. Exceptions. The general requirement that counselors shall keep information confidential does not apply when disclosure is required to prevent clear and imminent danger to the client or others or when legal requirements demand that confidential information be revealed. Counselors shall consult with other professionals when in doubt as to the validity of an exception.

4. Contagious, Fatal Diseases. A counselor who receives information confirming that a client has a disease commonly known to be both communicable and fatal shall be justified in disclosing information to an identifiable third party who, by his or her relationship with the client, is at a high risk of contracting the disease. Prior to making a disclosure the counselor shall ascertain that the client has not already informed the third party about his or her disease and that the client is not intending to inform the third party in the immediate future.

5. Court Ordered Disclosure. When court ordered to release confidential information without a client's permission, counselors shall request to the court that the disclosure not be required due to potential harm to the client or counseling relationship.

6. Minimal Disclosure. When circumstances require the disclosure of confidential information, only essential information shall be revealed. To the extent possible, clients shall be informed before confidential information is disclosed.

7. Explanation of Limitations. When counseling is initiated and throughout the counseling process as necessary, counselors shall inform clients of the limitations of confidentiality and identify foreseeable situations in which confidentiality must be breached.

8. Subordinates. Counselors shall make every effort to ensure that privacy and confidentiality of clients are maintained by subordinates including employees, supervisees, clerical assistants, and volunteers.

9. Treatment Teams. If client treatment will involve a continued review by a treatment team, the client shall be informed of the team's existence and composition.

#### B. Groups and Families

1. Group Work. In group work, counselors shall clearly define confidentiality and the parameters for the specific group being entered, explain its importance, and discuss the difficulties related to confidentiality involved in group work. The fact that confidentiality cannot be guaranteed shall be clearly communicated to group members.

2. Family Counseling. In family counseling, information about one family member shall not be disclosed to another member without permission. Counselors shall protect the privacy rights of each family member.

C. Minor or Incompetent Clients. When counseling clients who are minors or individuals who are unable to give voluntary, informed consent, parents or guardians shall be included in the counseling process as appropriate. Counselors shall act in the best interests of clients and take measures to safeguard confidentiality.

#### D. Records

1. Requirement of Records. Counselors shall maintain records necessary for rendering professional services to their

clients and as required by laws, regulations, or agency or institution procedures.

2. Confidentiality of Records. Counselors shall be responsible for securing the safety and confidentiality of any counseling records they create, maintain, transfer, or destroy whether the records are written, taped, computerized, or stored in any other medium.

3. Permission to Record or Observe. Counselors shall obtain permission from clients prior to electronically recording or observing sessions.

4. Client Access. Counselors shall recognize that counseling records are kept for the benefit of clients, and therefore shall provide access to records and copies of records when requested by competent clients, unless the records contain information that may be misleading and detrimental to the client. In situations involving multiple clients, access to records shall be limited to those parts of records that do not include confidential information related to another client.

5. Disclosure or Transfer. Counselors shall obtain written permission from clients to disclose or transfer records to legitimate third parties unless exceptions to confidentiality exist as listed in §2105.A. Steps shall be taken to ensure that receivers of counseling records are sensitive to their confidential nature.

#### E. Research and Training

1. Data Disguise Required. Use of data derived from counseling relationships for purposes of training, research, or publication shall be confined to content that is disguised to ensure the anonymity of the individuals involved.

2. Agreement for Identification. Identification of a client in a presentation or publication shall be permissible only when the client has reviewed the material and has agreed to its presentation or publication.

#### F. Consultation

1. Respect for Privacy. Information obtained in a consulting relationship shall be discussed for professional purposes only with persons clearly concerned with the case. Written and oral reports shall present data germane to the purposes of the consultation, and every effort shall be made to protect client identity and avoid undue invasion of privacy.

2. Cooperating Agencies. Before sharing information, counselors shall make efforts to ensure that there are defined policies in other agencies serving the counselor's clients that effectively protect the confidentiality of information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:623 (August 1989), amended LR 24:440 (March 1998).

### §2107. Professional Responsibility

A. Standards Knowledge. Counselors shall have a responsibility to read, understand, and follow the Code of Ethics and the Standards of Practice.

#### B. Professional Competence

1. Boundaries of Competence. Counselors shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall demonstrate a commitment to

gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population. The Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

2. New Specialty Areas of Practice. Counselors shall practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors shall take steps to ensure the competence of their work and to protect others from possible harm. The Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of new area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

3. Qualified for Employment. Counselors shall accept employment only for positions for which they are qualified by education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall hire for professional counseling positions only individuals who are qualified and competent.

4. Monitor Effectiveness. Counselors shall continually monitor their effectiveness as professionals and take steps to improve when necessary. Counselors in private practice shall take reasonable steps to seek out peer supervision to evaluate their efficacy as counselors.

5. Ethical Issues Consultation. Counselors shall take reasonable steps to consult with other counselors or related professionals when they have questions regarding their ethical obligations or professional practice.

6. Continuing Education. Counselors shall recognize the need for continuing education to maintain a reasonable level of awareness of current scientific and professional information in their fields of activity. They shall take steps to maintain competence in the skills they use, are open to new procedures, and keep current when the diverse and/or special populations with whom they work.

7. Impairment. Counselors shall refrain from offering or accepting professional services when their physical, mental, or emotional problems are likely to harm a client or others. They shall be alert to the signs of impairment, seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

#### C. Advertising and Soliciting Clients

1. Accurate Advertising. There are no restrictions on advertising by counselors except those that can be specifically justified to protect the public from deceptive practices. Counselors shall advertise or represent their services to the public by identifying their credentials in an accurate manner that is not false, misleading, deceptive, or fraudulent. Counselors shall only advertise the highest degree earned which is in counseling or a closely related field from a college or university that was accredited by one of the regional accrediting bodies recognized by the Council on Postsecondary Accreditation at the time the degree was awarded.

2. Testimonials. Counselors who use testimonials shall not solicit them from clients or other persons who, because of their particular circumstances, may be vulnerable to undue influence.

3. Statements by Others. Counselors shall make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

4. Recruiting through Employment. Counselors shall not use their places of employment or institutional affiliation to recruit or gain clients, supervisees, or consultees for their private practices.

5. Products and Training Advertisements. Counselors who develop products related to their profession or conduct workshops or training events shall ensure that the advertisements concerning these products or events are accurate and disclose adequate information for consumers to make informed choices.

6. Promoting to Those Served. Counselors shall not use counseling, teaching, training, or supervisory relationships to promote their products or training events in a manner that is deceptive or would exert undue influence on individuals who may be vulnerable. Counselors may adopt textbooks they have authored for instruction purposes.

7. Professional Association Involvement. Counselors shall actively participate in local, state, and national associations that foster the development and improvement of counseling.

#### D. Credentials

1. Credentials Claimed. Counselors shall claim or imply only professional credentials possessed and are responsible for correcting any known misrepresentations of their credentials by others. Professional credentials shall include graduate degrees in counseling or closely related mental health fields, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, ACA professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in counseling.

2. ACA Professional Membership. ACA professional members may announce to the public their membership status. Regular members shall not announce their ACA membership in a manner that might imply they are credentialed counselors.

3. Credential Guidelines. Counselors shall follow the guidelines for use of credentials that have been established by the entities that issue the credentials.

4. Misrepresentation of Credentials. Counselors shall not attribute more to their credentials than the credentials represent, and shall not imply that other counselors are not qualified because they do not possess certain credentials.

5. Doctoral Degrees from Other Fields. Counselors who hold a master's degree in counseling or a closely related mental health field, but hold a doctoral degree from other than counseling or a closely related field shall not use the title, "Dr." in their practices and shall not announce to the public in relation to their practice or status as a counselor that they hold a doctorate.

#### E. Public Responsibility

1. Nondiscrimination. Counselors shall not discriminate against clients, students, or supervisees in a manner that has a negative impact based on their age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status, or for any other reason.

2. Sexual Harassment. Counselors shall not engage in sexual harassment.

a. *Sexual Harassment*—sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with professional activities or roles, and that either:

i. is unwelcome, is offensive, or creates a hostile workplace environment, and counselors know or are told this;

ii. is sufficiently severe or intense to be perceived as harassment to a reasonable person in the context.

b. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

3. Reports to Third Parties. Counselors shall be accurate, honest, and unbiased in reporting their professional activities and judgments to appropriate third parties including courts, health insurance companies, those who are the recipients of evaluation reports, and others.

4. Media Presentations. When counselors provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they shall take reasonable precautions to ensure that:

a. the statements are based on appropriate professional counseling literature and practice;

b. the statements are otherwise consistent with the Code of Ethics and the Standards of Practice;

c. the recipients of the information are not encouraged to infer that a professional counseling relationship has been established.

5. Unjustified Gains. Counselors shall not use their professional positions to seek or receive unjustified personal gains, sexual favors, unfair advantage, or unearned goods or services.

#### F. Responsibility to Other Professionals

1. Different Approaches. Counselors shall be respectful of approaches to professional counseling that differ from their own. Counselors shall know and take into account the traditions and practices of other professional groups with which they work.

2. Personal Public Statements. When making personal statements in a public context, counselors shall clarify that they are speaking from their personal perspectives and that they are not speaking on behalf of all counselors or the profession.

3. Clients Served by Others. When counselors learn that their clients are in a professional relationship with another mental health professional, they shall request release from clients to inform the other professionals and strive to establish positive and collaborative professional relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:441 (March 1998).

### **§2109. Relationships with Other Professionals**

#### **A. Relationships with Employers and Employees**

1. **Role Definition.** Counselors shall define and describe for their employers and employees the parameters and levels of their professional roles.

2. **Agreements.** Counselors shall establish working agreements with supervisors, colleagues, and subordinates regarding counseling or clinical relationships, confidentiality, adherence to professional standards, distinction between public and private material, maintenance and dissemination of recorded information, workload, and accountability. Working agreements in each instance shall be specified and made known to those concerned.

3. **Negative Conditions.** Counselors shall alert their employers to conditions that may be potentially disruptive or damaging to the counselor's professional responsibilities or that may limit their effectiveness.

4. **Evaluation.** Counselors shall submit regularly to professional review and evaluation by their supervisor or the appropriate representative of the employer.

5. **In-Service.** Counselors shall be responsible for in-service development of self and staff.

6. **Goals.** Counselors shall inform their staff of goals and programs.

7. **Practices.** Counselors shall provide personnel and agency practices that respect and enhance the rights and welfare of each employee and recipient of agency services. Counselors shall strive to maintain the highest levels of professional services.

8. **Personnel Selection and Assignment.** Counselors shall select competent staff and assign responsibilities compatible with their skills and experiences.

9. **Discrimination.** Counselors, as either employers or employees, shall not engage in or condone practices that are inhumane, illegal, or unjustifiable (such as considerations based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status) in hiring, promotion, or training.

10. **Professional Conduct.** Counselors shall have a responsibility both to clients and to the agency or institution within which services are performed to maintain high standards of professional conduct.

11. **Exploitive Relationships.** Counselors shall not engage in exploitive relationships with individuals over whom they have supervisory, evaluative, or instructional control or authority.

12. **Employer Policies.** The acceptance of employment in an agency or institution implies that counselors shall be in agreement with its general policies and principles. Counselors shall strive to reach agreement with employers as to acceptable standards of conduct that allow for changes in institutional policy conducive to the growth and development of clients.

#### **B. Consultation**

1. **Consultation as an Option.** Counselors may choose to consult with any other professionally competent persons about

their clients. In choosing consultants, counselors shall avoid placing the consultant in a conflict of interest situation that would preclude the consultant being a proper party to the counselor's efforts to help the client. Should counselors be engaged in a work setting that compromises this consultation standard, they shall consult with other professionals whenever possible to consider justifiable alternatives.

2. **Consultant Competency.** Counselors shall be reasonably certain that they have or the organization represented has the necessary competencies and resources for giving the kind of consulting services needed and that appropriate referral resources are available.

3. **Understanding with Clients.** When providing consultation, counselors shall attempt to develop with their clients a clear understanding of problem definition, goals for change, and predicted consequences of interventions selected.

4. **Consultant Goals.** The consulting relationship is one in which client adaptability and growth toward self-direction shall be consistently encouraged and cultivated.

#### **C. Fees for Referral**

1. **Accepting Fees from Agency Clients.** Counselors shall refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the counselor's employing agency or institution. The policies of a particular agency may make explicit provisions for agency clients to receive counseling services from members of its staff in private practice. In such instances, the clients must be informed of other options open to them should they seek private counseling services.

2. **Referral Fees.** Counselors shall not accept a referral fee from other professionals.

**D. Subcontractor Arrangements.** When counselors work as subcontractors for counseling services for a third party, they shall have a duty to inform clients of the limitations of confidentiality that the organization may place on counselors in providing counseling services to clients. The limits of such confidentiality ordinarily shall be discussed as part of the intake session.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-15.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:625-26 (August 1989), amended LR 24:443 (March 1998).

### **§2111. Evaluation, Appraisal, and Interpretation**

#### **A. General**

1. **Appraisal Techniques.** The primary purpose of appraisal (henceforth known as "appraisal") is to provide measures that are objective and interpretable in either comparative or absolute terms. Counselors shall recognize the need to interpret the statements in §2111 as applying to the whole range of appraisal techniques, including test and nontest data. Counselors shall recognize their legal parameters in utilizing formalized appraisal techniques and adhere to such.

2. **Client Welfare.** Counselors shall promote the welfare and best interests of the client in the development, publication, and utilization of appraisal techniques. They shall not misuse appraisal results and interpretations and shall take reasonable steps to prevent others from misusing the information these

techniques provide. They shall respect the client's right to know the result, the interpretations made, and the bases for their conclusions and recommendations.

#### B. Competence to Use and Interpret Tests

1. **Limits of Competence.** Counselors shall recognize the limits of their competence and perform only those testing and appraisal services for which they have been trained and is within R.S. 37:1101-1115. They shall be familiar with reliability, validity, related standardization, error of measurement, and proper application of any technique utilized. Counselors using computer-based test interpretations shall be trained in the construction being measured and the specific instrument being used prior to using this type of computer application. Counselors shall take reasonable measures to ensure the proper use of formalized appraisal techniques by persons under their supervision.

2. **Appropriate Use.** Counselors shall be responsible for the appropriate application, scoring, interpretation, and use of appraisal instruments, whether they score and interpret such tests themselves or use computerized or other services.

3. **Decisions Based on Results.** Counselors shall be responsible for decisions involving individuals or policies that are based on appraisal results have a thorough understanding of formalized measurement technique, including validation criteria, test research, and guidelines for test development and use.

4. **Accurate Information.** Counselors shall provide accurate information and avoid false claims or misconceptions when making statements about formalized appraisal instruments or techniques.

#### C. Informed Consent

1. **Explanation to Clients.** Prior to performing such, counselors shall explain the nature and purposes of a formal appraisal and the specific use of results in language the client (or other legally authorized person on behalf of the client) can understand, unless an explicit exception to this right has been agreed upon in advance. Regardless of whether scoring and interpretation are completed by counselors, or by computer or other outside services, counselors shall take reasonable steps to ensure that appropriate explanations are given to the client.

2. **Recipients of Results.** The examinee's welfare, explicit understanding, and prior agreement shall determine the recipients of test results. Counselors shall include accurate and appropriate interpretations with any release of individual or group test results.

#### D. Release of Information to Competent Professionals

1. **Misuse of Results.** Counselors shall not misuse appraisal results, including test results, and interpretations, and shall take reasonable steps to prevent the misuse of such by others.

2. **Release of Raw Data.** Counselors shall ordinarily release data (e.g., protocols, counseling or interview notes, or questionnaires) in which the client is identified only with the consent of the client or the client's legal representative. Such data are usually released only to persons recognized by counselors as competent to interpret the data.

#### E. Test Selection

1. **Appropriateness of Instruments.** Counselors shall carefully consider the validity, reliability, psychometric

limitations, and appropriateness of instruments when selecting tests for use in a given situation or with a particular client.

2. **Culturally Diverse Populations.** Counselors shall be cautious when selecting tests for culturally diverse populations to avoid inappropriateness of testing that may be outside of socialized behavioral or cognitive patterns.

#### F. Conditions of Test Administration

1. **Administration Conditions.** Counselors shall administer tests under the same conditions that were established in their standardization. When tests are not administered under standard conditions or when unusual behavior or irregularities occur during the testing session, those conditions shall be noted in interpretation, and the results may be designated as invalid or of questionable validity.

2. **Computer Administration.** Counselors shall be responsible for ensuring that administration programs function properly to provide clients with accurate results when a computer or other electronic methods are used for test administration.

3. **Unsupervised Test-Taking.** Counselors shall not permit unsupervised or inadequately supervised use of tests or appraisals unless the tests or appraisals are designed, intended, and validated for self-administration and/or scoring.

4. **Disclosure of Favorable Conditions.** Prior to test administration, conditions that produce most favorable test results shall be made known to the examinee.

G. **Diversity in Testing.** Counselors shall be cautious in using appraisal techniques, making evaluations, and interpreting the performance of populations not represented in the norm group on which an instrument was standardized. They shall recognize the effects of age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, and socioeconomic status on test administration and interpretation and place test results in proper perspective with other relevant factors.

#### H. Test Scoring and Interpretation

1. **Reporting Reservations.** In reporting appraisal results, counselors shall indicate any reservations that exist regarding validity or reliability because of the circumstances of the appraisal or the inappropriateness of the norms for the person tested.

2. **Research Instruments.** Counselors shall exercise caution when interpreting the results of research instruments possessing insufficient technical data to support respondent results. The specific purposes for the use of such instruments shall be stated explicitly to the examinee.

3. **Testing Services.** Counselors who provide test scoring and test interpretation services to support the appraisal process shall confirm the validity of such interpretations. They shall accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use. The public offering of an automated test interpretations service shall be considered a professional-to-professional consultation. The formal responsibility of the consultant shall be to the consultee, but the ultimate and overriding responsibility shall be to the client.

I. **Test Security.** Counselors shall maintain the integrity

and security of tests and other appraisal techniques consistent with legal and contractual obligations. Counselors shall not appropriate, reproduce, or modify published tests or parts thereof without acknowledgment and permission from the publisher.

J. **Obsolete Tests and Outdated Test Results.** Counselors shall not use data or test results that are obsolete or outdated for the current purpose. Counselors shall make every effort to prevent the misuse of obsolete measures and test data by others.

K. **Test Construction.** Counselors shall use established scientific procedures, relevant standards, and current professional knowledge for test design in the development, publication, and utilization of appraisal techniques.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-15.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:624 (August 1989), amended LR 24:443 (March 1998).

### **§2113. Teaching, Training, and Supervision**

#### **A. Counselor Educators and Trainers**

1. **Educators as Teachers and Practitioners.** Counselors who are responsible for developing, implementing, and supervising educational programs shall be skilled as teachers and practitioners. They shall be knowledgeable regarding the ethical, legal, and regulatory aspects of the profession, shall be skilled in applying that knowledge, and shall make students and supervisees aware of their responsibilities. Counselors shall conduct counselor education and training programs in an ethical manner and shall serve as role models for professional behavior. Counselor educators shall make an effort to infuse material related to human diversity into all courses and/or workshops that are designed to promote the development of professional counselors.

2. **Relationship Boundaries with Students and Supervisees.** Counselors shall clearly define and maintain ethical, professional, and social relationship boundaries with their students and supervisees. They shall be aware of the differential in power that exists and the student's or supervisee's possible incomprehension of that power differential. Counselors shall explain to students and supervisees the potential for the relationship to become exploitive.

3. **Sexual Relationships.** Counselors shall not engage in sexual relationships with students or supervisees and shall not subject them to sexual harassment.

4. **Contributions to Research.** Counselors shall give credit to students or supervisees for their contributions to research and scholarly projects. Credit shall be given through co-authorship, acknowledgment, footnote statement, or other appropriate means, in accordance with such contributions.

5. **Close Relatives.** Counselors shall not accept close relatives as students or supervisees.

6. **Supervision Preparation.** Counselors who offer clinical supervision services shall be adequately prepared in supervision methods and techniques. Counselors who are doctoral students serving as practicum or internship supervisors to master's level students shall be adequately prepared and supervised by the training program.

7. **Responsibility for Services to Clients.** Counselors who supervise the counseling services of others shall take reasonable measures to ensure that counseling services provided to clients are professional.

8. **Endorsement.** Counselors shall not endorse students or supervisees for certification, licensure, employment, or completion of an academic or training program if they believe students or supervisees are not qualified for the endorsement. Counselors shall take reasonable steps to assist students or supervisees who are not qualified for endorsement to become qualified.

#### **B. Counselor Education and Training Programs**

1. **Orientation.** Prior to admission, counselors shall orient prospective students to the counselor education or training program's expectations, including but not limited to the following:

- a. the type and level of skill acquisition required for successful completion of the training;
- b. subject matter to be covered;
- c. basis for evaluation;
- d. training components that encourage self-growth or self-disclosure as part of the training process;
- e. the type of supervision settings and requirements of the sites for required clinical field experiences;
- f. student and supervisee evaluation and dismissal policies and procedures;
- g. up-to-date employment prospects for graduates.

2. **Integration of Study and Practice.** Counselors shall establish counselor education and training programs that integrate academic study and supervised practice.

3. **Evaluation.** Counselors shall clearly state to students and supervisees, in advance of training, the levels of competency expected, appraisal methods, and timing of evaluations for both didactic and experiential components. Counselors shall provide students and supervisees with periodic performance appraisal and evaluation feedback throughout the training program.

4. **Teaching Ethics.** Counselors shall make students and supervisees aware of the ethical responsibilities and standards of the profession and the students' and supervisees' ethical responsibilities to the profession.

5. **Peer Relationships.** When students or supervisees are assigned to lead counseling groups or provide clinical supervision for their peers, counselors shall take steps to ensure that students and supervisees placed in these roles do not have personal or adverse relationships with peers and that they understand they have the same ethical obligations as counselor educators, trainers, and supervisors. Counselors shall make every effort to ensure that the rights of peers are not compromised when students or supervisees are assigned to lead counseling groups or provide clinical supervision.

6. **Varied Theoretical Positions.** Counselors shall present varied theoretical positions so that students and supervisees may make comparisons and have opportunities to develop their own positions. Counselors shall provide information concerning the scientific bases of professional practice.

7. **Field Placements.** Counselors shall develop clear policies within their training program regarding field

placement and other clinical experiences. Counselors shall provide clearly stated roles and responsibilities for the student or supervisee, the site supervisor, and the program supervisor. They shall confirm that site supervisors are qualified to provide supervision and are informed of their professional and ethical responsibilities in this role.

8. Dual Relationships as Supervisors. Counselors shall avoid dual relationships such as performing the role of site supervisor and training program supervisor in the student's or supervisee's training program. Counselors shall not accept any form of professional services, fees, commissions, reimbursement, or remuneration from a site for student or supervisee placement.

9. Diversity in Programs. Counselors shall be responsive to their institution's and program's recruitment and retention needs for training program administrators, faculty, and students with diverse backgrounds and special needs.

#### C. Students and Supervisees

1. Limitations. Counselors, through ongoing evaluation and appraisal, shall be aware of the academic and personal limitations of students and supervisees that might impede performance. Counselors shall assist students and supervisees in securing remedial assistance when needed, and dismiss from the training program supervisees who are unable to provide competent service due to academic or personal limitations. Counselors shall seek professional consultation and document their decision to dismiss or refer students or supervisees for assistance. Counselors shall assure that students and supervisees have recourse to address decisions made, to require them to seek assistance, or to dismiss them.

2. Self-Growth Experience. Counselors shall use professional judgment when designing training experiences conducted by the counselors themselves that require student and supervisee self-growth or self-disclosure. Safeguards shall be provided so that students and supervisees are aware of the ramifications their self-disclosure may have on counselors whose primary role as teacher, trainer, or supervisor requires acting on ethical obligations to the profession. Evaluative components of experiential training experiences shall explicitly delineate predetermined academic standards that are separate and not dependent on the student's level of self-disclosure.

3. Counseling for Students and Supervisees. If students or supervisees request counseling, supervisors or counselor educators shall provide them with acceptable referrals. Supervisors or counselor educators shall not serve as counselor to students or supervisees over whom they hold administrative, teaching, or evaluative roles unless this is a brief role associated with a training experience.

4. Clients of Students and Supervisees. Counselors shall make every effort to ensure that the clients at field placements are aware of the services rendered and the qualifications of the students and supervisees rendering those services. Clients shall receive professional disclosure information and shall be informed of the limits of confidentiality. Client permission shall be obtained in order for the students and supervisees to use any information concerning the counseling relationship in the training process.

5. Standards for Students and Supervisees. Students and supervisees preparing to become counselors shall adhere to the Code of Ethics and the Standards of Practice. Students and supervisees shall have the same obligations to clients as those required of counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:626 (August 1989), amended LR 24:445 (March 1998).

### §2115. Research and Publication

#### A. Research Responsibilities

1. Use of Human Subjects. Counselors shall plan, design, conduct, and report research in a manner consistent with pertinent ethical principles, federal and state laws, host institutional regulations, and scientific standards governing research with human subjects. Counselors shall design and conduct research that reflects cultural sensitivity appropriateness.

2. Deviation from Standard Practices. Counselors shall seek consultation and observe stringent safeguards to protect the rights of research participants when a research problem suggests a deviation from standard acceptable practices.

3. Precautions to Avoid Injury. Counselors who conduct research with human subjects shall be responsible for the subjects' welfare throughout the experiment and shall take reasonable precautions to avoid causing injurious psychological, physical, or social effects to their subjects.

4. Principal Researcher Responsibility. The ultimate responsibility for ethical research practice shall lie with the principal researcher. All others involved in the research activities shall share ethical obligations and full responsibility for their own actions.

5. Minimal Interference. Counselors shall take reasonable precautions to avoid causing disruptions in subjects' lives due to participation in research.

6. Diversity. Counselors shall be sensitive to diversity and research issues with special populations. They shall seek consultation when appropriate.

#### B. Informed Consent

1. Topics Disclosed. In obtaining informed consent for research, counselors shall use language that is understandable to research participants and that:

- a. accurately explains the purpose and procedures to be followed;
- b. identifies any procedures that are experimental or relatively untried;
- c. describes the attendant discomforts and risks;
- d. describes the benefits or changes in individuals or organizations that might be reasonably expected;
- e. discloses appropriate alternative procedures that would be advantageous for subjects;
- f. offers to answer any inquiries concerning the procedures;
- g. describes any limitations on confidentiality;
- h. instructs that subjects are free to withdraw their consent and to discontinue participation in the project at any time.

2. Deception. Counselors shall not conduct research involving deception unless alternative procedures are not feasible and the prospective value of the research justifies the deception. When the methodological requirements of a study necessitate concealment or deception, the investigator shall be required to explain clearly the reasons for this action as soon as possible.

3. Voluntary Participation. Participation in research shall be typically voluntary and without any penalty for refusal to participate. Involuntary participation shall be appropriate only when it can be demonstrated that participation will have no harmful effects on subjects and is essential to the investigation.

4. Confidentiality of Information. Information obtained about research participants during the course of an investigation is confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, shall be explained to participants as a part of the procedure for obtaining informed consent.

5. Persons Incapable of Giving Informed Consent. When a person is incapable of giving informed consent, counselors shall provide an appropriate explanation, obtain agreement for participation, and shall obtain appropriate consent from a legally authorized person.

6. Commitments to Participants. Counselors shall take reasonable measures to honor all commitments to research participants.

7. Explanations After Data Collection. After data are collected, counselors shall provide participants with full clarification of the nature of the study to remove any misconceptions. Where scientific or human values justify delaying or withholding information, counselors shall take reasonable measures to avoid causing harm.

8. Agreements to Cooperate. Counselors who agree to cooperate with another individual in research or publication shall incur an obligation to cooperate as promised in terms of punctuality of performance and with regard to the completeness and accuracy of the information required.

9. Informed Consent for Sponsors. In the pursuit of research, counselors shall give sponsors, institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. Counselors shall be aware of their obligation to future research workers and ensure that host institutions are given feedback information and proper acknowledgment.

#### C. Reporting Results

1. Information Affecting Outcome. When reporting research results, counselors shall explicitly mention all variables and conditions known to the investigator that may have affected the outcome of a study or the interpretation of data.

2. Accurate Results. Counselors shall plan, conduct, and report research accurately and in a manner that minimizes the possibility that results will be misleading. They shall provide thorough discussions of the limitations of their data and alternative hypotheses. Counselors shall not engage in

fraudulent research, distort data, misrepresent data, or deliberately bias their results.

3. Obligation to Report Unfavorable Results. Counselors shall communicate to other counselors the results of any research judged to be of professional value. Results that reflect unfavorably on institutions, programs, services, prevailing opinions, or vested interests shall not be withheld.

4. Identity of Subjects. Counselors who supply data, aid in the research of another person, report research results, or make original data available shall take due care to disguise the identity of respective subjects in the absence of specific authorization from the subjects to do otherwise.

5. Replication Studies. Counselors shall be obligated to make available sufficient original research data to qualified professionals who may wish to replicate the study.

#### D. Publication

1. Recognition of Others. When conducting and reporting research, counselors shall be familiar with and give recognition to previous work on the topic, observe copyright laws, and give full credit to those to whom credit is due.

2. Contributors. Counselors shall give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to research or concept development in accordance with such contributions. The principal contributor shall be listed first and minor technical or professional contributions shall be acknowledged in notes or introductory statements.

3. Student Research. For an article that is substantially based on a student's dissertation or thesis, the student shall be listed as the principal author.

4. Duplicate Submission. Counselors shall submit manuscripts for consideration to only one journal at a time. Manuscripts that are published in whole or in substantial part in another journal or published work shall not be submitted for publication without acknowledgment and permission from the previous publication.

5. Professional Review. Counselors who review material submitted for publication, research, or other scholarly

purposes shall respect the confidentiality and proprietary rights of those who submitted it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:625 (August 1989), amended LR 24:446 (March 1998).

### §2117. Resolving Ethical Issues

A. Knowledge of Standards. Counselors shall be familiar with the Code of Ethics and the Standards of Practice and other applicable ethics codes from other professional organizations of which they are members, or from certification and licensure bodies. Lack of knowledge or misunderstanding of an ethical responsibility shall not be a defense against a charge of unethical conduct.

#### B. Suspected Violations

1. Ethical Behavior Expected. Counselors shall expect professional associates to adhere to the Code of Ethics. When counselors possess reasonable cause that raises doubts as to

whether a counselor is acting in an ethical manner, they shall take appropriate action.

2. Consultation. When uncertain as to whether a particular situation or course of action may be in violation of the Code of Ethics, counselors shall consult with other counselors who are knowledgeable about ethics, with colleagues, or with appropriate authorities.

3. Organization Conflicts. If the demands of an organization with which counselors are affiliated pose a conflict with the Code of Ethics, counselors shall specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to the Code of Ethics. When possible, counselors shall work toward change within the organization to allow full adherence to the Code of Ethics.

4. Informal Resolution. When counselors have reasonable cause to believe that another counselor is violating an ethical standard, they shall attempt to first resolve the issue informally with the other counselor if feasible, providing that such action does not violate confidentiality rights that may be involved.

5. Reporting Suspected Violations. When an informal resolution is not appropriate or feasible, counselors, upon reasonable cause, shall take action such as reporting the suspected ethical violation to state or national ethics committee, unless this action conflicts with confidentiality rights that cannot be resolved.

6. Unwarranted Complaints. Counselors shall not initiate, participate in, or encourage the filing of ethics complaints that are unwarranted or intend to harm a counselor rather than to protect clients or the public.

C. Cooperations with Ethics Committees. Counselors shall assist in the process of enforcing the Code of Ethics. Counselors shall cooperate with investigations, proceedings, and requirements of the ACA Ethics Committee or ethics committees of other duly constituted associations or boards having jurisdiction over those charged with a violation. Counselors shall be familiar with the ACA Policies and Procedures and use it as a reference in assisting the enforcement of the Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:447 (March 1998).

Gary S. Grand  
Chairman

9803#020

**RULE**

**Department of Health and Hospitals  
Licensed Professional Counselors Board of Examiners**

Fees (LAC 46:LX.901)

The Licensed Professional Counselors Board of Examiners, under the Authority of the Mental Health Counselor Licensing

Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends the following fees for the maintenance of the Licensed Professional Counselors Board of Examiners.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LX. Licensed Professional Counselors Board of Examiners**

**Chapter 9. Fees**

**§901. General**

A. The board shall collect the following fees:

- |   |               |
|---|---------------|
| 1. registration of supervision                                | \$ 100        |
| 2. privileging review for appraisal and other specialty areas | \$ 100        |
| 3. application for licensure                                  | \$ 200        |
| 4. renewal of license   | \$ 150        |
| 5. late fee for renewal                                       | \$ 50         |
| 6. reissue of license (duplicate)                             | \$ 25         |
| 7. name change on records                                     | \$ 25         |
| 8. copy of LPC file   | \$ 25         |
| 9. copy of any documents                                      | cost incurred |

B. The late fee will be incurred the day after a licensee's designated renewal deadline at 4 p.m. (no grace period). If the deadline falls on a weekend, the next working day will be considered as the deadline for the renewal at 4 p.m. No part of any fee shall be refundable under any conditions. All fees for licensing must be paid to the board by certified check or money order.

C. The board may assess and collect all costs incurred in connection with disciplinary actions including, but not limited to, the fees of investigators, stenographers, and procedural hearing officers. The prevailing party in any disciplinary action shall be reimbursed for all attorney fees and costs incurred in connection with such action.

D. The board may assess and collect fines in an amount not to exceed \$500 for violations of Chapter 9 and rules promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Licensed Professional Counselors Board of Examiners, LR 14:82 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:545 (July 1989), LR 18:51 (January 1992), LR 24:448 (March 1998).

Gary S. Grand  
Chairman

9803#019

## RULE

### Department of Health and Hospitals Office of the Secretary

Departmental Research (LAC 48:I.Chapter 25)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals (DHH), Office of the Secretary hereby adopts rules to assure that the rights of human subjects of research conducted in programs or facilities operated or funded by DHH are protected through the establishment of a review and approval process for all research proposals. This rule is in compliance with federal regulations 45 CFR, Part 46 issued June 18, 1991, which require agencies in receipt of federal funds to establish a research review process to protect the rights of human subjects of research.

#### Title 48

#### PUBLIC HEALTH

#### Part I. General

#### Chapter 25. Departmental Research

##### §2501. Purpose

These policies are designed to assure the protection of the rights of human subjects of research conducted in programs or facilities operated or funded by the Department of Health and Hospitals (DHH).

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:449 (March 1998).

##### §2503. Applicability

These policies apply to all research conducted in programs/facilities operated or funded by the DHH.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:449 (March 1998).

##### §2505. Definitions

*Cognitively Impaired*—having either a psychiatric disorder (e.g., psychosis, neurosis, personality or behavior disorders), an organic impairment (e.g., dementia) or a developmental disorder (e.g., mental retardation) that affects cognitive or emotional functions to the extent that capacity for judgement and reasoning is significantly diminished. Others, including persons under the influence of or dependent on drugs or alcohol, those suffering from degenerative diseases affecting the brain, terminally ill patients, and persons with severely disabling physical handicaps may also be compromised in their ability to make decisions in their best interests.

*Competence*—technically, a legal term used to denote capacity to act on one's own behalf; the ability to understand information presented, to appreciate the consequences of acting (or not acting) on that information, and to make a choice. (See also: *Incompetence*, *Incapacity*.) Competence may fluctuate as a function of the natural course of a mental illness, response to treatment, effects of medication, general physical health, and other factors. Therefore, mental status should be re-evaluated periodically. As a designation of legal

status, competence or incompetence pertains to an adjudication in court proceedings that a person's abilities are so diminished that his or her decisions or actions should have no legal effect. Such adjudications are often determined by inability to manage business or monetary affairs and do not necessarily reflect a person's ability to function in other situations.

*DHH*—Department of Health and Hospitals (Louisiana).

*DHHS*—U.S. Department of Health and Human Services. This federal agency promulgated 45 CFR, Part 46, *Protection of Human Subjects*, revised June 18, 1991, effective August 19, 1991. DHH's research policies are based upon 45 CFR, Part 46.

*Human Subject*—a living individual about whom an investigator (whether professional or student) conducting research obtains:

1. data through intervention or interaction with the individual; or
2. identifiable private information.

*Identifiable Private Information*—private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (e.g., a medical record). Private information must be individually identifiable (i.e., the identification of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.

*Incapacity*—refers to a person's mental status and means inability to understand information presented, to appreciate the consequences of acting (or not acting) on that information, and to make a choice. Often used as a synonym for *incompetence*.

*Incompetence*—technically, a legal term meaning inability to manage one's affairs. Often used as a synonym for *incapacity*.

*IRB Approval*—the determination of the IRB that the research has been reviewed and may be conducted within the constraints set forth by the IRB and by other state and federal requirements.

*Institutional Review Board (IRB)*—the DHH committee with responsibility for reviewing and recommending approval/disapproval of all research proposals.

*Interaction*—includes communication or interpersonal contact between investigator and subject.

*Intervention*—includes both physical procedures by which data are gathered (e.g., venipuncture) and manipulations of the subject or his/her environment that are performed for research purposes.

*Investigator*—the person conducting research.

*Minimal Risk*—the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during performance of routine physical or psychological examinations or tests.

*Programmatic Offices*—the major programmatic offices in DHH are: Bureau of Health Services Financing (BHSF),

Office of Alcohol and Drug Abuse (OADA), Office for Citizens with Developmental Disabilities (OCDD), Office of Mental Health (OMH), and Office of Public Health (OPH).

*Research*—systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:449 (March 1998).

### §2507. Statement of Principles

A. The DHH believes that research involving human subjects must be based upon the principles of respect for persons, beneficence, and justice.

1. Respect for persons involves a recognition of personal dignity and autonomy of individuals, and special protection of those persons with diminished autonomy.

2. Beneficence entails an obligation to protect persons from harm by maximizing anticipated benefits and minimizing possible risks of harm.

3. Justice requires that benefits and burdens of research be distributed fairly.

B. DHH also recognizes that many consumers of its services may be cognitively impaired and therefore deserve special consideration as potential research subjects. The predominant ethical concern in research involving persons with psychiatric, cognitive, developmental, or chemical dependency disorders is that their conditions may compromise their capacity to understand the information presented and their ability to make a reasoned decision about participation. Consequently, approval of proposals to use these individuals as research subjects will be conditioned upon the researcher demonstrating that:

1. such individuals comprise the only appropriate subject population;

2. the research question focuses on an issue unique to these subjects;

3. the research involves no more than minimal risk, except when the purpose of the research is therapeutic for these individual subjects and the risk is commensurate with the degree of expected benefit.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:450 (March 1998).

### §2509. Policies and Procedures

A. Policy Basis. Research conducted and authorized by the DHH will meet all applicable federal and state laws and regulations, accreditation standards, and professional codes of ethics. These policies derive primarily from 45 CFR, Part 46, *Protection of Human Subjects* and are also consonant with 21 CFR, Parts 50 and 56, adopted by the Food and Drug Administration. (Both sets of regulations were effective on August 19, 1991.) 45 CFR, Part 46 is applicable to other DHHS components, including the Health Care Financing Authority (Medical Assistance Programs).

B. Establishment of Institutional Review Board (IRB). There is hereby established a DHH IRB to review and evaluate all proposed research projects.

1. Twenty-four hour facilities may either utilize these policies as written or amend them to provide for an in-house IRB for initial assessment of research projects prior to submission to the DHH IRB for final review.

2. All research involving DHH consumers, employees, or services in the community and in institutions will be reviewed by the DHH IRB before it is submitted to the secretary or designee for final approval.

3. The IRB is a permanent standing committee which meets quarterly or as needed.

4. The membership shall consist of at least seven members, appointed by the secretary, partly from recommendations by the assistant secretaries and the director of the BHSF:

a. the director of Research and Development or his/her designee shall serve as permanent chairperson of the IRB. In the event of an extended absence from duty of the permanent chair, the secretary shall appoint a temporary replacement to serve during that period;

b. each office and the BHSF shall have at least one member;

c. relevant professional disciplines shall be represented in the membership;

d. at least one member shall be a direct service provider;

e. one member shall not be employed by the DHH. If possible, this member should be an ethicist (specialist in ethics) or an attorney;

f. at least one member shall be either a primary consumer, or a family member, or an advocate;

g. at least one member's primary concerns shall be in science areas and at least one member's primary concerns shall be in nonscientific areas. If not selected under §2509.B.4.e, an attorney or ethicist should fill the latter slot;

5. The IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues which require expertise beyond or in addition to that available to the IRB. Such individuals shall not vote with the IRB.

6. IRB members should have appropriate research training, experience or interest. Membership should also sufficiently represent the cultural, ethnic, and gender diversity of the state and be sensitive to diverse community attitudes.

7. Except for the chair, members shall be appointed for one-year terms and may be reappointed.

8. No IRB member may participate in the initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

9. Once constituted, the IRB shall adopt written bylaws and guidelines/application materials for conducting research in DHH operated/funded programs or facilities.

10. Research approved by the Office of Public Health's (OPH) IRB prior to the adoption of these policies does not require DHH IRB approval. However, copies of proposals approved by the OPH IRB shall be provided to the chair of the DHH IRB.

C. IRB Review Process. Prior to authorization and initiation of research, an IRB meeting shall be convened to

conduct a detailed review of the project in order to determine that all of the following requirements are met.

1. Proposal incorporates procedures designed to minimize the risk to participants. Risks to subjects are minimized by using procedures which are consistent with sound research design and do not unnecessarily expose subjects to risk and, whenever appropriate, by using procedures already being performed on subjects for diagnostic or treatment purposes.

2. Risks to subjects are reasonable in relation to anticipated benefits and the importance of any knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research, as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research. The IRB should not consider possible long-range effects of applying knowledge gained in the research (e.g., possible effects of research on public policy) as among those research risks that fall within its purview.

3. Selection of subjects is equitable. In making this assessment, the IRB should take into account the purposes and setting of the research. It should be particularly cognizant of special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.

4. Research design minimizes possible disruptive effects of project on organizational operation.

5. Research design is in compliance with accepted ethical standards.

6. Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with and to the extent required in §2509.E.

7. Informed consent will be appropriately documented, in accordance with and to the extent required by §2509.E.1-E.5 of these rules.

8. When appropriate, the research plan provides monitoring of the data collected to ensure subjects' safety.

9. Research proposal contains requisite safeguards to protect the privacy of subjects and to maintain the confidentiality of data.

10. Research proposal has been approved at the appropriate program administrative level, beginning with the program/facility.

#### D. IRB Recommendations and Notification

1. Researchers should be either present at the IRB meeting which considers their proposals or available for questioning at an indicated phone number during that time.

2. Following detailed review, the IRB by majority vote approves (fully or provisionally) or disapproves the research proposal.

a. Provisional approval means that minor modifications, specified in writing by the IRB, must be received by the chair within 30 days in order to recommend full approval.

b. Proposals receiving full approval are sent to the secretary or designee for authorization to begin research.

3. The secretary or the director of Research and Development will notify the researcher in writing of the IRB's decision to approve or disapprove the proposed research within 10 working days.

a. If the proposal is not approved, the letter will indicate reasons for disapproval and give the researcher an opportunity to respond in writing to the IRB.

b. There are no appeals for research proposals disapproved on the basis of ethical shortcomings or potential harm to subjects.

c. No research, subject to IRB review, can begin until written authorization from the secretary or designee is received.

d. Research approved by the IRB may be subject to further administrative review and approval or disapproval. However, no administrator can approve research which has not been approved by the IRB.

e. After approval, the IRB shall review the research in progress at appropriate intervals, but not less than once per year.

f. The IRB has the authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected harm to subjects. Any suspension or termination of approval shall be in writing, include the reasons for this action, and be reported promptly to the investigator, appropriate agency officials, and the secretary.

g. Cooperative research refers to those projects covered by this Chapter which involve more than one institution or agency. In the conduct of cooperative research projects, each institution or agency is responsible for safeguarding the rights and welfare of human subjects and for complying with 45 CFR, Part 46. With the approval of the DHH or agency head, an institution participating in a cooperative project may enter into a joint review arrangement, rely upon the review of another qualified IRB, or make similar arrangements for avoiding duplication of effort.

#### 4. Expedited Review Procedure

a. Research that involves no more than minimal risk and in which the only involvement of human subjects will be in one or more of the following categories (carried out through standard methods) may be reviewed by the IRB through an expedited review procedure. Under this procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the chair from among IRB members. In reviewing the research, the reviewers may exercise all of the authority of the IRB except that they may not disapprove the research. Research may be disapproved only after review in accordance with the nonexpedited procedures set forth in §2509.C. A report of all research approved by expedited review will be presented by the chair to the full IRB at its next regularly scheduled meeting. Categories of research which may qualify for expedited review include:

i. research conducted in established or commonly accepted educational settings, involving normal educational practices (e.g., research on special education instructional strategies);

ii. research involving the use of educational tests,

survey procedures, interview procedures, or observation of public behavior if such research does not record information or identifiers which can be linked to individual human subjects;

iii. research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens;

iv. research and demonstration projects which are conducted by or subject to the approval of the secretary or heads of programmatic offices and are designed to study, evaluate, or otherwise examine public benefit of services or programs;

v. research conducted by faculty or students at colleges/universities if all of the following conditions are met:

(a). a copy of the university's IRB policies is on file with the DHH IRB;

(b). university IRB's approval of the research is documented;

(c). a copy of the full research proposal is included;

(d). for student research, written approval of the project by both a faculty advisor and a DHH staff sponsor must be provided;

vi. research approved by an IRB in 24-hour facilities if requested via the chief executive officer of the facility to the DHH IRB chair;

vii. requests from investigators for minor changes in research approved less than one year prior to such request;

viii. cooperative research which has been approved by the IRB and head of an agency outside of DHH.

b. The secretary or agency heads may restrict, suspend, terminate, or choose not to authorize use of the expedited review procedure.

E. Informed Consent of Research Subjects. Except as provided elsewhere in Chapter 25, no investigator may involve a human being as a subject in research unless the investigator obtains the legally effective informed consent of the subject or the subject's authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or representative shall be in language easily understandable to the subject or representative. No informed consent document may include any exculpatory language through which the subject or representative is made to waive or appear to waive any of the subject's legal rights or the investigator, the sponsor, or the agency and its agents are/appear to be released from liability for negligence.

1. Basic Elements of Informed Consent. Except as provided below, the investigator shall provide each subject the following information:

a. a statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental;

b. a description of any reasonably foreseeable risks or discomforts to the subject;

c. a description of any benefits to the subject or to others which may reasonably be expected from the research;

d. a disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;

e. a statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;

f. for research involving more than minimal risk, explanations as to whether any compensation and medical treatment are available if injury occurs and, if so, what they consist of, or where further information may be obtained;

g. an explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research related injury to the subject;

h. a statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Additional Elements of Informed Consent. When appropriate, one or more of the following elements of information shall also be provided to each subject:

a. a statement that the particular treatment or procedure may involve risk that is currently unforeseeable;

b. anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent;

c. any additional costs to the subject that may result from research participation;

d. the consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;

e. a statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject;

f. the approximate number of subjects involved in the study.

3. Waiver of Informed Consent. The IRB may waive the requirement to obtain informed consent provided that the IRB finds and documents that:

a. the research or demonstration project is to be conducted by or subject to the approval of state government officials and is designed to study or evaluate public benefit of services provided or funded by DHH;

b. such project deals with improving procedures for obtaining benefits/services under those programs and/or suggesting possible changes in or alternatives to those programs/procedures or in the methods/levels of payment for benefits or services under those programs; and

c. such research or projects shall not involve identifying individual recipients of services/benefits.

4. Documentation of Informed Consent

a. Informed consent shall be documented by the use of a written consent form approved by the IRB and signed by the

subject or the subject's legally authorized representative. A copy shall be given to the person signing the form.

b. The written consent document must embody the elements of informed consent required in §2509.E.1. This form may be read to the subject or the subject's legally authorized representative but, in any event, the investigator shall give either the subject or the representative adequate opportunity to read it before it is signed. An IRB recommended informed consent document will be included in the guidelines/application materials for conducting research in DHH operated/funded programs or facilities.

c. The IRB may waive the requirement for the investigator to obtain a signed consent form for some or all subjects if it finds either:

i. that the only record linking the subject and the research would be the consent document and the principal risk would be the potential harm resulting from a breach of confidentiality. Each subject will be asked if he/she wants documentation linking him/her with the research, and the subject's wish shall govern; or

ii. that the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.

d. In cases in which the documentation requirement is waived, the IRB may require the investigator to provide subjects with a written statement regarding the research.

5. The IRB shall demand additional protection and informed consent rights if the research involves fetuses, pregnant women and human in-vitro fertilization (45 CFR 46:201-211), prisoners (45 CFR 46:301-306), or children (45 CFR 46:401-409).

F. Responsibilities of Research Investigators. In addition to all of the requirements detailed in §2509, researchers shall be responsible for the following.

1. Research investigators shall prepare and submit a protocol giving a complete description of the proposed research.

a. The protocol shall include provisions for adequate protection of the rights and welfare of prospective research subjects and ensure that pertinent laws and regulations are observed.

b. Samples of proposed informed consent forms shall be included with the protocol.

c. A completed DHH Application to Conduct Research must be submitted with the protocol.

2. Research investigators shall obtain and document appropriate administrative approval (beginning at the program/facility level) to conduct research before the proposal is submitted to the DHH IRB.

3. Prior to the beginning of the research, the investigator shall communicate to impacted staff the purpose and nature of the research.

4. Upon completion of the research, the principal investigator shall attempt to remove any confusion, misinformation, stress, physical discomfort, or other harmful consequences, however unlikely, that may have arisen with respect to subjects as a result of the research.

5. Within 30 working days of the completion of the research, the principal investigator shall communicate the outcome(s) and practical or theoretical implications of the research project to the program administrator and, when appropriate, program staff in a manner that they can understand.

6. The researcher shall submit progress reports as requested by the IRB (at least annually). As soon as practicable after completion of the research, but in no case longer than 90 working days later, the research investigator shall submit to the IRB a written report, which, at a minimum, shall include:

a. a firm date on which a full, final report of research findings will be submitted;

b. a succinct exposition of the hypotheses of the research, the research design and methodologies, and main findings of the research;

c. an estimate of the validity of conclusions reached and some indication of areas requiring additional research; and

d. specific plans for publishing results of the research.

7. A final report of the research as well as copies of any publications based upon the research will be submitted to the IRB as soon as possible. The state owns the final report, but prior permission of the IRB for the investigator to publish results of the research is not required. The publication is the property of the researcher and/or the medium in which it is published. However, failure to provide the IRB with required periodic and final reports or publications based on the research shall negatively impact that researcher's future research shall negatively impact that researcher's future requests to conduct research in DHH operated/funded programs or facilities.

#### G. Initiation of the Research Review Process

1. The first contact in the process should be by the research investigator with the manager of the program or facility from which subjects will be drawn.

2. If the manager agrees that the research is feasible and desirable, the researcher will obtain his/her written authorization and send the protocol to appropriate staff at headquarters for consideration and approval by the assistant secretaries or the director of BHSF.

3. The assistant secretaries or the director of BHSF, in approving the research proposal, will certify that:

a. the research design is adequate and meets acceptable scientific standards;

b. appropriate ethical considerations have been identified and discussed;

c. the proposal contains provisions to minimize possible disruptive effects of the project on organization's operation;

d. the research will potentially benefit the participants directly or improve the service system; and

e. the research topic is compatible with the agency's research agenda.

4. The assistant secretaries or the director of BHSF, after approval of the research, will submit the proposal to the IRB for further consideration.

## H. IRB Records

1. The IRB shall prepare and maintain adequate documentation of IRB activities, including the following:

a. copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to subjects;

b. minutes of IRB meetings in sufficient detail to show attendance at the meeting; actions taken by the IRB; the vote on these actions, including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution;

c. records of continuing review activities;

d. copies of all correspondence between the IRB and investigators;

e. a list of IRB members identified by name; earned degrees; representative capacity; indications of experience sufficient to describe each member's chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the DHH;

f. written procedures for the IRB and statements of significant new findings provided to subjects.

2. The records required by §2509.H shall be retained for at least three years, and records relating to research which is conducted shall be retained for at least three years after completion of the research. All records shall be accessible for inspection and copying by authorized representatives of DHHS or the agency at reasonable times and in a reasonable manner.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:450 (March 1998).

David W. Hood  
Secretary

9803#029

## RULE

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

#### Disproportionate Share Hospital Payment Methodologies

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act. This rule is promulgated 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 replaces prior regulations governing disproportionate share hospital payment methodologies and establishes the following regulations to govern the disproportionate share hospital payment methodologies.

## I. General Provisions

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

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

C. Appropriate action, including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

D. DSH payments to a hospital other than a small rural or state hospital determined under any of the methodologies in this rule shall not exceed the hospital's uncompensated cost in accordance with the hospital's fiscal year-end cost report ending during the previous state fiscal year ending. DSH payments to a small rural hospital determined under any of the methodologies in this rule shall not exceed the hospital's uncompensated cost for the hospital's fiscal year-end cost report ending during April 1 through March 31 of the previous year. DSH payments to a state hospital determined under any of the methodologies in this rule shall not exceed the hospital's uncompensated cost for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest year-end cost report for the year ended during the period July 1 through June 30 of the previous year except that a small rural hospital's qualification is based on the hospital's year-end cost report for the year ending during the period April 1 through March 31 of the previous year. Only hospitals that timely return DSH qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

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

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

H. No additional payments shall be made if an increase in days or uncompensated cost is determined after audit.

Recoupment of overpayment from reductions in pool days originally reported shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the state for the year in which the recoupment is applicable.

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

## **II. Qualifying Criteria for a Disproportionate Share Hospital**

A. A hospital must have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligibles. In the case of a hospital located in a rural area (i.e., an area outside of a Metropolitan Statistical Area), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures; or

B. Hospital treats inpatients who are predominantly individuals under 18 years of age; or

C. Hospital did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

D. Effective November 3, 1997, be a small rural hospital as defined in Section III.B. Hospital has a utilization rate in excess of either of the following specified minimum utilization rates:

1. *Medicaid Utilization Rate*—a fraction (expressed as a percentage), the numerator of which is the hospital's number of Medicaid (Title XIX) inpatient days and the denominator of which is the total number of the hospital's inpatient days for a cost-reporting period. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

2.a. *Low-Income Utilization Rate*—the sum of:

i. the fraction (expressed as a percentage), the numerator of which is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments, and the denominator of which is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period; and

ii. the fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in Section II.D.2.a in the period, which are reasonably attributable to inpatient hospital services; and the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges

attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Service Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and procedures for applying.

b. Hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent.

E. In addition to the qualification criteria outlined in Section II.A.-D, effective July 1, 1994, the qualifying disproportionate share hospital must also have a Medicaid inpatient utilization rate of at least 1 percent.

## **III. Reimbursement Methodologies**

### **A. Public State-Operated Hospitals**

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

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

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

### **B. Small Rural Hospitals**

1. *Small Rural Hospital*—a hospital (other than a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) meeting the following criteria:

a. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

b. had no more than 60 hospital beds as of July 1, 1994, and:

i. is located in a parish with a population of less than 50,000; or

ii. is located in a municipality with a population of less than 20,000.

2. Payment is based on uncompensated cost for qualifying small rural hospitals in the following two pools:

a. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in Section III.B.1, which are owned by a local government.

b. *Private Small Rural Hospitals*—small rural hospitals as defined in Section III.B.1, that are privately owned.

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the

period April 1 through March 31 of the preceding year, multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. A pro rata decrease necessitated by conditions specified in Section I.B. for rural hospitals described in Section III will be calculated using the ratio determined by dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in Section III, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

C. All Other Hospitals (private and public nonstate rural hospitals over 60 beds, all private urban hospitals, freestanding psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

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

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

a. *Acute Care Hospitals*—acute care, rehabilitation, and long-term care hospitals not described in Section III.A and B (excluding distinct part psychiatric units).

b. *Psychiatric Hospitals*—Freestanding psychiatric hospitals and distinct part psychiatric units not included in Section III.A and B.

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

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

David W. Hood  
Secretary

9803#033

## RULE

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

#### Home and Community Based Services Waiver Program—Mentally Retarded/Developmentally Disabled

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of 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 amends the Waiver Programmatic Allocation and Discharge Criteria as follows:

A. Programmatic Allocation of Waiver Slots. The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the regional OCDD office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. - 3. ...

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest and Hammond Developmental Centers or their alternates who successfully complete the financial and medical certification eligibility process and are certified for the waiver. The term *alternate* is defined as a current resident of a private ICF/MR community home who:

a. willingly chooses to apply for waiver participation; and

b. resides in a community group home that has agreed to accept a Pinecrest or Hammond Developmental Center resident for placement if a resident of the community home is certified for waiver participation.

i. The Pinecrest or Hammond Developmental Center resident must be given freedom of choice in the

selection of a private ICF-MR community home placement in the area of the resident's choice based on availability of a slot.

ii. The slot in the community home, if vacated, will remain a slot for a Pinecrest or Hammond Developmental Center recipient as long as the department continues to transition individuals from the developmental centers. DHH, through OCDD, reserves the right of approval for the transitioning of these recipients into vacated slots.

5. A maximum of 78 slots shall be available for allocation to current residents of public or private community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

B. Waiver Discharge Criteria. Participants will be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. - 7. ...

8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 30 or more consecutive days. This does not include interruptions in services because of hospitalization.

David W. Hood  
Secretary

9803#065

**RULE**

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

**Medicaid Eligibility—Continuity of Stay for Long-Term  
Care and Home and Community Based Services**

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 R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is 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 adopts the following requirement governing continuity of stay for the purpose of determining continued eligibility under the special income level for long-term care and home and community based services. In addition, the adoption of this proposed rule revises the continuity of stay requirement contained in Section I of the Medicaid Eligibility Manual as follows:

A temporary absence from a facility or nonreceipt of waiver services shall be allowed for a period up to 30 consecutive days before continuity of stay will be considered interrupted for individuals eligible under the special income level.

David W. Hood  
Secretary

9803#031

**RULE**

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

**Nursing Facilities—Standards of  
Levels of Care (LAC 50:II.10155)**

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 et seq. and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part II. Medical Assistance Program**

**Subpart 3. Standards for Payment**

**Chapter 101. Nursing Facilities**

\* \* \*

**Subchapter G. Levels of Care**

**§10155. Standards of Levels of Care**

A. - S.3.e. ...

T. Change in Level of Care Within a NF. The facility shall be responsible for submitting current medical information to the HSS Regional Office for approval when the attending physician recommends a change in the level of care. Form 149-B shall be completed when making the request for a level of care change. This procedure shall be followed whether the change is within the facility or whether the change requires a transfer to another facility. A statement from the physician, in lieu of Form 149-B, is not acceptable.

1. The facility shall have 20 working days to submit Form 149-B to the Health Standards Section for both upgrades and downgrades in level of care. If submitted within the 20 working day time frame, the effective date of change in medical certification will be the date the physician signs the Form 149-B.

2. If the facility fails to timely submit the request, the effective date of the medical certification will be the date the Form 149-B is received in the HSS Regional Office.

3. The completion of the Form 149-B is also required when a resident transfers to Medicare skilled level.

4. The Medicaid Program will pay co-insurance beginning on the twenty-first day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23: 970 (August 1997), LR 24:457 (March 1998).

David W. Hood  
Secretary

9803#032

**RULE**

**Department of Natural Resources  
Office of Conservation**

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and the Administrative Procedure Act, Title 49, Sections 950 through 968 of the Revised Statutes of 1950, as amended, the following rules are hereby amended by the commissioner of Conservation. These amendments are considered reasonably necessary to conserve the natural resources of the state, to prevent waste as defined by law, to avoid the drilling of unnecessary wells, and to otherwise carry out the laws of this state.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations**

**Subpart 2. Statewide Order No. 29-R**

**Chapter 7. Fees**

**§701. Definitions**

*Annual Inspection Fee*—repealed.

\* \* \*

[See Prior Text *Application Fee-Application to Process Form R-4*]

*BOE*—annual Barrels Oil Equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 8.

*Capable Gas*—natural and casinghead gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue.

*Capable Oil*—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

*Class I Well*—a Class I injection well used to inject hazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 or 29-N-2.

*Class I Well Fee*—an 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 \$336,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000.

*Class II Well*—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production (Status 63), for annular disposal wells (Status 64), for enhanced recovery of oil or natural gas (Status 41, 42, 43, 50), and for storage of hydrocarbons which are liquid at standard temperature and pressure (Status 44, 47). 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 located in the same field as such Class II well.

*Class II Well Fee*—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office

of Conservation, on nonexempted Class II wells in an amount not to exceed \$493,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000.

\* \* \*

[See Prior Text *Emergency Clearance*]

*Production Fee*—an 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 between the producing wells. The tiered system shall be established annually by rule on annual volumes of capable oil and capable gas production in an amount not to exceed \$1,918,600 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

\* \* \*

[See Prior Text *Production Well-Type B 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 24:458 (March 1998).

**§703. Fee Schedule for Fiscal Year 1997-1998**

**A. Application Fees**

Application for Unit Termination	\$ 210
Application for Substitute Unit Well	\$ 210
Application for Public Hearing	\$ 630
Application for Multiple Completion	\$ 105
Application to Commingle	\$ 210
Application for Automatic Custody Transfer	\$ 210
Application for Noncommercial Injection Well	\$ 210
Application for Commercial Class I Injection Well	\$ 1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$ 525
Application for Commercial Class II Injection Well	\$ 525
Application for Commercial Class II Injection Well (Additional Wells)	\$ 262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 525
Application for Permit to Drill - Minerals: 10,001'+	\$ 1,050
Application to Amend Permit to Drill - Minerals	\$ 105
Application to Amend Permit to Drill - Injection or Other	\$ 105
Application for Surface Mining Exploration Permit	\$ 52
Application for Surface Mining Development Operations Permit	\$ 78
Application for Surface Mining Permit	\$ 1,837
Application to Process Form R-4	\$ 26

Application to Reinstate Suspended Form R-4	\$ 52
Application for Emergency Clearance Form R-4	\$ 52

**B. Regulatory Fees**

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of record of Class I wells are required to pay \$8,000 per well.

4. Operators of record of nonexempt Class II wells are required to pay \$300 per well.

C. 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	0
Tier 2	1—5,000	30
Tier 3	5,001—15,000	60
Tier 4	15,001—30,000	175
Tier 5	30,001—60,000	350
Tier 6	60,001—110,000	700
Tier 7	110,001—9,999,999	1,300

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 24:458 (March 1998).

**§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 24:459 (March 1998).

**§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, 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) supersedes Statewide Order No. 29-Q-2.

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 24:459 (March 1998).

Warren A. Fleet  
Commissioner

9803#025

**RULE**

**Department of Public Safety and Corrections  
Liquefied Petroleum Gas Commission**

Liquefied Petroleum Gas Dealers; New Dealers; Container Manufacturers; Forms/Reports; Installation at Schools/Public Assembly Places; and Standards (LAC 55:IX.Chapters 1, 2, and 12)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, the commission hereby amends, repeals, and adopts the following comprehensive set of rules.

**Title 55**

**PUBLIC SAFETY**

**Part IX. Liquefied Petroleum Gas**

**Chapter 1. General Requirements**

**Subchapter A. New Dealers**

**§103. Definitions**

The following terms, as used in this Part, have the meanings listed below:

*Appliance*—any device that utilizes gas as a fuel or raw material to produce light, heat, power, refrigeration, or air conditioning.

*Applicant*—a person, firm, or corporation who has applied for a permit or registration with the Liquefied Petroleum Gas Commission.

*Approved*—approved by or acceptable to the *authority having jurisdiction*. This normally means that equipment or materials that are listed or labeled have been specifically approved by the *authority having jurisdiction*.

*ASME*—American Society of Mechanical Engineers.

*Authority Having Jurisdiction (AHJ)*—the organization, office, or individual responsible for approving equipment, an installation, or a procedure. In Louisiana the AHJ is the Liquefied Petroleum Gas Commission, the Office of the Director of the Liquefied Petroleum Gas Commission.

*Cargo Tank*—a container used to transport liquefied

petroleum gas over a highway as liquid cargo, either mounted on a conventional truck chassis or as an integral part of a transporting vehicle in which the container constitutes in whole, or in part, the stress member used as a frame.

*Container*—any vessel, including cylinders, tanks, portable tanks, and cargo tanks used for the transporting or storing of liquefied petroleum gas.

*Dealer or Permit Holder*—any person, firm, or corporation who holds a permit or registration to enter into any phase of the liquefied petroleum gas business in the state of Louisiana.

*End User*—any person, firm, or corporation which has the use of or legal authority or control over any system which utilizes liquefied petroleum gas.

*Installation*—when used in the context of an existing thing, the same as system or liquefied petroleum gas system (see definition of *system* or *liquefied petroleum gas system*).

*Installation*—when used in the context of an action, the art of installing or setting up for use or service.

*Labeled*—equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization that is acceptable to the *authority having jurisdiction* and concerned with product evaluation that maintains periodic inspection of production of labeled equipment or materials and by whose labeling manufacturer indicates compliance with appropriate standards or performance in a specified manner.

*Listed*—equipment or materials included in a list published by an organization acceptable to the *authority having jurisdiction* and concerned with product evaluation that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been listed and found suitable for use in a specified manner.

*New Dealer*—any person, firm, or corporation that does not hold a permit or registration to engage in the liquefied petroleum gas business as of the date of their application.

*Places of Public Assembly*—places where the egress is open to the public. This definition includes, but is not limited to, bars, restaurants, service stations, grocery stores, schools, churches, hospitals, sales offices, nursing homes, and other similar places. This definition is not intended to include places that limit public access.

*Pressure Test*—an operation performed to verify the gas tight integrity of gas piping following its installation or modification.

*Qualified Agency*—any person, firm, or corporation which is engaged in and is responsible for the installation or replacement of liquefied petroleum gas piping, tanks, containers, the connection, installation, repair, or servicing of equipment or appliances and is experienced in such work and familiar with all precautions required and has complied with all the requirements of the authority having jurisdiction.

*Reseller or Wholesaler*—

a. any person, firm, or corporation who holds title or ownership of liquefied petroleum gas as it leaves the facility or plant:

i. of a manufacturer of liquefied petroleum gas;

ii. of a manufacturer of products of which liquefied petroleum gas forms a component part; or

iii. of a commercial storage facility.

b. any person, firm, or corporation who transfers such title or ownership to another without substantially changing the form of such liquefied petroleum gas; or

c. any person, firm, or corporation who transfers such title or ownership to a retail dealer for sale at retail.

i. this definition shall include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers directly to a retail dealer for sale at retail.

ii. this definition shall not include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers to a reseller.

*Retail Dealer*—any person, firm, or corporation who normally sells liquefied petroleum gas to an end user for consumption.

*Retail Station*—that portion of property where liquefied petroleum gases used as motor fuel are stored and dispensed from fixed equipment into liquefied petroleum gas fuel tanks of motor vehicles and where such dispensing is an act of retail motor fuel sale.

*System or Liquefied Petroleum Gas System*—any tank, container, heat or cold producing device, appliance or piping that utilizes or has liquefied petroleum gas connected thereto. This includes, but is not limited to, ranges, hot water heaters, heaters, air conditioners, containers, tanks, furnaces, space heaters or piping used in the transfer of liquefied petroleum gas either in the vapor or the liquid state from one point to another, internal combustion engines, both stationary and mobile, grain dryers or any combination thereof.

*Tank(s)*—same as a *container(s)*.

*Used Manufactured Home*—a manufactured home which is not being sold or offered for sale as new, which has been previously sold as new and is used for residential purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998).

## §105. Applications

Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application with the Liquefied Petroleum Gas Commission. Application must be filed for Class I, 90 days, and for Classes II, III, IV, V, VI, VII, VIII, and IX, 30 days, prior to the date of the commission meeting the application is to be heard. Applications for Class VI-X, VII-E, R-1 and R-2 registrations have no delay prior to granting of a permit. Presence of the applicant or his authorized representative is required at the commission meeting when the application is heard, except in the cases of VI-X, VII-E and R-1 and R-2 registrations where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only

with special approval of the commission, under extenuating circumstances, will the commission allow the applicant to be represented by another party, other than a principal officer, director, manager, or attorney. The application forms will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998).

### **§107. Requirements**

Before any permit or registration can be issued from the office of the director all applicants must have complied with or agree to comply with the applicable requirements as follows:

1. Must deposit filing fee of \$100 for Class I and IV; \$50 for Class VI-X and \$25 for all other classes and registrations. This fee must accompany application;

2. - 4.b. ...

5.a. Where applicable, applicant must provide adequate transport and delivery trucks satisfactory to the commission. Each transport and/or delivery truck shall be inspected annually by the commission or other qualified agency acceptable to the commission. Each transport and/or delivery truck shall be equipped with at least two fire extinguishers of the dry chemical types having an aggregated capacity of not less than 24 pounds. Each transport and/or delivery truck shall have an annual registration fee of \$25 paid and a valid registration decal affixed to the transport or deliver truck.

b. All sketches of proposed installations, as required in other sections of these regulations, shall be submitted to the Office of the Director, showing all details of the proposed installation governed by these regulations. Sketches or drawings must be submitted to the Office of the Director and approved before installation can begin. The commission reserves the right to make a final inspection and witness a pressure test by an inspector of the Liquefied Petroleum Gas Commission.

6. Applicant must have paid permit fee in the amount of \$75, except for a Class VIII, which shall be \$100, to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be ¼ of 1 percent of gross annual sales of liquefied petroleum gases with a minimum of \$75. For classes not selling liquefied petroleum gas in succeeding years the permit fee shall be \$75. For registrations the permit fee shall be \$37.50 per year.

a. Each Class I and Class IV dealer shall submit to the commission by the twentieth of the following month, a report in a form acceptable to the commission, the previous month's purchases and sales in gallons and dollars.

b. The report shall contain the purchases and sales by company name, except in the case of Class I dealers sales, which will be by total gallons and total dollars.

c. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his employees.

7. ...

8. All service and installation personnel, fuel transfer personnel, carburetion mechanics and tank truck drivers must have a card of competency from the Office of the Director. A card of competency will be issued to an applicant upon receipt of a \$10 examination fee and successfully completing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This must be evidence by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees must be paid prior to issuing the card.

8.a. - b. ...

9. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998).

### **§113. Classes of Permits and Registrations**

The Liquefied Petroleum Gas Commission will issue upon application the following classes of permits and registrations upon meeting all applicable requirements of §107 and the following:

1. Class I. Holders of these permits may enter any phase of the liquefied petroleum gas business.

a. Must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

i. products property damage liability;

ii. products public liability;

iii. manufacturer's and contractor's property damage liability;

iv. manufacturer's and contractor's public liability;

v. automobile public liability;

vi. automobile property damage.

b. Holders of these permits must provide a storage capacity for liquefied petroleum gas of not less than 15,000 gallons in one location, under fence, located within the dealer trade area within the state of Louisiana, and must show evidence of ownership of storage tank or a bona fide lease of five years minimum. This requirement shall not be retroactive.

c. Where fuel is used direct from cargo tank an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

d. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

e. Compliance with all other applicable rules and regulations will be required.

f. The name of the dealer must appear on all tank trucks, storage tank sites, and/or advertising being used by the dealer. At consumer premises, where the tank or the container is owned by the dealer, the dealer's name shall be affixed. This requirement is considered met if documentation is provided, upon demand, that the dealer's name was affixed at the time of installation. Consumer premises requirement is not retroactive.

g. - o. Repealed.

2. Class II. Holders of these permits may install, and service liquefied petroleum gas containers, piping, and appliances, but shall not deliver gas. This class will also apply to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, motor homes, travel trailers or any other recreational vehicles.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. The obligation of the manufacturers and dealers of mobile homes, motor homes, travel trailers, or any recreational vehicles is to comply with all safety standards and perform all safety tests on mobile homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, motor home, travel trailer, or any other recreational vehicle, new or used, the required inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer, using liquefied petroleum gas in the system. An inspection report properly completed and signed by the customer must be sent to the director of the Liquefied Petroleum Gas Commission verifying that the tests were performed and that the pressure test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home or recreational vehicle dealer is responsible to this commission to make the required inspection and test or make arrangements for it to be made by a qualified permit holder.

e. Compliance with all other applicable rules and regulations is required.

f. - k. Repealed.

3. Class III. Holders of these permits may sell, install and service liquefied petroleum gas appliances with any auxiliary piping. They shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;

iii. manufacturer's and contractor's property damage liability;

iv. manufacturer's and contractor's public liability;

v. automobile public liability;

vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - h. Repealed.

4. Class IV. Resellers (Wholesalers)—Holders of these permits may deliver, sell and transport liquefied petroleum gas over the highways of the state but can deliver to dealers only; utilize aboveground steel storage and/or approved salt domes, shale and other underground caverns for storage of liquefied petroleum gas; do general maintenance work on their own equipment using qualified personnel; but may not sell or install systems and appliances.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - i. Repealed.

5. Class V. Carburetion Permit. Holders of these permits may install equipment, including containers, and service liquefied petroleum gas equipment used on internal combustion engines. They may not deliver liquefied petroleum gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. manufacturer's and contractor's property damage liability;
- ii. manufacturer's and contractor's public liability.

b. Compliance with all other applicable rules and regulations is required.

c. - h. Repealed.

6. Class VI. Holders of these permits may engage in the filling of approved cylinders and motor fuel tanks with liquefied petroleum gas on their premises, but shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.
- b. Compliance with all other applicable rules and regulations is required.
- c. - i. Repealed.

7. Class VI-X. Holders of these permits may engage in the exchange of approved liquefied petroleum gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.

b. Any current Class VI permit holder may convert to a Class VI-X permit by filing formal application with the Liquefied Petroleum Gas Commission and submitting a \$25 filing fee. Presence of the applicant at the commission meeting will be waived. Upon receipt of the application and filing fee, permit will be issued. No dealer can hold a Class VI and a Class VI-X permit at the same location.

c. Compliance with all other applicable rules and regulations is required.

d. - g. Repealed.

8. Class VII. Holders of these permits may transport liquefied petroleum gas by motor vehicle over the highways of the state of Louisiana but shall not sell product in the state. This permit may be secured from the Office of the Director upon receipt of the following:

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. automobile public liability;
- ii. automobile property damage.

b. Where fuel is used direct from cargo tank an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. Compliance with all other applicable rules and regulations is required.

e. - k. Repealed.

9. Class VII-E. Holders of these permits may transport liquefied petroleum gas over the highways of the state of Louisiana but may not sell product in the state. These permits are valid only for 90 days from date of issuance and may be secured from the Office of the Director.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. automobile public liability;
- ii. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. ...

d. - g. Repealed.

10. Class VIII. Holders of these permits may store, transport and sell liquefied petroleum gas used solely in the cutting and metal working industry, sell and install piping and

containers for those gases and engage in the filling of approved ASME tanks, ICC or DOT containers used in the metal working industry.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - k. Repealed.

11. Class IX. Holders of these permits may inspect, recertify and recondition DOT and ICC cylinders. They shall not sell or deliver liquefied petroleum gas or anhydrous ammonia.

a. Holders of these permits must obtain from U.S. Department of Transportation a Retesters Identification Number, and provide proof of such to the commission.

b. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.

c. Holders of these permits must provide drawing and description of equipment to be installed to retest cylinders. Drawing and description must be submitted to the Office of the Director of the Liquefied Petroleum Gas Commission for his approval before installation.

d. Holders of these permits must maintain an accurate log of all cylinders that have been retested by date, size, manufacturer name, and serial number. The commission reserves the right to inspect such logs at any time through its representative.

e. Compliance with all other applicable rules and regulations is required.

f. - j. Repealed.

12. Registration I (R-1). Holders of these registrations must be a person, firm, or corporation who is engaged in the business of plumbing and holds a master plumber's license issued by the state of Louisiana. They may install liquefied petroleum gas or anhydrous ammonia piping and make alterations or modifications to existing piping systems. These registrations shall be issued by the Office of the Director upon meeting the applicable requirements of §107 and the following:

a. Holders of these registrations must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. manufacturer's and contractor's property damage liability;
- ii. manufacturer's and contractor's public liability.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989.

c. Compliance with all other applicable rules and regulations of the Liquefied Petroleum Gas Commission is required.

13. Registration 2 (R-2). Holders of these registrations must be a person, firm, or corporation engaged in the mechanical contracting business. They may install liquefied petroleum gas and/or anhydrous ammonia appliances and equipment, and make alterations or modifications to existing liquefied petroleum gas and/or anhydrous ammonia appliances and equipment. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following.

a. Holders of these registrations must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989.

c. Compliance with all other applicable rules and regulations of the Liquefied Petroleum Gas Commission is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:461 (March 1998).

## **Subchapter B. Dealers**

### **§115. Compliance with Rules and Act**

All dealers must comply with R.S. 40:1841-1853 of the Revised Statutes, as amended, and the rules and regulations of the Liquefied Petroleum Gas Commission in order to obtain a permit or to avoid the revocation of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), LR 24:464 (March 1998).

### **§117. Revocation of Permits**

A. The commission may revoke or suspend a permit only by a ruling of the commission based on an adjudication hearing held in accordance with the Administrative Procedure Act.

The following are causes for revocation or suspension of a permit:

1. when the commission has assessed two or more penalties against a dealer for wilful violation of or failure to comply with such rules and regulations provided the second or succeeding penalty or penalties have been imposed for violations of or failure to comply were committed after the imposition of the first penalty;

2. willful or knowing violation of a rule or regulation of the commission which endangers human life or health;

3. failure to properly odorize gas as required by R.S. 40:1846;

4. failure to provide insurance or proof of insurance as required;

5. failure to pay permit fees as required;

6. failure to pay any civil penalty imposed by the commission under provisions of R.S. 40:1846.1(E) within 30 days after the assessment becomes final.

B. The commission, after 15 days' notice to appear before it for trial and trial held, may impose a fine in lieu of revocation or suspension of a permit.

C. Any dealer who continues to operate after such permit is revoked or during period of such suspension shall be liable to prosecution under provisions hereof in the same manner as if no such permit had ever been issued.

D. The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or in the district court for the parish in which violation which gave rise to the suspension or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:464 (March 1998).

### **§121. Expiration of Permit**

After the expiration of a permit renewal fee date, by five days, any dealer continuing in operation without payment of the fee, as required by law, shall be considered as operating in violation of R.S. 40:1841-1853 of the Revised Statutes and the rules and regulations of the Liquefied Petroleum Gas Commission. The commission may invoke the applicable provisions of §117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), LR 24:464 (March 1998).

### **§123. Qualified Personnel**

All service, installation, fuel transfer personnel, carburetion mechanics, transport and delivery truck drivers must have a card of competency from the Office of the Director. New employees must not make installations, service equipment, handle or deliver gas until they have passed the examination given by the Office of the Director or furnished proof to the Office of the Director of their qualifications by another

qualified agency acceptable to the commission and a card showing their competency has been issued to them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:464 (March 1998).

### **§125. Report Accident and Fires**

A. Any accident involving a dealer in the liquefied petroleum gas business shall be reported by that dealer in writing to the office of the director as soon as possible but not later than 48 hours.

For example: accidents involving the transportation of gas, injury to employees, property damages, or injuries to other persons, etc.

B. Any fire in which liquefied petroleum gas is directly or indirectly involved must be reported in writing to the Office of the Director by the dealer servicing that installation within 48 hours of knowledge of the fire, preferably immediately, so that it can be investigated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998).

### **§127. Insurance**

A. Insurance requirements for all persons, firms, or corporations with the same class permit or registration shall be the same. New dealer insurance requirements shall be the same as existing dealer requirements.

B. The commission may invoke the applicable provisions of §117 when insurance requirements are not met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998).

### **§133. Must Purchase Containers Manufactured by Manufacturers Acceptable to the Authority Having Jurisdiction**

A. All liquefied petroleum gas containers purchased must be manufactured by a manufacturer acceptable to the Liquefied Petroleum Gas Commission. A list of such manufacturers will be furnished by the commission upon request.

B. A manufacturer of liquefied petroleum gas containers will be listed by the commission as acceptable when it has met or exceeded the requirements of Chapter 2, NFPA 58, 1995 Edition and provided documentation acceptable to the commission of the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998).

### **§139. Liquefied Petroleum Gas Systems**

A. A dealer shall not serve any liquefied petroleum gas system which the dealer knows is improperly installed or in a dangerous condition. All improper systems shall be corrected before the dealer services such system with fuel for the first time. A servicing dealer shall not be responsible for unauthorized changes in or failures of an existing system or connected appliances that have been tested, checked and found in compliance with commission rules and regulations.

1. - 4. Repealed.

B. In the interest of safety and for the protection of life and property, any end user who authorizes the maintenance and/or repair, installation, adjustment, and servicing of a liquefied petroleum gas system in the state of Louisiana shall insure that any person, firm, or corporation that may be employed and/or authorized to make such repairs has a current permit or registration and cards of competency from the Louisiana Liquefied Petroleum Gas Commission to perform maintenance and/or repair, installation, adjustment and/or servicing of that system.

C. Any end user authorizing any action listed in §139.B, where such actions are completed by any person, firm, or corporation other than the liquefied petroleum gas dealer who normally services the liquefied petroleum gas system, shall notify, as soon as possible, the servicing dealer authorized to service the affected liquefied petroleum gas system. This notification shall include:

1. name of the person, firm, or corporation that performed the service; and

2. actions taken to the affected liquefied petroleum gas systems such as adding piping, space heaters, and other such appliances. The end user shall make the described notification within five working days after completion of the action or before the liquefied petroleum gas system is next serviced with liquefied petroleum gas, whichever occurs first.

D. It is unlawful for any person, firm, or corporation to repair, install, adjust and/or service any liquefied petroleum gas system without meeting the requirements of the Louisiana Liquefied Petroleum Gas Commission.

E. No person, firm, or corporation, except the owner, thereof, or person, firm, or corporation authorized in writing by said owner, shall fill, refill, buy, sell, offer for sale, give, take, loan, dispose of, or traffic in, a liquefied petroleum gas container or tank.

F. No individual shall be subject to a criminal fine or imprisonment under §139 as a result of any willful and wrongful acts of a fellow employee or subordinate employee whose willful and wrongful act was carried out without the knowledge of the individual. Whoever is found to be guilty of any of the following acts shall be fined not more than \$50,000, or imprisoned with hard labor for not more than 10 years, or both:

1. willful or knowing violation of a rule or regulations of the commission which endanger human life or health;

2. failure to properly odorize gas as required by law and §129 of the rules and regulations of the Liquefied Petroleum Gas Commission.

G. Anyone violating §139 shall also be liable for all damages resulting from any fire or explosion involving that

shipment. The liability imposed by §139 may not be delegated by contract or practice to any transporter or subcontractor responsible for the transportation of the liquefied petroleum gas.

H. A permit may be suspended or revoked by the commission whenever the commission has assessed two or more penalties against a dealer for willful violation of, or failure to comply with, such rules and regulations, provided the second or succeeding penalty or penalties have been imposed for violations of, or failure to comply with the regulations of the commission committed after the imposition of the first penalty or forfeiture, reserving to the dealer the right to resort to the courts for reinstatement of the permit suspended or revoked. The commission may suspend or revoke the permit of any person who fails to pay any civil penalty imposed by the commission under the provisions of R.S. 40:1846.1(E) within 30 days after the assessment becomes final. Any dealer who continues to operate after such permit is revoked or during the period of such suspension shall be liable to prosecution under the provisions hereof in the same manner as if no such permit had ever been issued. A permit may be revoked or suspended only by a ruling of the commission based on adjudicatory hearing held in accordance with the Administrative Procedure Act. The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or in the district court for the parish in which the violation occurred.

I. No dealer shall service a liquefied petroleum gas system, tank or another dealer after having received notification by the commission that the system, tank or dealer is not in compliance with these rules and regulations. Mailing of an All Dealers (AD) letter which states that a system, tank or dealer is not in compliance, or certified letter stating the same shall constitute notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), LR 24:465 (March 1998).

### **Subchapter C. Manufacturers of Liquefied Petroleum Gas Containers**

#### **§147. Bond**

All manufacturers of liquefied petroleum gas containers who would like to sell their containers in Louisiana must provide documentation, in writing, acceptable to the commission that their containers meet or exceed the requirements of Chapter 2, NFPA 58, 1995 Edition and other applicable rules and regulations of the commission. This documentation may be in the form of blueprints and specifications showing compliance with Chapter 2, NFPA 58, 1995 Edition requirements or an affidavit affirming the same. Upon meeting the requirement, the manufacturer's name will be added to the approved manufacturers list for Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public

Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 7:634 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:466 (March 1998).

#### **§149. Blueprints and Specifications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, repealed LR 24:466 (March 1998).

#### **§151. Classification of Containers**

Containers shall be designed and classified as provided in the applicable sections of the Chapter 2, National Fire Protection Association Pamphlet Number 58, 1995 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 7:634 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:466 (March 1998).

### **Subchapter D. Forms and Reports**

#### **§159. Required Forms and Reports**

The following are forms and/or reports required to be filed with the Office of the Director of the Liquefied Petroleum Gas Commission:

1. Installation Report—must be filed with Office of the Director by the twentieth day of the month following the month of installation, on all installations or reinstallations of DOT and/or ASME containers. In the case of bulk storage tank installations, the installation report must be filed at the time of installation. Pressure tests are required to be documented on the installation report when a container is installed or reinstalled. In other cases where pressure tests are required (See §167 and §175), the pressure tests may be filed with the commission on an installation report form and noted as such. Pressure tests are not required to be filed, except in the case of installation or reinstallation of a container, but documentation of pressure tests are required to be maintained by the dealer if it has not been documented to the commission.
2. Sketches—must be filed with the Office of the Director for initial approval and will be finally approved after installation by the Office of the Director prior to placing into service the following liquefied petroleum gas systems:
  - a. school buses/mass transit vehicles;
  - b. dealer bulk storages;
  - c. liquid withdrawal systems, except systems for private use;
  - d. places of public assembly, schools, churches, hospitals, nursing homes and other similar systems (either liquid or vapor systems);
  - e. automatic dispensers used for motor fuel as required by LAC 55:IX.163.C;
  - f. each location of Class VI-X permit holders.
3. Reports of fires and accidents required by §125.
4. Documentation as required by §147.
5. Proof of insurance or financial security as required by §107.A.3 or §107.A.3.a.
6. Drawings as required by §113.A.11.c.
7. Reports as required by §107.A.6.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), LR 15:861 (October 1989), LR 24:466 (March 1998).

### **§163. Automatic Dispensers Used for Motor Fuel**

A. - B. ...

C. A sketch must be submitted to the Office of the Director detailing within 150 feet of the dispenser and the fuel storage container. This sketch must include distances to buildings, roads, streets, property lines, railways, other flammables and the details of the dispensing unit and be approved before installation. After installation and before use the installation must be inspected and the sketch finalized by the Office of the Director.

D. Installations of Automatic Dispenser

1. Hose length shall not exceed 18 feet.
2. Dispensing device shall be located 10 feet from any dispensing device for Class 1 liquids.
3. All piping shall be schedule 80 and all pipe fittings shall be forged steel having a minimum design pressure of 2,000 psi.
4. An excess flow valve shall be installed in the liquid and vapor piping in such a manner that displacement of the dispenser will result in the shearing of such piping on the downstream side of the excess flow valve.
5. Automatic dispensing system shall incorporate an Emergency Shut-off Valve (ESV) upstream from the pump, installed in accordance with its manufacturer's instructions.
6. The transfer hose downstream from the meter shall incorporate a pull-away device.
7. Each automatic dispensing system shall include a switch which requires the operator's constant manual activation to maintain a fuel flow. Overriding of such switch is prohibited.
8. Step-by-step operating instructions and fire emergency telephone numbers shall be posted in a conspicuous place in the immediate vicinity of the automatic dispenser.
9. Immediate vicinity of automatic dispenser shall be well lit during all hours of darkness.
10. A dealer who installs an automatic dispenser shall provide contractual purchaser with written instructions to operate dispenser. The contractual purchaser shall be cautioned to study and preserve such instructions and procedures, and to educate all those with access under his contract to the automatic dispenser in the proper operating procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1402 (December 1994), amended LR 24:467 (March 1998).

### **§165. Measurement**

A. All trucks delivering liquefied petroleum gas for domestic use shall be equipped with a suitable measuring

device which shall be used to accurately gauge the amount of gas placed in each system, either by meter or by weight.

B. Truck meters shall be calibrated at least once every two years or every one million gallons of gas delivered, whichever occurs first. Calibration reports shall be retained by the dealer in his truck file for at least three years. The commission reserves the right to review calibration reports upon demand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1402 (December 1994), amended LR 24:467 (March 1998).

### **§166. Transport/Delivery Truck Registration Decals and Inspections**

A. Dealers who operate transport/delivery trucks in the state of Louisiana shall file Form DPSP 8045 (R 5/97) with the Office of the Director between the dates of February 1 and April 30 each year and pay the required annual registration fees. New equipment and equipment not registered during this period must be registered before operating over the highways of the state. Upon payment of the required fee, a registration decal will be issued on Form 8044 (R 5/97) by the Office of the Director to be displayed on the registered equipment. It shall be a violation of the commission rules to operate a transport or delivery truck over the highways without the registration decal affixed.

B. Safety inspections are required of all transport or delivery trucks requiring registration and shall be made by:

1. Louisiana Liquefied Petroleum Gas Commission inspector; or
2. documentation acceptable to the Office of the Director that a safety inspection has been performed by an acceptable qualified agency. This inspection must be performed within three months before or three months after registration with the commission. It shall be a violation of the commission rules not to have the required inspection or documentation to the commission of the required inspection. Safety inspections by the Louisiana Liquefied Petroleum Gas Commission inspectors shall be free of charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:467 (March 1998).

### **§167. "Out-of-Gas Customers" or Interruption of Service Procedure**

When a delivery of gas is made to any on-site container which is out of gas or liquefied petroleum gas service was interrupted, the servicing dealer shall follow the following procedure.

1. When "out-of-gas customer" is not present:
  - a. shut off the container service valve;
  - b. place a tag on the container and the residence, or the building or the equipment the container services, indicating the container is out-of-service. The tag shall inform the gas customer to contact a liquefied petroleum gas dealer or other qualified agency to perform a leak check or test on the system as required before turning on the container. Further action is

the responsibility of the customer. The customer has the choice of whether to call a qualified agency or assume the risk of turning it on himself.

2. When "out-of-gas customer" is present:

a. shut off the container service valve;  
b. inform the gas customer the container is out of service and a qualified agency must perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. The customer has the choice of whether to have the required check or test performed or assume the risk of turning it on himself.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:467 (March 1998).

### **§173. Regulator Installation**

A two-stage regulator or an integral two-stage regulator shall be required on all fixed piping system that serve ½ psi appliance systems (11 in. w.c.). Single-stage regulators shall not be installed in fixed piping systems after June 30, 1997. Other requirements of NFPA 58, 1995 Edition, Section 3-2.6, as well as exceptions are applicable in Louisiana. Two-stage regulation shall not be retroactive to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998).

### **§175. Pressure Test and Inspection Required**

Pressure test and inspection of the system are required in the following cases and in the following manner.

1. New piping installation where no piping existed, no tank or appliances installed:

a. no underground piping shall be covered until after an inspection and pressure test are made;  
b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;  
c. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

d. - e. Repealed.

2. New piping installation, where no piping existed, and installation of tank, without appliance installation or connection:

a. no underground piping shall be covered until after an inspection and pressure test are made;  
b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;  
c. retest piping, with tank connected, with water column of operating pressure of system;  
d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

3. New piping, where no piping existed, installation of a tank and installation or connection of appliances:

a. no underground piping shall be covered until after an inspection and pressure test are made;

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

c. appliance inspected for correctness as to design, construction and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

4. Existing piping with additional piping added no tank or appliances installed or connected:

a. no underground piping shall be covered until after an inspection and pressure test are made;

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

c. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

5. Existing piping with additional piping added and installation of tank without appliance, installation or connection:

a. no underground piping shall be covered until after an inspection and pressure test are made;

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

c. retest piping with tank connected with water column of operating pressure of system;

d. search for leak with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

6. Existing piping with additional piping added, installation of tank and installation or connection of appliance;

a. no underground piping shall be covered until after an inspection and pressure test are made;

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

c. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

7. Existing piping with installation of tank without appliances:

a. visually inspect container and piping;

b. test piping, with tank connected, with water column, of operating pressure of system;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files;

8. Existing piping with installation of tank and installation or connection of appliance:

a. visually inspect container and piping;

b. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

9. Existing piping, tank and appliances, first time service of system by new dealer (new customer):

a. visually inspect container and piping;

b. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Test piping system and appliances with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files;

e. when the new customer is not present and §175.A.9.a. - d cannot be performed. Service should be documented as required in an out-of-gas situation §167.A;

f. when the new customer is present but does not authorize the procedure of §175.A.9.a. - d the service should be documented as required in an out-of-gas situation of §167.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), LR 24:468 (March 1998).

### **§177. Appliance Installation and Connections**

A. Use of Approved Appliances. Domestic and commercial gas consuming appliances shall not be installed unless their correctness to design, construction and performance is certified by one of the following:

1. - 2. ...

B. Appliance Installation and Connection

1. An appliance shall be installed in accordance with its manufacturer's instructions.

2. In the absence of complete manufacturer's instructions on installation of any appliances, installation shall be in accordance with the edition of NFPA Number 54 the *National Fuel Gas Code* adopted by the commission.

a. - b. Repealed.

C. Exceptions

1. Existing installations, where piping outlets and appliances were installed in accordance with regulations

which were in effect at the time of such installation, shall remain approved. This exception includes the removal of existing appliances for servicing or replacement of appliances with the same type or of equal or better quality. This exception does not allow adding new piping, appliance locations, or new appliances where there was no pre-existing appliance without meeting §177.A and B.

2. Installation of Heaters in Residences. The following liquefied petroleum gas room heaters may be installed in a residence that is a one- or two-family dwelling and that is not a manufactured home (mobile home) or a modular home:

a. a listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 6,000 Btu per hour, and combustion and ventilation air is provided in accordance with Paragraph 6.1(b) of the *National Fuel Gas Code, NFPA 54, 1992 Edition*;

b. a listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 10,000 Btu per hour, and combustion and ventilation air is provided in accordance with Paragraph 6.1(b) of the *National Fuel Gas Code, NFPA 54, 1992 Edition*.

3. Installation of Heaters in Used Manufactured Homes. Liquefied petroleum gas room heaters may be installed in used manufactured homes as follows: liquefied petroleum gas listed vented room heaters equipped with a 100 percent safety pilot and a vent spill switch or liquefied petroleum gas listed unvented room heaters equipped with factory equipped oxygen depletion safety shut-off system, but not in sleeping quarters or bathrooms; and when the installation of the heater is not prohibited by the appliance manufacturer's instructions and when the input rating of the room heater does not exceed 20 Btu per hour per cubic foot of space and combustion and ventilation air is provided as specified in Section 5.3 of the *National Fuel Gas Code, NFPA 54, 1992 Edition*.

4. Exceptions, other than those listed herein, shall be approved by the director of the Liquefied Petroleum Gas Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:469 (March 1998).

#### **Subchapter H. Specification for Liquefied Petroleum Gas Installations at Schools and Places of Public Assembly**

##### **§179. Requirements for Plans and Specifications**

A. Sketches and specifications including plot plans shall be submitted to the Office of the Director of the Liquefied Petroleum Gas Commission for approval before installation.

B. Sketch and specifications must show the following:

1. type of building (frame, masonry, metal walls, etc.);
2. elevation from ground level to building;
3. the size and location of all gas piping and length of runs;

4. the size and location of the tank or container;
5. the location and Btu rating of all appliances;
6. the total Btu load;
7. all other details related to the proposed installation as required in §179.

C. The following is a clarification of the requirements for the replacement of tanks at schools and places of public assembly:

1. Where any additional piping or installation or change of an appliance occurs, it is necessary to submit new sketches to the Office of the Director of this commission.

2. Replacement of a storage tank or container by a smaller or larger capacity tank or container will require new sketches and approval from the Office of the Director.

3. Replacement of a tank or container of the same capacity at the same location will not require a new sketch.

4. In cases where a new sketch is not required, a letter stating the approximate information as to manufacturer, serial number, date of manufacture, capacity, and customer name and address will be accepted.

5. In all cases an installation report, as required, must be filed with the Office of the Director.

D. New sketches are not required when changing fuel suppliers of public assembly and no changes are made in the liquefied petroleum gas system.

E. The commission reserves the right to make a final inspection and witness a pressure test through an inspector of the Liquefied Petroleum Gas Commission before placing installation into service.

F. The minimum capacity of storage tanks or containers shall be 100 gallons capacity per each 100,000 Btu appliance load. Exceptions to this rule must be made by the director of this commission.

G. Fences are required for storage tanks or containers at all schools, nursing homes and churches. Fences may be required at other places of public assembly which are deemed necessary in the interest of public safety by the office of the director. All request for exemption from the requirement must be submitted, in writing, to the Office of the Director and approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998).

#### **Subchapter I. Adoption of Standards**

##### **§181. National Fire Protection Association Pamphlet Number 54 and 58**

A. The Liquefied Petroleum Gas Commission hereby adopts the *National Fuel Gas Code, 1992 Edition*. The National Fire Protection Association designation is NFPA 54-1992. The American National Standards Institute, Inc. designation is ANSI Z223.1-1992. The Liquefied Petroleum Gas Commission also adopts the National Fire Protection Association's *Standard for the Storage and Handling of Liquefied Petroleum Gases, 1995 Edition*. The National Fire Protection Association designation is NFPA 58 - 1995. The American National Standards Institute, Inc. designation is ANSI/NFPA 58-1995.

B. The commission may adopt subsequent editions of these standards by a rule change in accordance with the Administrative Procedure Act.

C. Any published Liquefied Petroleum Gas Commission rules and regulations shall take precedence over the standards referenced and adopted in §181.A.

D. The commission reserves the right to make an exception to any rule adopted in §181.A, as it applies to local conditions as it deems necessary in the interest of public safety.

1. - 3. Repealed.

E. The following are exceptions to the standards referenced in §181.A:

1. with regard to §2.6.6, *Protective Coatings*, in NFPA 54-1992—galvanized pipe and fittings and copper pipe and fittings may be used;

2. with regard to §3.1.2, *Protection Against Damage*, in NFPA 54-1992—pipe may be buried to the depth of the frost line and shall be protected against such mechanical injury where necessary;

3. with regard to §3.1.3, *Protection Against Corrosion*, in NFPA 54-1992—the provisions of §3.1.3 shall be considered met in Louisiana when galvanized or copper pipe is used;

4. with regard to §2-2.6.6, *Name and Emergency Service Telephone Number*, in NFPA 58-1995—the provisions of §2-2.6.6 shall be considered met in Louisiana when dealer-owned tanks on consumer premises have the dealer's name affixed. Consumer-owned tanks require no markings. See §113.A.1.f of these rules.

5. with regard to §3-9.3.10, *Emergency Shut-off of Power*, in NFPA 58-1995—the provisions of §3-9.3.10 shall be considered met in Louisiana if the operator has provided an alternative to shut off power in the event of a fire, accident or other emergency other than the switch(es) or circuit breaker(s) located at the dispenser(s);

6. with regard to §3-3.6.b, *Alternative to Fencing*, in NFPA 58-1995—the provisions of §3-3.6.b shall be considered met in Louisiana, if, as an alternative to fencing the operating area, suitable devices are installed, that can lock the discharge end of the transfer hose valve, prevent unauthorized operation of the pumping equipment and protect against vehicle impact in accordance with good engineering practice acceptable to the commission;

7. with regard to §3-9.3.9, *Shut-off Valve on End of Transfer Hose*, in NFPA 58-1995—the provisions of §3-9.3.9 shall be considered met in Louisiana if a listed quick-acting shut off valve with positive lock off or a listed globe valve is installed at the discharge end of the transfer hose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998).

## **Chapter 2. School Bus and Mass Transit Installations** [formerly Chapter 12]

Editor's Note: This Chapter applies to liquefied petroleum gas systems supplying liquefied petroleum gas to propel school buses and mass transit vehicles.

## **§201. Applications and Sketches of School Bus and Mass Transit Vehicles**

A. Prior to the initial installation of a liquefied petroleum gas system used as a motor fuel system on any school bus or mass transit vehicle, either public or private, an applicant (the end user or dealer) shall submit an application and sketch to the Office of the Director for review and approval. When the end user is the applicant, the dealer making the installation must be stated on the application.

B. After review of the application and approval of the sketch by the Office of the Director the liquefied petroleum gas system may be installed. Any modifications, except routine maintenance of the system, shall require a new sketch and approval by the Office of the Director.

C. A registration fee of \$10 must be submitted with the application which includes the first year registration decal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998).

## **§203. Inspections**

A. The Liquefied Petroleum Gas Commission requires that a final inspection of all newly installed systems be made by the Office of the Director or an acceptable qualified agency prior to placing in service. This final inspection must be documented to the commission.

B. The Liquefied Petroleum Gas Commission reserves the right to make inspections of all liquefied petroleum gas systems at any time.

C. All school bus/mass transit vehicles which use liquefied petroleum gas as a motor fuel shall be registered with the Liquefied Petroleum Gas Commission and shall be inspected annually by the Office of the Director or an acceptable qualified agency. An annual renewal registration fee of \$10 shall be paid to the Liquefied Petroleum Gas Commission upon the required annual inspection.

D. A liquefied petroleum gas dealer shall not fuel any school bus/mass transit vehicle covered under this Chapter which has not been inspected as required or to which a current registration decal is not permanently affixed.

E. No liquefied petroleum gas system shall be placed into service which does not comply with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998).

## **§205. Installation of Liquefied Petroleum Gas Systems Used As Engine Fuel System for School Bus/Mass Transit Vehicles**

Installation of a liquefied petroleum gas system used as engine fuel system for school bus/mass transit vehicles shall be in accordance with the applicable sections of NFPA Number 58, 1995 Edition, Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:1886 (August 1992), amended LR 24:471 (March 1998).

## §207. Fueling

A. Vehicles covered in this Chapter are prohibited from being fueled at schools and other places of public assembly within 50 feet of the property line.

B. Vehicles are prohibited from being fueled while passengers are on board or while waiting to board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:472 (March 1998).

### Chapter 12. School Bus/Mass Transit Installations [See new Chapter 2]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 20:1405 (December 1994), repealed LR 24:472 (March 1998).

Charles M. Fuller  
Director

9803#026

## RULE

### Department of Public Safety and Corrections Office of Motor Vehicles

#### Compulsory Insurance (LAC 55:III.Chapter 17)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby adopts rules pertaining to the implementation of the law authorizing the impoundment of motor vehicles when the operator is unable to provide proof of liability insurance to a law enforcement officer. The rules provide for the notice of violation issued by a law enforcement officer; service of the notice on the owner of the vehicle; administrative hearing rights; the revocation of registration privileges; the acceptable means of proving the motor vehicle is covered by a policy of liability insurance; the treatment of leased and rented motor vehicles; the treatment of the transfer of ownership of motor vehicles which have been the subject of a violation for no proof of insurance; and the procedure to be followed if a person desires a declaratory order or ruling regarding the compulsory insurance law.

#### Title 55

#### PUBLIC SAFETY

#### Part III. Motor Vehicles

#### Chapter 17. Compulsory Insurance

#### §1701. Definitions

As used in this Chapter, the following terms have the meanings described below.

*Assistant Secretary*—the assistant secretary of the Office of Motor Vehicles.

*Department*—the Department of Public Safety and Corrections, Office of Motor Vehicles.

*New Owner*—the person or persons who acquire, or who have previously acquired ownership of a motor vehicle that was the subject of a violation of this Chapter, but who do not

appear on the records of the department as the registered owner of such motor vehicle.

*Operator*—every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

*Owner*—a person who holds a legal title to a vehicle or in the event the vehicle is the subject of an agreement for the conditional sale, lease, or transfer of possession thereof with the right of purchase upon the performance of the conditions stated in the agreement, with the right of immediate possession in the vendee, lessee, possessor, or in the event such similar transaction is had by means of mortgage and the mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee, possessor, or mortgagor shall be deemed the owner for the purposes of this Chapter.

*Person*—an individual, partnership, corporation, limited liability company, or other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:472 (March 1998).

#### §1703. Official Notification

A. The notice of noncompliance issued by a law enforcement officer to the operator of the motor vehicle at the time of the violation of R.S. 32:863.1 serves as official notification by the department that a violation of R.S. 32:863.1 has occurred, and such notice triggers all of the requirements for compliance contained in this Chapter and in R.S. 32:863.1 as are applicable.

B. Notification issued pursuant to this Chapter shall be on a form approved by the assistant secretary and shall include the following:

1. in those cases in which the motor vehicle is impounded, the notice shall inform the owner/operator that the motor vehicle shall remain impounded and the registration of the motor vehicle shall be revoked until such time as the owner provides satisfactory proof to the department that the motor vehicle is covered by a policy of liability insurance or such other security as is authorized by state law, and until such time as the owner pays all fees required by R.S. 32:863.1;

2. in those cases in which the motor vehicle is not impounded, the notice shall inform the owner/operator that the motor vehicle's registration will be revoked three days from the date the notice was issued, and the registration will remain revoked until such time as the owner provides satisfactory proof to the department that the motor vehicle is covered by a policy of liability insurance or such other security as is authorized by state law, and until such time as the owner pays all fees required by R.S. 32:863.1.

C. Any request for an administrative hearing must be submitted in writing to the Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, Box 64886, Baton Rouge, LA 70896-4886, or hand-delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:472 (March 1998).

### **§1705. Revocation of Registration Privileges**

A. If the owner of the motor vehicle cited for being operated in violation of R.S. 32:863.1 provides proof of valid insurance in effect at the time of the violation within three days of the date of the violation, the registration for that motor vehicle shall not be revoked and the license plate shall be returned to the individual within 48 hours upon its receipt by the department.

B. If the owner of the motor vehicle cited for being operated in violation of R.S. 32:863.1 does not provide proof of valid insurance in effect at the time of the violation within three days of the date of the violation, the registration for that motor vehicle shall be revoked and the license plate shall be destroyed.

C.1. Any period of revocation shall begin on the fourth day after the date of the violation. The registration shall remain revoked until the owner of the motor vehicle complies with requirements of R.S. 32:863.1 and this Chapter.

2. If a license plate was seized at the time of the violation, and a new plate issued for the motor vehicle in question, a pickup order shall be issued for the new plate.

3. Nothing in this Chapter shall be construed as limiting or prohibiting the department from taking any other action against a registered owner of a motor vehicle who subsequently applied for a new plate, after the previous plate was seized pursuant to R.S. 32:863.1, without the registered owner first complying with the provisions of R.S. 32:863.1 and the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:473 (March 1998).

### **§1707. Proof of Insurance**

A. The following are the only acceptable means of proving that the motor vehicle is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1 and the vehicle weighs 20,000 pounds or less:

1. proof of a liability insurance policy providing at \$10,000/\$20,000 bodily injury and \$10,000 property damage as provided in R.S. 32:900(B) by:

- a. the insurance identification card issued by the insurance company;
- b. the declaration page of the policy of insurance issued by the insurance company;
- c. the policy of liability insurance issued by the insurance company;
- d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof of an approved motor vehicle liability bond issued by a surety or insurance company in the amount of

\$30,000 with respect to the motor vehicle involved in the violation;

3. proof that a certificate was issued from the state treasurer stating that cash or securities in the amount of \$30,000 is on deposit with the state treasurer;

4. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042.

B. The following are the only acceptable means of proving that a motor vehicle with a gross weight of 20,001 pounds to 50,000 pounds is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1:

1. proof of a liability insurance policy providing at \$25,000/\$50,000 bodily injury and \$25,000 property damage as provided in R.S. 32:900(B):

- a. the insurance identification card issued by the insurance company;
- b. the declaration page of the policy of insurance issued by the insurance company;
- c. the policy of liability insurance issued by the insurance company;
- d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042;

3. proof of single state registration (current form RS-3);

4. proof of Public Service Commission authority (current Intra-State ID Cab Card); or

5. proof that a Certificate of Self-Insurance was issued by the Interstate Commerce Commission (ICC) under R.S. 32:900(M)(3).

C. The following are the only acceptable means of proving that a motor vehicle with a gross weight of more than 50,000 pounds is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1:

1. proof of a liability insurance policy providing at \$100,000/\$300,000 bodily injury and \$25,000 property damage as provided in R.S. 32:900(B):

- a. the insurance identification card issued by the insurance company;
- b. the declaration page of the policy of insurance issued by the insurance company;
- c. the policy of liability insurance issued by the insurance company;
- d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042;

3. proof of single state registration (current form RS-3);
4. proof of Public Service Commission authority (current Intra-State ID Cab Card); or
5. proof that a Certificate of Self-Insurance was issued by the Interstate Commerce Commission (ICC) under R.S. 32:900(M)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:473 (March 1998).

**§1709. Proof of Insurance for Rental or Leased Motor Vehicles**

A. For purposes of this Chapter, a rental motor vehicle is a motor vehicle which remains registered in the name of the rental company with the Office of Motor Vehicles.

B. For purposes of this Chapter, a leased motor vehicle is a motor vehicle or which is registered in the name of the lessee in addition to the name of the rental company with the Office of Motor Vehicles.

C. The law enforcement officer enforcing the provisions of R.S. 32:863.1 may contact the rental agent to determine if the rental agent wishes to retake possession of the motor vehicle. If the rental agent retakes possession of the motor vehicle, the rental motor vehicle shall not be impounded and the license plate of the rental motor vehicle shall not be seized.

D. A leased motor vehicle shall be subject to the impoundment provisions of R.S. 32:863.1 unless one of the exceptions applies.

E. No vehicle shall be subject to impoundment if the operator provides proof that he owns a motor vehicle which is covered by a policy of liability insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:474 (March 1998).

**§1711. Transfer of Title of a Vehicle Subject to the Provision of this Chapter**

A. If the owner of a motor vehicle, which was the subject of a citation for violation of R.S. 32:863.1, desires to sell, donate, or transfer such motor vehicle, then the owner of such motor vehicle shall comply with the following:

1. there must be a bona fide sale, donation, transfer or assignment to a new owner of the motor vehicle which was the subject of a citation for violation of R.S. 32:863.1;

2. the new owner of the motor vehicle which was previously the subject of a citation for violation of R.S. 32:863.1 shall:

- a. apply for and obtain a certificate of title for the motor vehicle;
- b. pay the vehicle registration license tax; and
- c. provide proof that the motor vehicle is covered by a valid policy of liability insurance or such other security as authorized by §1707;

3. all fees required by R.S. 32:863.1 shall be paid prior to the department processing the title transaction.

B. The new owner of the motor vehicle may pay the fees owed by the previous owner of the motor vehicle who was

subject to the violation of R.S. 32:863.1, but the previous owner shall ultimately retain responsibility for the fees until the fees are paid to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:474 (March 1998).

**§1713. Declaratory Orders and Rulings**

A. Any person desiring a ruling on the applicability of R.S. 32:863.1 or any other statute, or the applicability or validity of any rule, to the impoundment of motor vehicles for failing to have proof of liability insurance or other security shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on a transaction handled by the Office of Motor Vehicles, the person submitting the petition shall notify the person or persons who submitted the transaction, if other than the person submitting the petition. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the person or persons cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §1713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:474 (March 1998).

**§1715. Severability**

The provisions of each Section are severable. If any provision or item of Act 1486 of the 1997 Regular Session, amending R.S. 32:863.1 is held invalid, then those provisions

or items of Chapter 17 relating to those items or provisions of Act 1486 that are held invalid are severable, and such invalidity shall not affect other provisions, items, or applications of Chapter 17 which can be given effect without regard to any invalid provisions of Act 1486.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:474 (March 1998).

Thomas H. Normile  
Undersecretary

9803#028

**RULE**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

**Vehicle Registration License Tax  
(LAC 55:III.351, 355, and 365)**

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby amends LAC 55:III.351, 355, and 365 pertaining to the annual registration license tax for motor vehicles. Currently, the value of motor vehicles for the purpose of initial and subsequent registration is based on 75 percent of the retail value contained in the *N.A.D.A. Official Used Car Guide*. This rule bases the vehicle registration license tax on the full loan value of the *N.A.D.A.*

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 3. License Plates**

**Subchapter B. Vehicle Registration License Tax**

**§351. Definitions**

As used in this Subchapter, the following terms have the meanings described below:

\* \* \*

*Low Bills of Sale*—values determined to be below the full loan value as shown by the most current *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1323 (October 1997), amended LR 24:475 (March 1998).

**§355. Valuation of Motor Vehicles for Purposes of Initial and Subsequent Registration on or after January 1, 1990**

A. Except in cases of damaged motor vehicles, donations, out-of-state transfers, or low bills of sale, the value of the motor vehicle shall be determined by the purchase price as indicated on the bill of sale or invoice.

B. In the case of donations, out-of-state transfers, or low bills of sale, the value shall be determined and based upon the full loan value contained in the most current *N.A.D.A. Official*

*Used Car Guide, South-Western Edition* (or its successor) as maintained by the Office of Motor Vehicles. In the case of classic automobiles or other automobiles of particular interest not included in the *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor), the full loan value shall be determined by reference to the *N.A.D.A. Official Older Used Car Guide* or the *Value Guide to CARS of Particular Interest*. If the value of the motor vehicle cannot be determined by reference to any of these three guide books, the actual value of the motor vehicle shall be determined by the Office of Motor Vehicles based upon such information supplied by the person seeking to register the vehicle and such information that may be required from such person by the assistant secretary or his designee.

C. The valuation of a damaged motor vehicle shall be the value of the motor vehicle at time of acquisition as determined pursuant to §355.C.1.-2. The following must be presented to the Office of Motor Vehicles to establish an actual value on such a vehicle of less than the full loan value:

1.a. an affidavit by the seller or transferor of the motor vehicle specifying in detail the nature of damage to the vehicle and a written invoice from a bona fide mechanic or repairman showing a detailed estimate of the cost of repair to said vehicle. The assistant secretary or his designee may require additional information or documentation to determine the value of the motor vehicle. Upon review of all documentation and information, the assistant secretary or his designee may add the proven damages to the sales price of the motor vehicle as is reflected in the bill of sale submitted in connection with the application to register the motor vehicle. If the total of the proven damages and the sales price is within \$1,000 of the full loan value as determined in §355.B, the vehicle shall be valued according to the sales price. If the total of the proven damages and the sales price differs by more than \$1,000 from the full loan value as determined in §355.B, the value of the motor vehicle shall be determined by deducting the proven damages from the full loan value as determined in §355.B;

b. upon a showing of good cause by the person applying to register the damaged motor vehicle, the assistant secretary or his designee may assign a value other than the value established pursuant to §355.B. The applicant for registration shall provide the department with such documentation as is necessary to justify this alternative valuation;

2. if the seller is a licensed new or used motor vehicle dealer, then the dealer or an employee of such dealer shall submit an affidavit specifying the nature of the damage and the sale price. The assistant secretary or his designee may require additional information or documentation to determine the value of the motor vehicle. Upon review of all documentation and information, the assistant secretary or his designee shall calculate the value of the motor vehicle in the same manner and under the same conditions as provided in §355.C.1.

D. Motor vehicles, the ownership of which is reacquired by the original owner within a period of two years from date of original acquisition, shall be registered at the original value upon renewal or registration by the original owner. Upon a

showing of good cause by the person seeking to register the motor vehicle, the assistant secretary of the Office of Motor Vehicles may permit the vehicle to be valued as provided in §355.B-C, as the case may be.

E. Additional documentation may be required of any applicant for license or registration, including renewals, by the assistant secretary of the Office of Motor Vehicles or his designee.

F. In the case of high mileage, the loan value of the motor vehicle may be reduced according to the deduction contained in the guide book depending on the model year, the type of motor vehicle, and the amount of mileage set as excessive in the guide book.

G. In those instances when a federal or state regulated lending institution or financial institution determines that the motor vehicle has a loan value less than is indicated in the guide book, the applicant for motor vehicle registration may submit a statement from the lending institution or financial institution, signed by an officer of the institution, stating the loan value assigned to the vehicle by the institution. Such statement shall also contain a description of the vehicle including make, model, model year, and vehicle identification number. Upon receipt of such statement, the department may use the loan value contained in such statement for purposes of calculating the tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1324 (October 1997), amended LR 24:475 (March 1998).

### **§365. Valuation of Motor Vehicles Awarded Pursuant to a Judgment of a Court of Limited Jurisdiction**

A. The following guidelines shall be used when determining the value of a motor vehicle, the ownership of which is acquired pursuant to a written judgment of a trial court of limited jurisdiction:

1. if the written judgment or the written reasons for judgment do not indicate that the court made a determination as to the value of the motor vehicle, the value shall be determined pursuant to §355;

2. if the written judgment or the written reasons for judgment contain a determination as to the value of the motor vehicle, and such value is not less than the value of the vehicle as determined in §355, then the motor vehicle shall be valued at such amount for purposes of collecting the vehicle registration license tax;

3. if the written judgment or the written reasons for judgment contain a determination as to the value of the motor vehicle, and such value is less than the value of the vehicle as determined in §355, then the following shall apply:

a. if the judgment or reasons for judgment contain specific factual findings as to why that particular value was assigned to the motor vehicle, then the motor vehicle shall be valued at such amount for purposes of collecting the vehicle registration license tax;

b. if the judgment or reasons for judgment do not contain specific factual findings as to why that particular value was assigned to the motor vehicle, then the motor vehicle shall be valued pursuant to §355.B;

4. any judgment that is not reduced to writing shall not be used in the determination of the value of the motor vehicle for purposes of this Subchapter;

5. if the person submitting the application to register the motor vehicle refuses to pay the vehicle registration license tax as required in §365, the department shall deny or refuse the transaction.

B. No judgment shall be processed for purposes of titling or registering a motor vehicle unless the written judgment or the written reasons for judgment contain the following information:

1. the make, model, and model year of the motor vehicle;

2.a. the vehicle identification number of the motor vehicle, chassis number, or serial number as assigned by the manufacturer; or

b. the state police vehicle number assigned by a commissioned Louisiana state trooper after a physical inspection of the vehicle if the vehicle does not have a vehicle identification number assigned by the manufacturer;

3. the full name of each person or business entity in which the vehicle is to be titled and registered;

4. the full name of each person or business entity who sold, transferred, or otherwise assigned the vehicle to the persons or businesses required to be listed by §365.B.3;

5. the full price or other consideration given in exchange for the vehicle;

6. the date the sale, transfer or assignment occurred;

7. a statement as to whether any outstanding liens on the vehicle, which have been recorded with the Office of Motor Vehicles, have been released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1325 (October 1997), amended LR 24:476 (March 1998).

Thomas H. Normile  
Undersecretary

9803#067

## **RULE**

### **Department of Public Safety and Corrections Office of State Police**

#### **Out-of-State Inspection Stations (LAC 55:III.808)**

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., amends rules implementing the 1997 Regular Session amendments to R.S. 32:1301 and R.S. 32:1305 authorizing the establishment of motor vehicle inspection stations by any business owning more than 40 motor vehicles registered pursuant to the International Registration Plan in Louisiana and operating at least one vehicle repair and maintenance shop. The 1997 amendment authorizes the establishment of such inspection stations within or without the state of Louisiana.

**Title 55**  
**PUBLIC SAFETY**  
**Part III. Motor Vehicles**

**Chapter 8. Vehicle Inspection**  
**Subchapter D. Appointment as an Inspection Station**  
**§808. Out-of-State Inspection Stations**

A. All inspections of motor vehicles registered in Louisiana pursuant to the International Registration Plan, if conducted outside the state of Louisiana, shall be conducted in the same manner as those inspections conducted in Louisiana.

B. All inspection reports shall be received by the Safety Enforcement Section no later than the fifth day of the month following the month in which the motor vehicle was inspected at the out-of-state inspection station. The reports shall be mailed to the Office of State Police, Safety Enforcement Section, Box 66614, Baton Rouge, LA 70896 or hand-delivered at the Safety Enforcement Section headquarters at 265 South Foster Drive, Baton Rouge, LA 70806.

\* \* \*

E. All inspection certificates shall be mailed directly to an address in Louisiana designated by the operator, and the operator shall be responsible for distributing the inspection certificates to each of the operator's inspection stations with a certificate of appointment. It shall be the responsibility of the fleet operator to maintain records reflecting the distribution, reallocation, and use of the inspection certificates.

F. It shall be the responsibility of the contact person located at the out-of-state inspection station, upon receipt of the inspection certificates from the operator's designated Louisiana address, to notify the operator's Louisiana office of the receipt of the inspection certificates. The contact person shall verify the audit numbers of the certificates received and include a statement of this verification in the notice required in §808.F. The notification required by §808.F shall be in writing and shall be kept at the operator's Louisiana office.

G. The inspection log books shall be sent to the operator's Louisiana office, and the operator's Louisiana office shall have the responsibility of forwarding the log books to the out-of-state inspection station.

\* \* \*

I. Repealed.

\* \* \*

P. The deputy secretary of the Department of Public Safety and Corrections, Public Safety Services may impose conditions, restrictions, or limitations on any permit without regard as to whether any violation has occurred.

\* \* \*

U.1. The operator shall be responsible for the reimbursement of the actual costs incurred by the department in administering the out-of-state inspection program. The costs shall include the expenses incurred for travel, meals, lodging, and other related administrative expenses incurred in connection with the application for a certificate of appointment, the initial inspection in connection with commencement of operation of the out-of-state inspection station, and any subsequent inspection or investigation of the out-of-state inspection station to insure all requirements of state statutes, the rules regarding motor vehicle inspections, or

any order issued by or on behalf of the Safety Enforcement Section are met.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 23:1701 (December 1997), amended LR 24:477 (March 1998).

Thomas H. Normile  
Undersecretary

9803#066

**RULE**

**Department of Revenue**  
**Tax Commission**

Ad Valorem Taxation (LAC 61:V.Chapters 1-35)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission adopted, amended, and/or repealed sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 1998 (1999 Orleans Parish) tax year.

**Title 61**

**REVENUE AND TAXATION**  
**Part V. Ad Valorem Taxation**

**Chapter 1. Constitutional and Statutory Guides to Property Taxation**

**§101. Constitutional Principles for Property Taxation**

A. Assessments. Property subject to ad valorem (property) taxation shall be listed on the assessment rolls at its assessed valuation, which, except as provided in §101.C, shall be a percentage of its fair market value. The percentage of fair market value shall be uniform throughout the state upon the same class of property.

B. Classification

1. The classification of property subject to ad valorem taxation and the percentage of fair market value applicable to each classification for the purpose of determining assessed valuation are as follows:

Classifications	Percentages
a. land	10%
b. improvements for residential purposes	10%
c. electric cooperative properties, excluding land	15%
d. public service properties, excluding land	25%
e. other property (including personal property)	15%

2. The legislature may enact laws defining electric cooperative properties and public service properties. (See R.S. 47:1851).

C. Use Value. Bona fide agricultural, horticultural, marsh and timber lands, as defined by general law, shall be assessed for tax purposes at 10 percent of use value rather than fair market value. The legislature may provide by law similarly for buildings of historic architectural importance.

D. Valuation. Each assessor shall determine the fair market value of all property subject to taxation within his respective parish or district, except public service properties, which shall be valued at fair market value by the Tax Commission or its successor. Each assessor shall determine the use value of property which is to be so assessed under the provisions of §101.C. Fair market value and use value of property shall be determined in accordance with criteria which shall be established by law and which shall apply uniformly throughout the state.

E. Review. The correctness of assessments by the assessor shall be subject to review first by the parish governing authority, then by the Tax Commission or its successor, and finally by the courts, all in accordance with procedures established by law.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998).

### §103. Exempt Property

A. In addition to the homestead exemption provided for in Section 20 of Article VII of the constitution, the following property and no other shall be exempt from the ad valorem tax:

1. public lands; other public property used for public purposes;
2. property of nonprofit organizations operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes;
3. property of bona fide labor organizations and certain businesses and trade and professional organizations;
4. property of nonprofit organizations organized for fraternal and charitable purposes;

Note: See Louisiana Constitution of 1974, Article VII, Section 21.B, for specific conditions of authorization.

Note: None of the property listed in §103.A.2, 3, and 4 shall be exempt if owned, operated, leased or used for commercial purposes unrelated to the exempt purposes of the corporation or association.

\* \* \*

6. stocks and bonds, except bank stocks, the tax on which shall be paid by the banking institution;

\* \* \*

8. loans by life insurance companies to policyholders, if secured solely by their policies;

\* \* \*

13. personal property used in the home or on loan in a public place;

14. irrevocably dedicated places of burial held by individuals for purposes of burial of themselves or members of their families;

15. agricultural products while owned by the producer, agricultural machinery and other implements used exclusively for agricultural purposes (including crop dusting aircraft),

animals on the farm, and property belonging to an agricultural fair association (also see R.S. 47:1707);

\* \* \*

17. rights-of-way granted to the Department of Transportation and Development (DOTD);

\* \* \*

20. ships and oceangoing tugs, towboats and barges engaged in international trade and domiciled in Louisiana ports. However, this exemption shall not apply to harbor, wharf, shed, and other port dues or to any vessel operated in the coastal trade of the states of the United States;

21. materials, boiler fuels, and energy sources used by public utilities to fuel the generation of electricity;

22. all incorporeal movables of any kind or nature whatsoever, except public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies. (See Louisiana Civil Code of 1870, as amended, and R.S. 47:1709).

B. Also exempt are raw materials, goods, commodities, articles and personal property imported into this state from outside the states of the United States or, held in storage while in transit through this state which are moving in interstate commerce.

Note: See Louisiana Constitution, Article VII, Section 21.D; R.S. 47:1951.1; R.S. 47:1951.2; and R.S. 47:1951.3 for specific conditions of authorization.

Note: Property described in §103.B, whether or not entitled to exemption, shall be reported to the proper taxing authorities on the forms required by law.

C. Motor vehicles used on the public highways of this state, from state, parish and special ad valorem taxes. This exemption shall not extend to any general or special tax levied by a municipal governing authority, or by a district created by it, unless the governing authority thereof provides for the exemption by ordinance or resolution.

D. New manufacturing establishments and additions to existing manufacturing establishments to be granted tax exemptions by the Board of Commerce and Industry, with the approval of the governor, as authorized by Article VII, Section 21.F of the Louisiana Constitution of 1974.

E. Coal or lignite stockpiled in Louisiana for use in Louisiana for industrial or manufacturing purposes or for boiler fuel, gasification, feedstock, or process purposes.

F. Value of enhancements to certain structures located in downtown, historic, or economic development districts to be granted a limited exemption by the Board of Commerce and Industry, if approved by the governor and the local governing authority, as authorized by Article VII, Section 21.H of the Louisiana Constitution of 1974.

G. Goods held in inventory by distribution centers, to be granted tax exemptions by the parish economic development or governing authority, with the approval of each affected tax recipient body in the parish, as authorized by Article VII, Section 21.I of the Louisiana Constitution of 1974.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 21.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 15:1097 (December 1989),

LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:478 (March 1998).

**§123. Statutes Pertaining to Specific Personal Property**  
Listing and Assessing of Notes and Indebtedness

1. All credits, including open accounts, bills receivable, judgments and all promissory notes, not exempt, shall be assessed at the personal property ratio. Valuation shall be at an average of the capital employed in the business after deduction from accounts payable, bills payable and other liabilities of a similar character, not exempt. Liabilities due from branches or subsidiaries shall not be deducted (R.S. 47:1962).

2. Indebtedness and all evidence of indebtedness, shall be taxable only at the situs and domicile of the holder or owner thereof (R.S. 47:1952).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952 and R.S. 47:1962.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998).

**Chapter 3. Real and Personal Property**

**§309. Tax Commission Miscellaneous Forms**

A. TC Form 8, Agreement to Suspend Subscription of Ad Valorem Tax Form, should be used when audit or other circumstances deem it appropriate.

B. TC Form 9, Insurance Companies Form, should be sent to all property and casualty insurance companies, both foreign and domestic, licensed to write insurance in Louisiana.

C. TC Form 33, Abstract of Assessments Form, shall be annually completed and furnished to the Tax Commission by each parish assessor on or before the filing of the parish assessment rolls for certification by the Tax Commission.

D. TC Forms CO1, CO2 and CO3, should be used to electronically process change order requests submitted by tax assessors' offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998).

**Chapter 7. Watercraft**

**§701. Guidelines for Ascertaining Fair Market Value of Watercraft**

\* \* \*

B. Valuation

\* \* \*

2. The same procedure shall be used as for other forms of machinery and equipment. That is, cost of the vessel will be brought up to current value through use of the appropriate index and depreciated based on the effective age of the vessel. The appropriate cost index, percent good factors and composite multipliers appear in Tables 703.A and 703.B.

3. Consideration of obsolescence when using the cost approach—economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence shall be given. If economic and/or

functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

4. Gulf of Mexico Watercraft Fleet. When determining the three approaches to value, the assessor may use a variable annual income approach, as compiled by a certified marine surveyor-appraisal company, at the request of the Louisiana Assessors' Association, for weighting and correlating current market conditions as a part of the fair market valuation process.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Sections 18 and 21, R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:922 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998).

**§703. Tables—Watercraft**

A. Floating Equipment—Motor Vessels

Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1997	0.993	1	94	.93
1996	1.009	2	87	.88
1995	1.024	3	80	.82
1994	1.061	4	73	.77
1993	1.091	5	66	.72
1992	1.112	6	58	.64
1991	1.126	7	50	.56
1990	1.148	8	43	.49
1989	1.179	9	36	.42
1988	1.242	10	29	.36
1987	1.295	11	24	.31
1986	1.314	12	22	.29
1985	1.326	13	20	.27

B. Floating Equipment—Barges (Nonmotorized)

Floating Equipment—Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1997	0.993	1	97	.96
1996	1.009	2	93	.94
1995	1.024	3	90	.92
1994	1.061	4	86	.91
1993	1.091	5	82	.89
1992	1.112	6	78	.87

1991	1.126	7	74	.83
1990	1.148	8	70	.80
1989	1.179	9	65	.77
1988	1.242	10	60	.75
1987	1.295	11	55	.71
1986	1.314	12	50	.66
1985	1.326	13	45	.60
1984	1.346	14	40	.54
1983	1.383	15	35	.48
1982	1.408	16	31	.44
1981	1.474	17	27	.40
1980	1.626	18	24	.39
1979	1.788	19	22	.39
1978	1.955	20	21	.41
1977	2.102	21	20	.42

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 and 10:925 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998).

## Chapter 9. Oil and Gas Properties

### §905. Reporting Procedures

\*\*\*

#### B. Surface Equipment

\*\*\*

6. Property Class Number 6—Field Improvements—docks, lease buildings, equipment sheds and buildings, warehouses, land and leasehold improvements, etc.—furnish year constructed and cost. Use composite multiplier from appropriate table on original cost, and extend fair market value for each.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998).

### §907. Tables—Oil and Gas

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing,

economic or functional obsolescence shall be given. If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

#### 1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Producing Depths	Cost—New by Depth, per Foot		15 Percent of Cost—New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	6.97	8.44	1.05	1.27
1,250-2,499 ft.	7.30	7.51	1.10	1.13
2,500-3,749 ft.	9.11	8.67	1.37	1.30
3,750-4,999 ft.	11.27	10.97	1.69	1.65
5,000-7,499 ft.	15.66	17.77	2.35	2.67
7,500-9,999 ft.	17.40	26.24	2.61	3.94
10,000-2,499 ft.	25.53	32.99	3.83	4.95
12,500-Deeper ft.	N/A	68.55	N/A	10.28

#### 2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Producing Depths	Cost—New by Depth, per Foot		15 Percent of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	26.69	45.01	4.00	6.75
1,250 - 2,499 ft.	21.14	41.37	3.17	6.21
2,500 - 3,749 ft.	21.50	30.95	3.23	4.64
3,750 - 4,999 ft.	21.70	30.99	3.26	4.65
5,000 - 7,499 ft.	19.89	31.17	2.98	4.68
7,500 - 9,999 ft.	26.06	28.18	3.91	4.23
10,000 -12,499 ft.	31.75	37.91	4.76	5.69
12,500 -14,999 ft.	45.02	52.34	6.75	7.85
15,000 -17,499 ft.	62.46	68.56	9.37	10.28
17,500 -19,999 ft.	85.31	106.00	12.80	15.90
20,000 -Deeper ft.	73.18	122.67	10.98	18.40

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A-3 Oil, Gas and Associated Wells Region 3—Offshore State Waters*				
Producing Depths	Cost—New by Depth, per Foot		15 Percent of Cost—New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	N/A	105.86	N/A	15.88
1,250-2,499 ft.	168.29	252.07	25.24	37.81
2,500-3,749 ft.	66.16	199.04	9.92	29.86
3,750-4,999 ft.	135.59	103.89	20.34	15.58
5,000-7,499 ft.	91.01	100.22	13.65	15.03
7,500-9,999 ft.	90.68	93.73	13.60	14.06
10,000-12,499 ft.	85.73	92.62	12.86	13.89
12,500-14,999 ft.	86.51	108.32	12.98	16.25
15,000-17,499 ft.	86.51	98.51	12.98	14.78
17,500-Deeper ft.	109.95	134.08	16.49	20.11

\* As classified by Louisiana Office of Conservation.

4. Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and Procedure for Arriving at Assessed Value

a. Determine if well is located in Region 1 by reference to Table 907.B-1.

b. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.

c. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.

d. Use Oil Cost—New to assess all active service wells for region where located.

e. See explanations in Section 901.E regarding the assessment of multiple completion wells.

f. For wells recompleted at a deeper depth, multiply depreciated cost-new by 1.5. For wells recompleted at a shallower depth, use the new perforation depth to determine fair market value.

B. Parishes Considered to be Located in Region I; Serial Number to Percent Good Conversion; Producing Property (Well, Surface Equipment and Facilities) Total Assessment Limit (Economic Obsolescence); Adjustments for Allowance of Economic Obsolescence

1. Parishes Considered to be Located in Region I

Table 907.B-1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

2. Serial Number to Percent Good Conversion Chart

Table 907.B-2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
1997	220034	Higher	96
1996	218653	220033	92
1995	217588	218652	88
1994	216475	217587	84
1993	215326	216474	80
1992	214190	215325	76
1991	212881	214189	72
1990	211174	212880	68
1989	209484	211173	64
1988	207633	209483	60
1987	205211	207632	56
1986	202933	205210	52
1985	197563	202932	48
1984	189942	197562	44
1983	184490	189941	40
1982	179370	184489	36
1981	173109	179369	32
1980	166724	173108	28
1979	Lower	166723	26*
VAR.	900000	Higher	50

\* Reflects residual or floor rate.

Note: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

3. Producing Property (Well, Surface Equipment and Facilities) Total Assessment Limit (Economic Obsolescence)

Table 907.B-3 Producing Property (Well, Surface Equipment and Facilities) Total Assessment Limit (Economic Obsolescence)		
Production Sold BOPD/BCPD or MCFGPD	Oil/Condensate Assessment Limit	Gas Assessment Limit
0.5	520	60
1	1,040	120
1.5	1,560	190
2	2,080	250
2.5	2,600	310
3	3,120	370
3.5	3,640	430
4	4,160	490
4.5	4,680	560
5	5,200	620
6	6,240	740
7	7,280	860
8	8,320	990
9	9,360	1,110
10	10,400	1,230
15	15,600	1,850
20	20,810	2,460
25	26,010	3,080
30	31,210	3,700
35	36,410	4,310
40	41,610	4,930
45	46,810	5,540
50	52,010	6,160
60	62,420	7,390
70	72,820	8,620
80	83,220	9,860
90	93,620	11,090
100	104,030	12,320
125	130,030	15,400
150	156,040	18,480
175	182,040	21,560
200	208,050	24,640
250	260,060	30,800
300	312,080	36,960
350	364,090	43,120

400	416,100	49,280
450	468,110	55,440
500	520,130	61,590
600	---	73,910
700	---	86,230
800	---	98,550
900	---	110,870
1,000	---	123,190
2,000	---	246,380
3,000	---	369,560
4,000	---	492,750
5,000	---	615,940

4. Adjustments for Allowance of Economic Obsolescence

a. All "incapable" wells (25 bbl oil or 250 mcf gas, or less, per day), as defined in R.S. 47:633, as well as all active service wells (e.g., injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with the proper Office of Conservation forms to document claim for such reduction.

b. All inactive (shut-in) wells shall be allowed a 60 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. Economic obsolescence credits shall be based on representative daily production from the prior year(s) (See Table 907.B-3), as a means of establishing a maximum assessed value to be applied to wells, surface equipment and facilities, which can be applied to single well leases, multiple well leases or to fields. This table is based on a crude oil/condensate price of \$19 and a natural gas price of \$2.25.

e. All oil and gas property assessments may be based on an individual cost basis.

f. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report - Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);
- d. lines (oil and gas lease lines);

- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The updated cost-new values, as compiled by a valuation consultant company, at the request of the Louisiana Assessors' Association, shall be the basis for assessing those items of surface equipment so provided. Otherwise, use the cost-new values listed below for assessing all other surface equipment.

5. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B-2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

6. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence shall be given. If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

7. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

<b>Table 907.C-1 Surface Equipment</b>	
<b>Property Description</b>	<b>\$ Cost New</b>
Actuators - (See Metering Equipment)	
Automatic Control Equipment - (See Safety Systems)	
Automatic Tank Switch Unit - (See Metering Equipment)	
Barges - Concrete - (Assessed on an individual basis)	
Barges - Storage - (Assessed on an individual basis)	
Barges - Utility - (Assessed on an individual basis)	
Barges - Work - (Assessed on an individual basis)	
Communication Equipment - (See Telecommunications)	
Dampeners - (See Metering Equipment - "Recorders")	
Desorbers - (No metering equipment included):	
125Number	56,710
300Number	62,530
500Number	71,160
Destroilets - (See Metering Equipment - "Regulators")	
Desurgers - (See Metering Equipment - "Regulators")	
Desilters - (See Metering Equipment - "Regulators")	
Diatrollers - (See Metering Equipment - "Regulators")	
Docks, Platforms, Buildings - (Assessed on an individual basis)	
Dry Dehydrators (Driers) - (See Scrubbers)	
Engines - Unattached - (Only includes engine and skids): Per Horsepower	180
Evaporators - (Assessed on an individual basis)	
Expander Unit - (No metering equipment included): Per Unit	20,800

Flow Splitters - (No metering equipment included):	
48 in. diameter vessel	10,130
72 in. diameter vessel	13,420
96 in. diameter vessel	20,560
120 in. diameter vessel	29,220
Fire Control System - (Assessed on an individual basis)	
Furniture and Fixtures - (Assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors - Package Unit - (skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
Up to 1500 horsepower - Per hp	620
1501 and up - Per hp	400
Gas Coolers - (No metering equipment):	
5,000 MCF/D	16,000
10,000 MCF/D	18,000
20,000 MCF/D	56,000
50,000 MCF/D	127,000
100,000 MCF/D	208,000
Generators - Package Unit only - (No special installation) - Per kW	440
Glycol Dehydration - Package Unit - (including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	11,220
4.1 to 5.0 MMCF/D	12,510
5.1 to 10.0 MMCF/D	21,040
10.1 to 15.0 MMCF/D	33,930
15.1 to 20.0 MMCF/D	49,780
20.1 to 25.0 MMCF/D	52,180
25.1 to 30.0 MMCF/D	72,980
30.1 to 50.0 MMCF/D	118,580
50.1 to 75.0 MMCF/D	158,360
75.1 and Up MMCF/D	200,000
Heaters - (includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath - Direct Heater:	
24 in. diameter vessel - 250,000 Btu/hr rate	3,910
30 in. diameter vessel - 500,000 Btu/hr rate	4,910
36 in. diameter vessel - 750,000 Btu/hr rate	5,910
48 in. diameter vessel - 1,000,000 Btu/hr rate	8,760
60 in. diameter vessel - 1,500,000 Btu/hr rate	10,800
Water Bath - Indirect Heater:	
24 in. diameter vessel - 250,000 Btu/hr rate	4,890
30 in. diameter vessel - 500,000 Btu/hr rate	5,890
36 in. diameter vessel - 750,000 Btu/hr rate	8,310
48 in. diameter vessel - 1,000,000 Btu/hr rate	10,730
60 in. diameter vessel - 1,500,000 Btu/hr rate	13,360
Steam - (Steam Generators):	
24 in. diameter vessel - 250,000 Btu/hr rate	5,070
30 in. diameter vessel - 450,000 Btu/hr rate	6,360
36 in. diameter vessel - 500 to 750,000 Btu/hr rate	9,510
48 in. diameter vessel - 1 to 2,000,000 Btu/hr rate	10,930
60 in. diameter vessel - 2 to 3,000,000 Btu/hr rate	12,360
72 in. diameter vessel - 3 to 6,000,000 Btu/hr rate	19,510
96 in. diameter vessel - 6 to 8,000,000 Btu/hr rate	23,440
Heat Exchange Units-Skid Mounted - (See Production Units)	

Heater Treaters - (Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (Non-metering):	
4 x 20 ft.	8,510
4 x 27 ft.	10,960
6 x 20 ft.	11,470
6 x 27 ft.	14,420
8 x 20 ft.	18,360
8 x 27 ft.	21,510
10 x 20 ft.	24,290
10 x 27 ft.	28,560
Heater - Treaters - (Metering) - (Also includes metering section with dump counters.):	
3 x 15 ft.	8,400
4 x 22 ft.	14,000
6 x 22 ft.	16,400
8 x 22 ft.	23,600
10 x 22 ft.	30,000
L.A.C.T. (Lease Automatic Custody Transfer) - See Metering Equipment)	
L.T.X. (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	
Range I - Up to 5.0 MMCF/D	73,180
Range II - 5.1 to 10.0 MMCF/D	95,910
Range III - 10.1 to 15.0 MMCF/D	123,240
Range IV - 15.1 and Up MMCF/D	158,200
Liqua Meter Units - (See Metering Equipment)	
Manifolds - (See Metering Equipment)	
Material and Supplies - Inventories - (Assessed on an individual basis)	
Meter Calibrating vessels - (See Metering Equipment)	
Meter Prover Tanks - (See Metering Equipment)	
Meter Runs - (See Metering Equipment)	
Meter Control Stations - (not considered Communication Equipment) - (Assessed on an individual basis)	

Metering Equipment	
Actuators - hydraulic, pneumatic and electric valves	3,310
Controllers - time cycle valve - valve controlling device (also known as Intermittent)	
Fluid Meters:	1,040
1 Level Control	
24 in. diameter vessel - 1/2 bbl. dump	
30 in. diameter vessel - 1 bbl. dump	2,530
36 in. diameter vessel - 2 bbl. dump	3,240
2 Level Control	4,490
20 in. diameter vessel - 1/2 bbl. dump	
24 in. diameter vessel - 1/2 bbl. dump	2,360
30 in. diameter vessel - 1 bbl. dump	2,840
36 in. diameter vessel - 2 bbl. dump	3,560
L.A.C.T. and A.T.S. Units:	4,800
30 lb. discharge	
60 lb. discharge	15,800
Manifolds - Manual Operated:	18,000
High Pressure	
per well	
per valve	12,400
Low Pressure	4,200
per well	
per valve	6,000
Manifolds - Automatic Operated:	2,000
High Pressure	
per well	
per valve	22,400
Low Pressure	7,400
per well	
per valve	16,000
Note: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors - in addition to normal equipment found on manual operated system. NO METERING EQUIPMENT INCLUDED.	5,400
Meter Runs - piping, valves and supports - no meters:	
2 in. piping and valve	
3 in. piping and valve	
4 in. piping and valve	3,400
6 in. piping and valve	3,800
8 in. piping and valve	4,600
10 in. piping and valve	6,400
12 in. piping and valve	9,600
14 in. piping and valve	12,800
16 in. piping and valve	16,000
18 in. piping and valve	21,780
20 in. piping and valve	28,440
22 in. piping and valve	35,200
24 in. piping and valve	45,780
Metering Vessels (Accumulators):	57,690
1 bbl. calibration plate (20 x 9)	70,600
5 bbl. calibration plate (24 x 10)	
7.5 bbl. calibration plate (30 x 10)	1,960
10 bbl. calibration plate (36 x 10)	2,130
Recorders (Meters) - Includes both static element and tube drive pulsation dampener - also one and two pen operations.	2,960
per meter	3,690
Solar Panel (also see Telecommunications)	
per unit (10 ft. x 10 ft.)	1,380
	200

Pipe Lines - Lease Lines	
Steel	
2 in. nominal size - per mile	14,690
2½ in. nominal size - per mile	24,710
3 and 3½ in. nominal size - per mile	28,470
4, 4½ and 5 in. nominal size - per mile	33,730
6 in. nominal size - per mile	47,730
Plastic - PVC	
2 in. nominal size - per mile	2,200
2½ in. nominal size - per mile	3,600
3 in. nominal size - per mile	4,000
4 in. nominal size - per mile	6,000
6 in. nominal size - per mile	11,800
Plastic - Fiberglass	
2 in. nominal size - per mile	12,910
3 in. nominal size - per mile	20,380
4 in. nominal size - per mile	29,130
6 in. nominal size - per mile	76,400
Note: Allow 85 percent obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock - (Assessed on an individual basis)	
Pipe Stock - Exempt - Under Louisiana Constitution, Article X, Section 4 (19-C)	
Production Units:	
Class I - per unit - separator and 1 heater	12,820
Class II - per unit - separator and 1 heater	15,220
Production Process Units - These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Prover Tanks:	
5 bbl. (4 x 8)	4,600
10 bbl. (5 x 8)	5,800
15 bbl. (6 x 9)	7,510
20 bbl. (6 x 10)	9,130
25 bbl. (8 x 9)	10,510
Pumps - in Line - per horsepower rating of motor	160
Pump-Motor Unit - Pump and Motor only (Per hp)	
Class I - (water flood, s/w disposal, p/l, etc.)	200
Up to 300 hp - rated on per hp of motor	240
Class II - (high pressure injection, etc.)	
301 and up hp - rated on per hp of motor	
Pumping Units - Conventional and Beam Balance Units - (Unit value includes motor) - assessed according to well depth on which unit is operating.	
0 - 1,250 ft. well depth	3,670
1,251 - 2,500 ft. well depth	6,200
2,501 - 3,750 ft. well depth	8,710
3,751 - 5,000 ft. well depth	9,800
5,001 - 7,500 ft. well depth	13,110
7,501 - 10,000 ft. well depth	14,400
10,001 - 12,500 ft. well depth	16,910
12,501 - 15,000 ft. well depth	23,800
15,001 - 17,500 ft. well depth	31,000
17,501 - 20,000 ft. well depth	39,800
20,001 - deeper ft. well depth	49,510
Note: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	

Regenerators (Accumulator) - (See Metering Equipment)	
Regulators: per unit	1,400
Safety Systems	
Onshore and Marsh Area	
Basic Case:	
well only	2,800
well and production equipment	3,200
with surface op. ssv, add	4,800
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	8,000
production train	20,000
glycol dehydration system	12,000
P/L pumps and LACT	28,000
Compressors	17,600
Wellhead Actuators (does not include price of the valve)	
5,000 psi	2,000
10,000 psi and over	3,000
Note: For installation costs - add 25 percent	
Sampler - ( See Metering Equipment - "Fluid Meters")	
Scrubbers - Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 in. diameter vessel	1,690
10 in. diameter vessel	2,440
12 in. diameter vessel	2,760
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 in. diameter vessel	800
12 in. diameter vessel	1,040
Note: NO METERING OR REGULATING EQUIPMENT INCLUDED IN THE ABOVE.	
Separators - (No metering equipment included)	
125 psi vessel	7,330
230 psi vessel	9,070
500 psi vessel	13,330
600 psi vessel	14,000
1,000 psi vessel	16,000
1,200 psi vessel	18,670
1,440 psi vessel	21,330
1,500 psi vessel	22,670
2,000 psi vessel	28,670
3,000 psi vessel	33,330
4,000 psi vessel	40,670
5,000 psi vessel	48,000
6,000 psi vessel	57,330
Skimmer Tanks - (See Flow Tanks in Tanks Section)	
Stabilizers - per unit	3,110
Sump/Dump Tanks - (See Metering Equipment - "Fluid Tanks")	

	Per Barrel*
Tanks - No metering equipment	
Flow Tanks (receiver or gunbarrel)	
50 to 548 bbl. range	
average tank size - 250 bbl.	21.60
Stock Tanks (lease tanks)	
100 to 750 bbl. range	
average tank size - 300 bbl.	15.80
Storage Tanks (Closed Top)	
1,000 barrel	11.50
1,500 barrel	10.20
2,000 barrel	9.80
2,001 - 5,000 barrel	8.20
5,001 - 10,000 barrel	7.20
10,001 - 15,000 barrel	12.00
15,001 - 55,000 barrel	10.80
55,001 - 150,000 barrel	9.60
Internal Floating Roof	
10,000 barrel	12.60
20,000 barrel	11.00
30,000 barrel	10.40
50,000 barrel	9.70
55,000 barrel	9.60
80,000 barrel	7.80
100,000 barrel	7.60
Pontoon Floating Roof	
10,000 barrel	12.10
20,000 barrel	11.60
40,000 barrel	10.90
50,000 barrel	10.20
80,000 barrel	8.20
100,000 barrel	8.00
150,000 barrel	7.00
* (I.E.: tank size bbl. x Number of bbls. x cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone and data transmission	40,000
Radio telephone	3,000
Supervisory controls	
remote terminal unit, well	6,600
master station	15,000
towers (installed):	
heavy duty, guyed, per foot	160
light duty, guyed	20
heavy duty, self supporting	510
light duty, self supporting	110
Equipment building, per sq. ft.	160
Solar panels, per unit (10 ft. x 10 ft.)	200
Utility Compressors - per horsepower - rated on motor	400
Vapor Recovery Unit - No Metering Equipment	
0 - 30 psi - 80 MCF/D	7,240
0 - 30 psi - 160 MCF/D	14,510
0 - 60 psi - 80 MCF/D	15,000
Water Flood Equipment - (See "Pump-Motor, Class I")	
Waterknockouts - Includes unit, backpressure valve and regulator, but, no metering equipment.	
24 in. diameter vessel	2,890
30 in. diameter vessel	3,600
36 in. diameter vessel	4,310
48 in. diameter vessel	5,910
72 in. diameter vessel	8,530
96 in. diameter vessel	12,800
120 in. diameter vessel	19,200

Table 907.C-2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	360
Below ground	220
Air Compressors:	
1/2 to 1 hp	670
1/2 to 5 hp	1,420
Car Wash Equipment:	
In Bay (roll over brushes)	22,000
In Bay (pull through)	38,730
Tunnel (40 to 50 ft.)	73,710
Tunnel (60 to 75 ft.)	80,580
Drive on Lifts:	
Single Post	2,240
Dual Post	3,760
Lights:	
Light Poles (each)	110
Lights - per pole unit	240
Pumps:	
Non-electronic - self contained and/or remote controlled computer	
Single	1,380
Dual	2,380
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	
Single	1,670
Dual	2,930
Read-out Equipment (at operator of self service)	
Per Hose Outlet	490
Rotators - (Additional Equipment)	
Small and medium signs	640
Large signs	1,110
Signs:	
Station Signs	
6 ft. lighted - installed on 12 ft. pole	1,000
10 ft. lighted - installed on 16 ft. pole	3,240
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	760
Lighted "pricing" (5 x 9 ft.)	1,270
High Rise Signs - 16 ft. lighted - installed on:	
1 pole	6,000
2 poles	7,490
3 poles	8,760
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	3,000
Lighted "pricing" (5 x 9 ft.)	1,270
Submerged Pumps - (used with remote control equipment, according to number used - per unit)	690
Tanks - (average for all tank sizes)	
Underground - per gallon	0.64

\*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

Note: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998).

**Chapter 11. Drilling Rigs and Related Equipment**  
**§1101. Guidelines for Ascertaining the Fair Market Value of Drilling Rigs and Related Equipment**

\* \* \*

C. Valuation. The valuation standard for drilling rigs and related equipment is fair market value. Fair market value for drilling rigs and related equipment, when using the cost approach, is to be achieved through use of the information provided the assessor on LAT Form 13. The assessor shall take the depth of operating capability or engine rated horsepower and apply the appropriate assessment of the drilling rig as presented in Table 1103.A, 1103.B, 1103.C or 1103.D, as appropriate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998).

**§1103. Drilling Rigs and Related Equipment Tables**

A.1. Land Rigs

Table 1103.A Land Rigs		
Depth 0 to 7,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
3,000	\$ 101,730	\$ 15,300
4,000	133,700	20,100
5,000	172,000	25,800
6,000	210,400	31,600
7,000	237,300	35,600
Depth 8,000 to 10,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
8,000	\$ 260,400	\$ 39,100
9,000	283,600	42,500
10,000	307,100	46,100
Depth 11,000 to 15,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
11,000	\$ 330,610	\$ 49,600

12,000	364,020	54,600
13,000	400,730	60,100
14,000	434,340	65,100
15,000	458,650	68,800
Depth 16,000 to 20,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
16,000	\$ 482,960	\$ 72,400
17,000	505,770	75,900
18,000	528,080	79,200
19,000	555,490	83,300
20,000	598,200	89,700
Depth 21,000 + ft.		
Depth (ft.)	Fair Market Value	Assessment
21,000	\$ 640,910	\$ 96,100
25,000 +	811,750	121,800

2. Barges (Hull)

a. Assess barges (hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

b. Living quarters are to be assessed on an individual basis.

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 ft.	\$ 10,330,000	\$ 1,549,950
	200-299 ft.	18,500,000	2,775,000
		35,300,000	5,295,000
IS	0-199 ft.	4,500,000	675,000
	200-299 ft.	8,000,000	1,200,000
	300- Up ft.	13,510,000	2,026,500
MC	0-100 ft.	1,975,000	296,250
	101-199 ft.	1,625,000	243,750
	200-250 ft.	7,600,000	1,140,000
MS	0-250 ft.	700,000	105,000
	250- Up ft.	7,420,000	1,113,000

IC - Independent Leg Cantilever  
 IS - Independent Leg Slot  
 MC - Mat Cantilever  
 MS - Mat Slot

C. Submersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0- 800 ft.	44,920,000	6,738,000
801-1,800 ft.	65,000,000	9,750,000
1,801-2,500 ft.	120,000,000	18,000,000
2,501- Up ft.	150,000,000	22,500,000

D. Well Service Rigs—Land Only (Good Condition)

Table 1103.C Well Service Rigs—Land Only (Good Condition)		
Engine Rated hp	Fair Market Value	Assessment
220	\$ 80,000	\$ 12,000
300	90,000	13,500
400	115,000	17,250
500 +	150,000	22,500

Note: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

E. Consideration of Obsolescence

1. Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence shall be given.

2. If functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998).

**Chapter 13. Pipelines**

**§1301. Guidelines for Ascertaining the Fair Market Value of Pipelines**

A. General

\*\*\*

2. Both classes of pipelines are to be assessed in the taxing district where located. A copy of LAT Form 14 is to be provided the pipeline owner. Surface equipment associated with pipelines (compressor stations, booster stations, etc.) are to be reported separately on LAT Form 5. Surface pipeline related equipment is to be valued individually at cost factored to current value less physical deterioration. Pipelines are to be valued for assessment purposes at cost less physical

deterioration. A cost schedule is provided for the various sizes of "other pipelines" (See Tables 1307.A and B). Represented in these schedules is the cost-new, as of the appropriate assessment date, for the different size pipelines. This cost is to be reduced for the appropriate allowance for physical deterioration (See Table 1307.C), based on the age of the pipeline, by multiplying replacement cost by the appropriate percent good factor. Where significant functional and economic obsolescence has been proven to the assessor, appropriate allowance should be made on an individual basis.

B. Lease lines. The category "lease lines" represents pipelines which are generally in the 2 inches to 6 inches size range. These pipelines are considered to be subject to changes in routes due to equipment and well requirements; and, generally are not of the same quality as "other pipelines." These lines are generally associated with wells and surface equipment on the oil and gas production field. Fiberglass and plastic lines which are now being used in some areas are also covered in this category. Refer to Oil and Gas Properties Section, Surface Equipment (See Table 907.C-1) for "lease lines".

C. Other Pipelines. The category "other pipelines" is generally represented by the larger gathering and transmission pipelines, but includes all lines, other than plastic, 2 inches and larger in diameter. This class of pipelines is normally of better quality, requiring more rigid controls, and not subject to changes in routes as are "lease lines". Tables 1307.A and 1307.B describe the cost-new per mile for various size pipelines in the "other pipelines" category.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998).

**§1305. Reporting Procedures**

\*\*\*

C. Use schedules adopted by the Tax Commission and report cost per mile, calculate and extend "total reproduction cost".

\*\*\*

E. Refer to current cost tables (1307.A and B) and depreciation guidelines (Table 1307.C) adopted by the Tax Commission. Yearly depreciation will be allowed, according to actual age, on an economic life of 25 years, however, as long as pipeline is in place and subject to operation, the remaining percent good shall not be lower than the percentage for an actual age of 19 years.

\*\*\*

G. Economic obsolescence should be recognized with a service factor calculated using the following formula:

$$Service\ Factor = \left( \frac{Actual\ Throughput}{Rated\ Capacity} \right)^{0.6}$$

This service factor represents remaining utility for the pipeline and should be applied in addition to normal depreciation.

H. Pipeline sales, properly documented, should be

considered by the assessor as the fair market value, provided the sale meets all tests relative to it being a valid sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998).

**§1307. Pipeline Transportation Tables**

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore	
Diameter (inches)	Cost Per Mile
2	\$ 76,050
4	83,070
6	94,760
8	111,130
10	132,170
12	157,890
14	188,280
16	223,340
18	263,080
20	307,500
22	356,590
24	410,350
26	468,790
28	531,900
30	599,690
32	672,150
34	749,290
36	831,100
38	917,590
40	1,008,750
42	1,104,580
44	1,205,090
46	1,310,280
48	1,420,140

Note: excludes river and canal crossings.

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore	
Diameter (inches)	Cost Per Mile
6	\$ 391,520
8	398,920
10	408,420

12	420,030
14	433,760
16	449,590
18	467,540
20	487,590
22	509,760
24	534,040
26	560,420
28	588,920
30	619,530
32	652,240
34	687,070
36	724,010
38	763,050
40	804,210
42	847,480
44	892,860
46	940,350
48	989,950

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Effective Age	Percent Good
1	96
2	92
3	88
4	84
5	80
6	76
7	72
8	68
9	64
10	60
11	56
12	52
13	48
14	44
15	40
16	36
17	32
18	28
19 and older	26*

\* Reflects residual or floor rate.  
 Note: See §1305.G for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 and 10:942 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998).

**Chapter 15. Aircraft**

**§1503. Aircraft (Including Helicopters) Table**

Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1997	0.993	1	92	.91
1996	1.009	2	84	.85
1995	1.024	3	76	.78
1994	1.061	4	67	.71
1993	1.091	5	58	.63
1992	1.112	6	49	.54
1991	1.126	7	39	.44
1990	1.148	8	30	.34
1989	1.179	9	24	.28
1988	1.242	10	21	.26
1987	1.295	11	20	.26

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998).

**Chapter 17. Inventories**

**§1705. Guidelines Pertaining to Specific Merchandise Inventories**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), amended LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 21:186 (February 1995),

repealed by the Department of Revenue, Tax Commission, LR 24:490 (March 1998).

**§1707. Forms—Inventories**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1961 and R.S. 47:2322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:764 (December 1987), amended LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 21:186 (February 1995), repealed by the Department of Revenue, Tax Commission, LR 24:490 (March 1998).

**Chapter 25. General Business Assets**

**§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property**

\*\*\*

**B. Cost Indices**

Table 2503.B Cost Indices		
Year	National Average 1926 = 100	January 1, 1997 = 100*
1997	1052.7	0.993
1996	1036.0	1.009
1995	1020.4	1.024
1994	985.0	1.061
1993	958.0	1.091
1992	939.8	1.112
1991	928.5	1.126
1990	910.2	1.148
1989	886.5	1.179
1988	841.4	1.242
1987	806.9	1.295
1986	795.4	1.314
1985	787.9	1.326
1984	776.4	1.346
1983	755.8	1.383
1982	742.4	1.408
1981	709.2	1.474
1980	642.8	1.626
1979	584.4	1.788
1978	534.7	1.955
1977	497.1	2.102
1976	472.1	2.214
1975	444.3	2.352
1974	398.4	2.623
1973	344.1	3.037
1972	332.1	3.147

\*Reappraisal Date: January 1, 1997 - 1045.1 (Base Year)

\*\*\*

D. Composite Multipliers

Table 2503.D Composite Multipliers 1998 (1999 Orleans Parish)								
Age	3 Yrs.	5 Yrs.	8 Yrs.	10 Yrs.	12 Yrs.	15 Yrs.	20 Yrs.	25 Yrs.
1	.70	.84	.89	.91	.93	.94	.96	.97
2	.49	.70	.80	.85	.88	.91	.94	.96
3	.35	.53	.69	.78	.82	.87	.92	.95
4	.21	.36	.57	.71	.77	.84	.91	.95
5		.25	.47	.63	.72	.80	.89	.95
6		.22	.37	.54	.64	.76	.87	.93
7			.29	.44	.56	.70	.83	.91
8			.25	.34	.49	.63	.80	.90
9			.24	.28	.42	.58	.77	.88
10				.26	.36	.53	.75	.88
11				.26	.31	.48	.71	.88
12					.29	.41	.66	.84
13					.27	.34	.60	.80
14						.31	.54	.75
15						.29	.48	.72
16						.28	.44	.68
17							.40	.65
18							.39	.63
19							.39	.61
20							.41	.59
21							.42	.55
22								.51
23								.49
24								.52
25								.61
26								.63

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 and 10:945 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998).

Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible to be Assessed at Use Value

§2717. Tables—Use Value

\* \* \*

C. Average Assessed Values Per Acre of Marshland, by Class

Table 2717.C-1 Average Assessed Value Per Acre of Marshland, by Class West Zone	
Class	Assessed Value per Acre
Fresh Water Marsh	\$7.00
Brackish Water Marsh	\$6.00
Salt Water Marsh	\$5.00

Table 2717.C-2 Parishes Considered To Be Located In the West Zone			
Acadia	Iberia	St. Landry	Vermilion
Calcasieu	Jefferson Davis	St. Martin	
Cameron	Lafayette	St. Mary	

Table 2717.C-3 Average Assessed Value Per Acre of Marshland, By Class East Zone	
Class	Assessed Value Per Acre
Fresh Water Marsh	\$ 5.00
Brackish Water Marsh	\$ 4.00
Salt Water Marsh	\$ 3.00

Table 2717.C-4 Parishes Considered To Be Located In the East Zone			
Ascension	Lafourche	St. Charles	Terrebonne
Assumption	Livingston	St. James	West Baton Rouge
East Baton Rouge	Orleans	St. John	
Iberville	Plaquemines	St. Tammany	
Jefferson	St. Bernard	Tangipahoa	

Note: Only the parishes listed above should have lands classified as marshland. All other parishes should classify such land as All Other Acreage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 14:110 (February 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:491 (March 1998).

**Chapter 31. Public Exposure of Assessments; Appeals  
§3101. Public Exposure of Assessments, Appeals to the  
Board of Review and Board of Review Hearings**

\* \* \*

**Form 3101  
Exhibit A  
Appeal to Board of Review by Taxpayer  
for Real and Personal Property**

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_  
Taxpayer  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
Ward: \_\_\_\_\_ Assessment/Tax Bill Number: \_\_\_\_\_  
Address or Legal Description of Property Being Appealed. Also, please identify  
building by place of business for convenience of appraisal.

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
I am requesting that the Fair Market Value of this property be fixed at:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
The assessor has determined assessment of this property at:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
I am requesting that the assessment of this property be fixed at:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

\*NOTE: Report personal property on Improvement line above.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

I feel that the Fair Market Value of this property as of January 1, 1995, the official reappraisal date on which assessments are currently based, was:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

Please notify me of the date, place and time of my appeal at the address shown below.

Appellant (Taxpayer/Taxpayer's Rep./Assessor)

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone No. \_\_\_\_\_

Date of Appeal: \_\_\_\_\_

Your request for review will be heard on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
at \_\_\_\_\_ M. at \_\_\_\_\_  
Company, Street Address, including Room Number

**NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 days of postal date of BoR's written determination. For further information, call LTC at (504) 925-7830.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998).

**§3103. Appeals to the Louisiana Tax Commission**

\* \* \*

La. Tax Commission  
P. O. Box 66788  
Baton Rouge, LA 70896  
(504)925-7830 (B.R.)  
(504)568-5259(N.O.)

**Form 3103.A  
Exhibit A  
Appeal to Louisiana Tax Commission  
By Taxpayer or Assessor  
for Real and Personal Property**

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_  
Taxpayer  
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
Board of Review  
Ward: \_\_\_\_\_ Asses./Tax Bill Number: \_\_\_\_\_ Appeal Number: \_\_\_\_\_  
(Attach copy of complete appeal submitted to the Board of Review)  
Address or Legal Description of Property Being Appealed. Also, please identify  
building by place of business for convenience of appraisal.

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
The proposed Fair Market Value by the taxpayer was:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
The revised Fair Market Value by the Board of Review was:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
The original assessment by the assessor was:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
The proposed assessment by the taxpayer was:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_  
The revised assessment by the Board of Review was:  
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

\*NOTE: Report personal property on Improvement line above.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I feel that the Fair Market Value of this property as of January 1, 1995, the official reappraisal date on which assessments are based, was:

Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

I will call the following witness(es): \_\_\_\_\_

Presentation of my case will take approximately \_\_\_\_\_ minutes. Please notify me of the date, place and time of my appeal at the address shown below.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_

\_\_\_\_\_
Date of Appeal

Form 3103.B
Exhibit B

Appointment of Taxpayer Agent
in
Louisiana Tax Commission
Ad Valorem Tax Appeal

LTC Docket Number \_\_\_\_\_

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(504)925-7830 (B.R.)
(504)568-5259(N.O.)

I. Appellant Taxpayer:
Name \_\_\_\_\_
Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

II. Authorized Taxpayer Agent:
Name of Agent \_\_\_\_\_
Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

III. Scope of Authorized Appointment:
A. Duration:
\_\_\_\_\_ Tax Year \_\_\_ (Days, Months, etc.) \_\_\_\_\_ Until Revoked.

- B. Agent Authority:
1. General powers granted to represent taxpayer in all matters.
2. Specified powers as listed.
(a.) File notices of protest and present protests before the Louisiana Tax Commission.
(b.) Receive confidential information filed by taxpayer.
(c.) Negotiate and resolve disputed tax matters without further authorization.
(d.) Represent taxpayer during appeal process.

- C. Properties Authorized to Represent:
1. All property.
2. The following property only (give assessment number, and municipal address or legal description).

(Continue on attached pages as needed.)

IV. The undersigned owner or legally authorized corporate officer does hereby appoint the above named taxpayer agent as provided herein.

By: \_\_\_\_\_
Signature Date

Name \_\_\_\_\_
Address \_\_\_\_\_

Title or Position \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998).

§3105. Practice and Procedure for Public Service Properties Hearings

A. The Tax Commission or its designated representative, as provided by law (that is a hearing officer), shall conduct hearings to consider the written protest of an appellant taxpayer, who shall be required to use Form 3105.A. The appeal shall be filed within 30 days of the Tax Commission's

dated Certificate of Value to the taxpayer. The taxpayer shall also submit an "Exhibit B, Appointment of Taxpayer Agent," Form 3103.B, for any attorney or other representative of the taxpayer, who is not a full time employee of the taxpayer.

\*\*\*

Form 3105.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer or Assessor
for Public Service Property

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_
Taxpayer
Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_
Address or Legal Description of Property Being Appealed \_\_\_\_\_

I hereby appeal the decision of the Board of Review on the assessment of the above described property.

The Fair Market Value of the Louisiana Tax Commission is:
Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_
I am requesting that the Fair Market Value be fixed at:
Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_
The assessment of the Louisiana Tax Commission is:
Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_
I am requesting that the assessment be fixed at:
Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

I feel that the Fair Market Value of this property as of January 1, 1995, the official reappraisal date on which assessments are currently based, was:
Land \$ \_\_\_\_\_ \*Improvement \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

I will call the following witness(es): \_\_\_\_\_

Presentation of my case will take approximately \_\_\_ minutes. Please notify me of the date, place and time of my appeal at the address shown below.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date of Appeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February

1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998).

**Chapter 35. Miscellaneous**

**§3501. Service Fees—Tax Commission**

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 1996, and ending on June 30, 1998, in connection with services performed by the Tax Commission as follows:

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998).

**§3507. Claim for Taxes Paid in Error**

\* \* \*

**Form 3507  
Claim for Refund or Credit  
of Taxes Paid in Error**

I. Claimant:  
 Name \_\_\_\_\_  
 Mailing Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_ Zip \_\_\_\_\_

II. Property:  
 Parish \_\_\_\_\_ Ward \_\_\_\_ Assessment Number \_\_\_\_\_  
 Amount of Claim \_\_\_\_\_ Description of Property: \_\_\_\_\_

III. Basis of Claim:  
 Dual or multiple payment \_\_\_\_\_  
 Payment on nonexistent property \_\_\_\_\_  
 Payment on property in which taxpayer no longer  
 has an interest \_\_\_\_\_  
 Property is eligible for homestead exemption \_\_\_\_\_  
 Clerical error in assessment rolls \_\_\_\_\_  
 Other \_\_\_\_\_  
 The following documents are attached to this form as proof of the basis  
 for this claim: \_\_\_\_\_

IV. Date of Erroneous Payment: \_\_\_\_\_  
 The following proof of date of payment is attached to document \_\_\_\_\_ t h e  
 date(s) of payment(s): \_\_\_\_\_

Copy of canceled check(s) (both sides) \_\_\_\_\_  
 Receipted tax bill \_\_\_\_\_  
 Other \_\_\_\_\_

V. Signature: \_\_\_\_\_  
 Property Owner/Authorized Agent

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2108.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1063 (December 1990), amended LR 19:212 (February 1993), LR 20:198 (February 1994), LR 22:117 (February 1996), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998).

Malcolm B. Price, Jr.  
Chairman

9803#049

**RULE**

**Department of Social Services  
Office of Rehabilitation Services  
Commission for the Deaf**

Commission Role, Function, Composition, Committees,  
Boards, Task Forces, and Executive Director  
(LAC 67:VII.305, 307, 329, and 331)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has revised the Commission for the Deaf's rules of operation.

The rules governing Rehabilitation Services' Commission for the Deaf's rules of operation provide for the orderly conduct of the affairs of the commission.

**Title 67**

**SOCIAL SERVICES**

**Part VII. Rehabilitation Services**

**Chapter 3. Commission for the Deaf**

**§305. Role and Function**

A. Duties. The duties of the commission, as mandated by law, are to:

\* \* \*

7. certify interpreters and maintain a registry of certified interpreters;

\* \* \*

c. the commission shall establish and appoint a five-person Interpreter Certification Board, at least one of whom shall be deaf and at least one of whom shall be an educational interpreter;

\* \* \*

e. the commission shall waive examination requirements for applicants with valid certification from another state, based on the board's recommendation for reciprocity/recognition;

\* \* \*

10. establish, administer, and promote a statewide program to provide access to all public telecommunication services by persons who are deaf, deaf/blind, and others such as severely hearing impaired or severely speech impaired. This program shall include, but is not limited to:

a. the purchase and distribution of telecommunication devices and related devices for the person listed above;

b. the creation of a dual party relay system to function as a communications bridge between members of the deaf and hearing citizenry; and

c. the creation of a Telephone Access Program Board.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:494 (March 1998).

**§307. Composition of the Commission**

Membership. Membership of the commission is specified by law and consists of 17 members. Ten members are legislated by position held, and seven members are appointed by the governor. These members include:

- 1. legislated members:
  - a. the coordinator of Vocational Rehabilitation Services to the Deaf, or designee;
  - b. the president of the Association of the Deaf, or designee;
  - c. the president of the Registry of Interpreters for the Deaf, or designee;
  - d. the superintendent of the School for the Deaf, or designee;

\* \* \*

  - h. the speaker of the House of Representatives, or designee;
  - i. the president of the Senate, or designee; and
  - j. the secretary of the Department of Health and Hospitals, or designee.
- 2. appointed members:
 

\* \* \*

  - b. two lay members who shall be parents of deaf individuals;
  - c. two lay members who shall be professionals who work with deaf individuals; and
  - d. one lay member who shall be a hard-of-hearing person.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

**§329. Committees, Boards, and Task Forces**

\* \* \*

**E. Interpreter Certification Board (ICB)**

\* \* \*

2. Composition Criteria. The Interpreter Certification Board (ICB) shall consist of five members who shall meet the following criteria:

\* \* \*

d. one member must be deaf and one member must be an educational interpreter.

**3. Appointments**

a. While the Commission for the Deaf, the Association of the Deaf, the Registry of Interpreters for the Deaf, and the state Department of Education shall each recommend one person with the criteria in §329.E.2 to serve on the Interpreter Certification Board, final appointment rests with the commission, as delegated by legislation.

b. The chair of the commission shall appoint the ICB chair and one member making sure the minimum number of members who are deaf is met.

\* \* \*

5. Terms of Service. The term of appointment to the ICB shall be for a period of two years, beginning in July of 1994. Terms of service between organizational members will

be staggered such that at no time will the entire board be replaced. The first rotation off the board will occur in July 1995. It is understood that the term of office of the chair of the ICB is at the discretion of the chair of the commission. This will require organizations to recommend members every two years to replace the member rotating off the board.

\* \* \*

**F. Telephone Access Program Board (TAPB)**

1. Purpose. The purpose of the Telephone Access Program Board is to assist the commission in the implementation and maintenance of LAC 67:VII.305.A.10.

2. Responsibilities of the TAPB. Responsibilities include, but are not necessarily limited to:

\* \* \*

3. Membership of the TAPB. Membership shall consist of the following individuals:

\* \* \*

i. a representative of Bell South, selected by Bell South Telephone Company;

\* \* \*

4. Officers of the TAPB. The structure shall provide for:

- a. the chair or designee of the Commission for the Deaf to preside as chair of the TAPB;
- b. election of a vice chair to preside in the absence of the chair and to perform such duties as are assigned by the TAPB, or delegated by the chair;
- c. election of other officer(s) of the TAPB, as deemed necessary;

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

**§331. Executive Director**

\* \* \*

B. Qualifications. The executive director shall be a trained professional, having experience with individuals who are deaf and skilled in the use of sign language. The executive director may be either a person who is deaf or a person with normal hearing, but preference shall be given to a person who is deaf.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

Additional copies of the entire text of this revised policy manual may be obtained at Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA, at each of its nine regional offices, and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

Madlyn B. Bagneris  
Secretary

9803#068

**RULE**

**Department of the Treasury  
Board of Trustees of the State  
Employees Group Benefits Program**

**Administrative Policy—Retirees with Medicare**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends its administrative policy relative to premiums for retirees with Medicare.

The board has amended its administrative policy to provide that, for those employees who retire on or after July 1, 1997, the reduced premium rate for retirees with Medicare will be applied only to those who are enrolled for Medicare Parts A and B. Accordingly, the administrative policy of the State Employees Group Benefits Program is hereby amended to provide as follows:

Administrative Policy—Reduced Premium Rates for Retirees with Medicare. For all employees who retire on or after July 1, 1997, the reduced premium rate for retirees with Medicare will be applied only with respect to those persons who are enrolled for Medicare Parts A and B.

James R. Plaisance  
Executive Director

9803#056

**RULE**

**Department of the Treasury  
Board of Trustees of the State  
Employees Group Benefits Program**

**Plan Document—Catastrophic Illness**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends the Plan Document of Benefits.

The board has amended provisions of the Plan Document relative to the Catastrophic Illness Endorsement to provide for annual restoration of benefits. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend the Catastrophic Illness Endorsement provision in the Schedule of Benefits on page 6 of the Plan Document, to read as follows:

**Catastrophic Illness Endorsement (Optional)**

All eligible expenses are payable at 100 percent following diagnosis of any covered disease.

Maximums for any one disease or combination thereof per lifetime:

Option 1	Option 2
\$10,000 Maximum	\$5,000 Maximum
Automatic Annual Restoration, up to \$1,000	Automatic Annual Restoration, up to \$500

Amend Article 3, Section VI, by adding a new Subsection, designated as Subsection G, to read as follows:

G. Restoration of Catastrophic Illness Endorsement Benefits. On and after January 1, 1997, Catastrophic Illness Endorsement benefits shall be restored by the plan each January 1, up to the maximum amount of the annual restoration as stated in the Schedule of Benefits, provided that such restoration will not increase the lifetime maximum Catastrophic Illness Endorsement benefits above that provided in the Schedule of Benefits.

James R. Plaisance  
Executive Director

9803#055

**RULE**

**Department of the Treasury  
Board of Trustees of the State  
Employees Group Benefits Program**

**Plan Document—Point of Service PPO Regions**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends the Plan Document of Benefits.

The board has amended provisions of the Plan Document relative to point of service regions for Preferred Provider Organizations (PPOs) to coincide with Health Maintenance Organization (HMO) service areas. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section X, Subsection A, Paragraph 1, to read as follows:

**B. Point of Service PPO Regions (Areas)**

1. The following regions, designated by United States Postal Service ZIP codes, are used to determine whether there is a PPO provider in the same area as the point of service:

- Region 1      Zip Codes 70000 through 70199
- Region 2      Zip Codes 70300 through 70399
- Region 3      Zip Codes 70400 through 70499
- Region 4      Zip Codes 70500 through 70599
- Region 5      Zip Codes 70600 through 70699
- Region 6      Zip Codes 70700 through 70899

Region 7	Zip Codes 71300 through 71499
Region 8	Zip Codes 71000 through 71199
Region 9	Zip Codes 71200 through 71299

James R. Plaisance  
Executive Director

9803#054

**RULE**

**Department of the Treasury  
Board of Trustees of the State  
Employees Group Benefits Program**

**Plan Document—Pre-Existing Condition for  
Overdue Application; and Special Enrollment**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby amends the Plan Document of Benefits.

The board has amended the Plan Document relative to the pre-existing condition exclusion for overdue applicants and to provide for special enrollments in order to implement changes included in the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), effective July 1, 1997, and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

The Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

**Amendment Number 1**

Amend the introduction to the Plan Document on page 3, after "Group Coverage: Self-insured and self-funded comprehensive medical benefits plan" by inserting the following on the next line:

Plan Year: July 1 - June 30

**Amendment Number 2**

Amend Article 1, Section I, by adding two new Subsections, designated as Subsections OO and PP, to read as follows:

OO. Group Health Plan—a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

PP. *Health Insurance Coverage*—benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer.

However, benefits described in Section 54.9804-1(b)(2) of the rules promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, are not treated as benefits consisting of medical care.

**Amendment Number 3**

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the employee and employer have agreed to make and are making the required contributions. Retirees shall not be eligible for coverage as overdue applicants or as special enrollees.

**Amendment Number 4**

Amend Article 1, Section II, Subsection D to read as follows:

D. Pre-Existing Condition - Overdue Application. The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired.

1. ...
2. ...

3. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

4. If the covered person was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of enrollment for coverage under the program.

**Amendment Number 5**

Amend Article 1, Section II, by inserting a new Subsection E to read as follows, and redesignating current Subsections E, F, and G as Subsections F, H, and I, respectively:

E. Special Enrollments. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, certain eligible persons for whom coverage was previously declined, and who would

otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments:

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or

c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment.

5. The program will require that all special enrollment applicants complete a statement of physical condition form and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent added through special enrollment is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

7. If the employee and/or dependent added through special enrollment was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage

occurred within 63 days of the date of coverage under the program.

James R. Plaisance  
Executive Director

9803#058

## RULE

### Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

#### Plan Document—Prescription Drug

In accordance with the applicable provisions of R.S. 49:950, the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends the Plan Document of Benefits.

The board has amended provisions of the Plan Document relative to prescription drug benefits to provide a minimum copayment of \$12 for brand name drugs. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend the Prescription Drug provision under "Percentage Payable after Satisfaction of Applicable Deductibles" in the Schedule of Benefits on page 5 of the Plan Document, to read as follows:

Prescription Drugs (subject to a minimum copayment of \$3 per prescription for generic drugs, and \$12 per prescription for brand name drugs, not to exceed the maximum allowable charges):

90 percent Network;  
50 percent nonNetwork, in state;  
80 percent nonNetwork, out of state.  
\* \* \*

Amend Article 3, Section XI, Subsections A and D to read as follows:

#### XI. Prescription Drug Benefits

\* \* \*

A. Upon presentation of the Group Benefits Program Identification card at a network pharmacy, the Plan Member shall be responsible for payment of 10 percent of eligible charges for the drug, with a minimum copayment of \$3 per prescription when a generic drug is dispensed and \$12 per prescription when a brand name drug is dispensed, provided, however, that in no event will a combination of payments made by the prescription benefits management firm and the Plan Member exceed the actual charge by the pharmacy for the drug.

\* \* \*

D. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs shall be limited to the prescription benefits management firm's maximum allowable charge and eligible expenses for generic

drugs shall be limited to the prescription benefits management firm's generic maximum allowable charge.

\* \* \*

James R. Plaisance  
Executive Director

9803#053

**RULE**

**Department of the Treasury  
Board of Trustees of the State  
Employees Group Benefits Program**

Plan Document—Sleep Disorders

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby amends the Plan Document of Benefits.

The board has amended provisions of the Plan Document to limit benefits for the treatment of sleep disorders. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars: amend Article 3, Section VIII, Subsection OO, to read as follows:

**VIII. Exceptions and Exclusions for All Medical Benefits**

No benefits are provided under this contract for:

\* \* \*

OO. Testing for sleep disorders, except when such tests are performed at a facility accredited by the American Sleep Disorders Association and interpreted by a physician certified by the American Sleep Disorders Association; benefits otherwise payable are provided for nonsurgical treatment of sleep disorders, but no benefits are provided under any circumstances for sleep studies conducted in a patient's home, nor for surgical treatment of sleep disorders, including LAUP, except following demonstrated failure of nonsurgical treatment and only upon specific case-by-case approval by the Program;

James R. Plaisance  
Executive Director

9803#057

**RULE**

**Department of the Treasury  
Board of Trustees of the Teachers' Retirement System**

Rules Codification/Repromulgation  
(LAC 58:III.Chapters 1-13)  
(Repeal of §§101, 103, and 105)

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

Trustees of Teachers' Retirement System of Louisiana (TRSL) approved the repeal of certain existing rules, as indicated in its newly codified version of its rules given herein. The rules to be repealed refer to retirement laws concerning transfers of service credit and purchases of service credit. These retirement laws were superseded by the passage of R.S. 11:158. The effective date of this repeal/repromulgation of rules is March 20, 1998, pursuant to the notice of intent published December 20, 1997.

**Title 58**

**RETIREMENT**

**Part III. Teachers' Retirement System**

**Chapter 1. General Provisions**

**§101. Transfer to the System**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:143 and 11:730.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Teachers' Retirement System, LR 2:44 (January 1976), repealed LR 24:499 (March, 1998).

**§103. Service Credit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:142, 11:144, 11:727, and 11:786.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Teachers' Retirement System, LR 3:81 (February 1977), repealed LR 24:499 (March 1998).

**§105. Cost Computations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:728.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Teachers' Retirement System, LR 9:849 (December 1983), repealed LR 24:499 (March 1998).

**§107. Mandatory Submission of Contribution Reports**

All employers with 125 or more employees being reported must submit information to Teachers' Retirement System of Louisiana (TRSL) by computer tape/diskette in the following manner:

1. Each month the employer shall certify to the Board of Trustees, by means of computer tape/diskette, the amounts of salary and deductions from the employees' salaries to be paid to the annuity savings fund and credited to the individual accounts of members from whose compensation the deductions were made.

2. All computer tape/diskette formats and specifications must be in accordance with criteria established by TRSL.

3. Both computer tapes/diskettes and printed copies thereof must be submitted by the fifteenth of the month following the end of the month covered by the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998).

**Chapter 3. Re-Employment of Retirees**

**§301. Retirees Returning to Work at Charter Schools**

A. Any retiree receiving a retirement benefit from Teachers' Retirement System of Louisiana (TRSL), who subsequently returns to work at a school chartered under the provisions of R.S. 17:3971-3982, shall be governed by the

return-to-work provisions contained in R.S. 11:707, 737, 738, 739, 780.1, 783(A), or 791, whichever is applicable.

B. Local school systems granting charters will be responsible for reporting to TRSL, in accordance with R.S. 11:707, the employment of any TRSL retiree by the charter school. Failure to report this information will result in penalties assessed in accordance with R.S. 11:737.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971 -3982 and R.S. 11:707, 737, 738, 739, 780.1, 783(A), and 791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of Teachers' Retirement System, LR 22:290 (April 1996), repromulgated LR 24:499 (March 1998).

## **Chapter 5. Deferred Retirement Option Plan**

### **§501. Service Requirements**

A. Members of the Teachers' Retirement System of Louisiana (TRSL), in lieu of terminating employment and accepting a retirement allowance, may elect to participate in the Deferred Retirement Option Plan (DROP) in accordance with R.S. 11:786-791 when the following eligibility requirements for plan participation are met:

1. Regular Plan members:
  - a. 30 years of service credit at any age;
  - b. 25 years of service credit and at least age 55;
  - c. 20 years of service credit and at least age 65 (excluding military service);
  - d. 10 years of service credit and at least age 60 (excluding military service);
  - e. those members with 10 years of service credit and who are at least age 60 will have retirement benefits calculated using a 2 percent benefit formula.
2. School Food Service Plan A members:
  - a. 30 years of service credit at any age;
  - b. 25 years of service credit and at least age 55; and
  - c. 10 years of service credit and at least age 60 (excluding military service).
3. School Food Service Plan B members:
  - a. 30 years of service credit and at least age 55; and
  - b. 10 years of service credit and at least age 60 (excluding military service).

B. DROP participation may begin or end any day of the month. The effective date for participation in DROP will be the date a properly executed DROP application, including the designation of a DROP account beneficiary(ies), is filed in the office of TRSL or the stated effective date on the properly executed DROP application, whichever is later. In the event an employer fails to submit the application in a timely fashion, the provisions of R.S. 11:761 shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:500 (March 1998).

### **§503. Management of Drop Accounts**

A. Deposits to DROP accounts will be effective on the first day of each month of participation in the plan.

B. DROP account statements will be furnished on a quarterly basis as follows:

1. statements issued during DROP participation will reflect all account deposits for a quarterly period;

2. statements issued after completion of DROP participation and termination of employment will reflect all account withdrawals for a quarterly period; and

3. interest earnings will begin accruing the day after termination of DROP participation and will be deposited to DROP accounts in December of each year. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued for the period of October 1 through December 31.

4. withdrawal payments from DROP accounts will be issued on the fifteenth day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:500 (March 1998).

### **§505. Duration of Drop Participation**

Participation in DROP may not exceed a period of three consecutive years. In order to participate for the maximum three consecutive years, the member must begin DROP participation within 60 calendar days after the first possible eligibility requirement for participation is met (refer to §501.A). The participation period must end not more than three years and 60 calendar days from the date the member first became eligible to participate. The participation period may only be shortened by the participant's termination of employment or death.

1. In lieu of a participation period not to exceed the remainder of the three-consecutive-year period from date of first eligibility, a member who became eligible for DROP on or before January 1, 1994, may, at any time, select a participation period which may not exceed two consecutive years.

2. Notwithstanding any other provision of law to the contrary, any member who is participating in the three-year deferred retirement option plan, as set forth in R.S. 11:786(B), may continue to participate in the plan for an additional period of time which equals the difference between the actual participation of that member in that plan and the three-year maximum term of participation, provided the member satisfies all of the following:

a. on January 1, 1994, the member was not eligible for the full three-year period because of years of service credit or age requirements, or both;

b. the member chose to participate in the three-Year plan for the maximum period available;

c. the member is participating in the three-year plan on June 30, 1995;

d. the member furnishes written notice to the system prior to December 31, 1995 or the end of the participation period that the member initially selected, whichever date occurs first.

3. Any member of the Teachers' Retirement System of Louisiana who meets the criteria in §505, including the

required written notice, will be allowed to extend their period of DROP participation through December 31, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:796-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:500 (March 1998).

**§507. Retirement Benefits**

Retirement benefits shall begin on the first day of the month immediately following termination of DROP in all of the following cases:

1. voluntary termination—the participant, for any reason, elects to withdraw from DROP prior to completing the selected participation period and also terminates employment;
2. involuntary termination—the participant is terminated by the employer prior to completing the selected participation period and is not rehired by another TRSL employer on the following day; and
3. completion of selected DROP participation period and termination of employment, except when the DROP participation period is completed on any day other than the last day of any month. In such cases, the DROP account deposit shall be prorated to coincide with the date of completion of DROP participation and termination of employment. Retirement benefits shall begin the day after completion of the DROP participation period and termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:501 (March 1998).

**§509. Withdrawal of Funds from a Drop Account**

Withdrawals from a DROP account are not permitted prior to the termination of DROP participation or during employment which continues immediately following the DROP participation period and shall be limited to the following methods:

1. withdrawal of the total DROP account balance at the termination of DROP participation and employment;
2. monthly withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from month to month (refer to §511.A);
3. monthly withdrawals based upon an amount to be withdrawn each month as specified by the participant. This periodic payment shall not vary from month to month, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy (refer to §511.A);
4. annual withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from year to year. The participant shall select the month in which the annual payment is to be made, and the

first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A);

5. annual withdrawals based upon an amount to be withdrawn each year, as specified by the participant. This periodic payment shall not vary from year to year, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A); and

6. total DROP account balance withdrawal at any time after monthly or annual withdrawals have begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:501 (March 1998).

**§511. Change of Drop Withdrawal Method**

A. The participant will have one opportunity over the duration of DROP account withdrawals to change the chosen withdrawal method if the original method selected was either §509.A.2, 3, 4, or 5. Any change in the withdrawal method must be made in accordance with the life expectancy of the participant, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

B. When the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the following schedule:

LIFE EXPECTANCY SCHEDULE		
Age when DROP Participant Terminates Employment	Number of Months for Permitted Withdrawals	Number of Years for Permitted Withdrawals
Under 56	300 months	25 years
56-60	260 months	21 years
61-65	240 months	20 years
66-70	170 months	14 years
71 and older	120 months	10 years

C. The selection of a withdrawal method and the amount of the periodic payment must be designated by the participant 30 days prior to completion of DROP participation and termination of employment on the form prescribed by TRSL. Should a participant fail to choose a withdrawal method, or to notify TRSL that employment will continue, TRSL will consider the participant still employed. No benefit will be

payable to the participant until official notification of termination of employment, on the prescribed form, is received in the office of TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:501 (March 1998).

### **§513. Termination of Drop Participation**

A. When termination of the DROP participation period occurs because of the death of the participant, or if the death of the participant occurs in the absence of an executed Affidavit of Plan Election, the provisions of R.S. 11:783 shall apply.

B. In the event of the death of the participant during DROP participation, a spousal beneficiary shall select a withdrawal method from the options listed in §509.A. Except for a total DROP account balance withdrawal, the spousal beneficiary will not be permitted to change the withdrawal method previously selected by the participant if disbursements from the account began prior to the participant's death.

C. In the event of the death of the participant during DROP participation, a nonspousal beneficiary(ies) must either withdraw the total DROP account balance or elect equal monthly or annual payments from the DROP account for a period not to exceed five years, and the final distribution from the account shall be made no later than December 15 of the year in which the fifth anniversary of the death occurs. Except for a total DROP account balance withdrawal, the nonspousal beneficiary(ies) will not be permitted to change the withdrawal method previously selected by the participant if disbursements from the account began prior to the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

### **§515. Death of Beneficiary**

A. In the event of the death of a surviving spousal or nonspousal beneficiary, any remaining DROP account balance will be paid to the estate of the beneficiary.

B. DROP accounts will be subject to all Louisiana laws governing community property, inheritance, and estate matters and will be administered in accordance with applicable state laws and orders of the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

### **§517. Affidavit of Plan Election**

A. If a member fails to return a completely executed and notarized Affidavit of Plan Election to choose a retirement benefit option by 90 calendar days after his/her receipt of the unsigned affidavit or by 90 calendar days after the beginning of his/her DROP participation, whichever is later, he/she will be deemed not to have elected to participate in DROP. Employee and employer contributions and appropriate interest or actuarial cost must then be remitted to TRSL for the prior period of TRSL employment in order to receive service credit for that period.

B. For purposes of §517.A, the signed affidavit must be postmarked no later than 90 calendar days after receipt by member of the unsigned affidavit or by 90 days after the beginning of his/her DROP participation, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

### **§519. Application for Service Retirement**

A. Member shall not begin his/her DROP participation until TRSL has received a fully completed, signed, and witnessed original Application for Service Retirement, Form 11A, and a fully completed, signed, and witnessed original Application for DROP, Form 11F. FAX copies will not be accepted for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

### **§521. Teaching Experience**

Retirees who return to work under the provisions of R.S. 11:739 shall be governed by the following definition of *teaching experience*. Any work experience which would have qualified the member for TRSL membership under the provisions of R.S. 11:701(23) if the experience had been gained in the Louisiana public education system will be considered *teaching experience*. *Teaching experience* will include qualifying work (including work during DROP) in any recognized education setting, whether public or private, including both in-state and out-of-state locations. If the experience is not documented in the member's file, the member will be responsible for providing documentation from his/her previous employer in a timely manner. *Teaching experience* will not include unused leave, furlough, strike time, or unurchased leave without pay.

AUTHORITY NOTE: Promulgated in accordance with P-S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

## **Chapter 7. Renunciation of Benefit**

### **§701. General**

Any person eligible to receive, or receiving, a benefit from the Teachers' Retirement System of Louisiana (TRSQ), may renounce such benefits on the following terms and conditions:

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, TRSL shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may only be renounced in its entirety. If a base benefit is renounced, there shall be no eligibility for later adjustment of benefits of any kind. An adjustment to a base benefit (cost-of-living adjustment or adjustment for inflation) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. A benefit may be renounced before or after payment begins. If the renunciation is after the start of payments, any payments received prior to the effective date of the renunciation are not affected.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:783(D).

6. If the person making the renunciation is legally separated or divorced but is not subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivor beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. A renunciation must be made on a form provided by TRSL and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by TRSL and may not be retroactive.

9. A person revoking, or participating in revocation of a benefit, must hold TRSL harmless from such action.

10. A revocation may not be used to terminate active participation in TRSL.

11. Amounts credited to a DROP account cannot be renounced.

12. TRSL makes no representation with respect to the effect of a revocation on a person's eligibility for receipt of any state or federal benefits or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs or eligibility for or receipt of such benefits is an issue for which the person making the revocation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable

character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 19:1602 (December 1993), repromulgated LR 24:503 (March 1998).

## **Chapter 9. Computation of Final Average Compensation**

### **§901. Time Frames for Computation**

A. Members of the Teachers' Retirement System of Louisiana (TRSL) retiring on or after July 1, 1995 will have their average compensation (highest 36 consecutive or joined months of earnable salary) computed as follows:

1. Full 12-month periods beginning before July 1, 1995 will be calculated using the law in effect on the day the 12-month period begins;

2. Full 12-month periods beginning on or after July 1, 1995 will be calculated using the law in effect on July 1, 1995.

B. A full 12-month period of the highest 36 consecutive or joined months of earnable salary is defined to be months one through 12, or months 13 through 24, or months 25 through 36.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(5).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 21:1266 (November 1995), repromulgated LR 24:503 (March 1998).

## **Chapter 11. Voluntary Deductions from Retiree Benefits Payroll**

### **§1101. General**

Any TRSL retiree, beneficiary, or survivor is eligible to participate in a program established for the voluntary deduction from his/her retirement benefit for life, health, supplemental, dental, cancer, or other insurance premiums and for deductions for savings, loans, or other payments to be sent to banks and credit unions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

### **§1103. Application Process**

Application for participation in the program must be made by the insurance carrier, bank, or credit union which is the provider of the coverage, product, service, or depositor of monies and shall be signed by two officers of the company, bank, or credit union. The completed application must be submitted to TRSL for approval prior to any deductions being withheld from the retiree's monthly benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

### **§1105. Requirements**

A. Domestic companies shall:

1. have been licensed to do business in the state of Louisiana for not less than five years;

2. have a current rating in A.M. Best of "B" or better;

3. have been doing business under the same name for not less than three years;

4. provide a like product, service, or coverage to citizens of Louisiana;

5. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

B. Foreign companies shall:

1. have been licensed to do business in the state of Louisiana for not less than five years;

2. have a current rating in A.M. Best of "B+" or better;

3. have been doing business under the same name for not less than three years;

4. offer a like product, service, or coverage to citizens of Louisiana;

5. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

C. Companies/credit unions must be regulated by the Department of Insurance or the Office of Financial Institutions.

D. Companies/credit unions are responsible for submitting a computer diskette of monthly deductions to TRSL by the twelfth day of the month preceding the month for which the deduction will be made, using the format and specifications established by TRSL. Diskettes received after the twelfth day will not be processed. Magnetic tapes will be accepted only under certain conditions. All deductions for a single vendor shall be submitted on one monthly diskette, and the retiree will be allowed only one monthly deduction per vendor. This deduction may cover more than one product for a single vendor. Only deductions received on computer tape/diskette will be processed.

E. Companies/credit unions shall be responsible for obtaining and maintaining appropriate deduction authorization from individual retirees. Copies shall be made available to TRSL upon request.

F. Companies/credit unions are responsible for contract/loan terms between companies/credit unions and retirees. TRSL assumes no responsibility for the contract or terms of agreement.

G. Retirees may discontinue any voluntary payroll deduction from their monthly benefit check by providing written notification to the vendor.

H. A retiree cannot authorize total deductions which would cause the net amount of the benefit to fall below \$5.

I. Companies/credit unions must have a minimum of 50 TRSL retirees to participate in the program; however, companies will be allowed six months after initial approval to meet the minimum participation requirements.

J. TRSL will not deduct monthly premium amounts for any retiree who owes monies to TRSL or has his/her benefit suspended.

K. Companies/credit unions shall notify TRSL immediately upon learning of the death of a retiree. In the event that TRSL has remitted funds to the company/credit union after the death of a retiree and these funds were not due the retiree, company/credit union shall refund said monies to TRSL after notification.

L. Upon learning of the death of a retiree, even if not notified by the company/credit union, TRSL shall be refunded

any monies transmitted, but not due, after notification. The company/credit union will accept the certification of TRSL as to date of death of retiree as sufficient evidence of date of death in regard to any funds owed to TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

#### **§1107. Disclaimer**

The company/credit union is prohibited from stating that any product offered has been endorsed or approved by TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

#### **§1109. Transmittal of Withheld Amounts**

A. Amounts will normally be transmitted to company/credit union by wire transfer by the tenth of each month. If the tenth is a weekend, the first working day after the tenth will be the date of transmittal. In the event of computer/technical production problems beyond the control of TRSL, it is possible that transmittal of funds would not be made on the tenth day of the month.

B. TRSL will provide the company/credit union a computer printout of the names of individuals, Social Security Numbers, and the amounts withheld.

C. TRSL may adjust printout totals by amounts owed TRSL due to death of an individual. These individuals will be identified by name and Social Security Number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

#### **§1111. Termination of Payroll Deduction**

A. The Board of Trustees may terminate the voluntary payroll deduction program by providing the company/credit union with at least 30 days written notice.

B. Immediately upon notice from TRSL individual company/credit unions may be terminated for unethical conduct or practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

### **Chapter 13. Cost-of-Living**

#### **§1301. Cost-of-Living Adjustment**

A. Effective July 2, 1995, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit

of each eligible recipient, as determined in accordance with the formula,  $X (A + B + C)$ , where:

A = the number of years of credited service accrued at the time of retirement or death of the member or retiree;

B = the number of years since retirement or since death of the member or retiree to July 1, 1994;

C = the number of years of service credit greater than 30 years; and  
X = one dollar.

C. No increase in benefit shall be paid to any retiree, beneficiary, or survivor unless such person was receiving benefits on, or prior to, July 1, 1994. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on, or prior to, July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787(D) and 11:883.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 21:473 (May 1995), repromulgated LR 24:504 (March 1998).

James P. Hadley, Jr.  
Director

9803#016

## RULE

### Department of Wildlife and Fisheries Office of Management and Finance

Nonresident Hunting and Fishing Licenses (LAC 76:I.327)

The Department of Wildlife and Fisheries, Office of Management and Finance hereby adopts a rule relative to the sale of nonresident hunting and fishing licenses.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part I. Wildlife and Fisheries Commission and Agencies Thereunder

#### Chapter 3. Special Powers and Duties

#### Subchapter H. Nonresident Hunting and Recreational Fishing Licenses

#### §327. Nonresident Hunting and Recreational Fishing Licenses

A. Nonresident hunting and recreational fishing licenses may be purchased by telephone using a Visa or MasterCard credit card. A dedicated "800" telephone number will be established for this purpose. Each applicant shall provide the department with the following information:

1. name;
2. complete address;
3. driver's license number and the state of issue;
4. date of birth;
5. telephone number;
6. Social Security Number;
7. hunter education number (if born after September 1, 1969);
8. beginning date of trip (when purchasing a trip license);
9. harvest information, as required; and

10. name printed on credit card, credit card number, and expiration date.

Licenses will be mailed within the next working day.

B. An administrative fee of \$3 may be assessed for each applicant who completes a purchase through this means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:642.A.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998).

James H. Jenkins, Jr.  
Secretary

9803#052

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass—Daily Take and  
Size Limits (LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby amends a rule for black bass.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 1. Freshwater Sport and Commercial Fishing

#### §149. Black Bass Regulations—Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

1. Concordia Lake (Concordia Parish) and Caney Creek Reservoir (Jackson Parish):

a. Size limit: 15 inch - 19 inch slot. A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily take: eight fish of which no more than two fish may exceed 19 inches maximum total length.\*

c. Possession limit:

i. on water—same as daily take;

ii. off water—twice the daily take.

2. Lake Bartholomew (Morehouse and Ouachita parishes), Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

- b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.\*
- c. Possession limit:
  - i. on water—same as daily take;
  - ii. off water—twice the daily take.
- 3. False River (Pointe Coupee Parish)
  - a. Size limit: 14 inch minimum size limit.
  - b. Daily Take: five fish.
  - c. Possession limit:
    - i. on water—same as daily take;
    - ii. off water—twice the daily take.

*\*Maximum Total Length*—the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325(C), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998).

Thomas M. Gattle, Jr.  
Chairman

9803#051