

Rules

RULE

Department of Economic Development Board of Architectural Examiners

Continuing Education (LAC 46:I.1117)

Under the authority of R.S. 37:144(C), and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners amended LAC 46:I.1117 pertaining to continuing education and accreditation therefor. The board made continuing architectural education mandatory for all architects practicing architecture. Beginning with license renewals effective January 1, 1999, all architects practicing architecture must show compliance with the educational requirements of these rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1117. Continuing Education

A. Purpose and Scope. These rules provide for a continuing education program to insure that all architects remain informed of those technical and professional subjects necessary to safeguard life, health, and promote the public welfare. These rules shall apply to all architects practicing architecture in this state.

B. Exemptions. Exempt from participating in the continuing education program required by these rules are:

1. a newly registered architect during his or her initial year of registration;
2. an *emeritus status architect* as defined in §905.E;
3. a civilian who serves on active duty in the armed forces of the United States for a period of time exceeding 90 consecutive days during the annual report period; and
4. an architect who demonstrates, to the satisfaction of the board, that meeting these requirements would work an undue hardship by reason of disability, sickness, or other clearly mitigating circumstances.

C. Definitions

AIA—the American Institute of Architects.

AIA/CES—the continuing education system developed by AIA to record professional learning as a mandatory requirement for membership in the AIA.

ARE—the Architect Registration Examination prepared by the National Council of Architectural Registration Boards.

Board—the Louisiana State Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809, Telephone: (504) 925-4802, Telecopier: (504) 925-4804, web site: <http://www.lastbdarchs.com>.

CEH—a continuing education hour. One CEH is equivalent to 50 minutes of actual contact time.

HSW—the health, safety, and welfare of the public.

NCARB—the National Council of Architectural Registration Boards.

Nonresident Architect—an architect registered by the board and residing outside Louisiana.

Resident Architect—an architect residing in this state.

Roster—the Annual Roster of Louisiana Registered Architects issued by the board.

Sponsor—an individual, organization, association, institution, or other entity which offers an educational activity for the purpose of fulfilling the continuing education requirements of these rules.

D. Requirements

1. Beginning with license renewals effective January 1, 1999, all architects must show compliance with the educational requirements of these rules as a condition for renewing registration.

2. Resident architects shall complete a minimum of 12 Continuing Education Hours (CEHs) in HSW each calendar year, beginning with 1998. The requirement must be satisfied during the period which begins January 1 and ends December 31 of the calendar year immediately preceding the license renewal year.

3. Nonresident architects shall complete either:

a. the mandated or voluntary requirements for continuing education of a jurisdiction in which that architect is registered to practice architecture, provided that other jurisdiction accepts satisfaction of Louisiana continuing education requirements as meeting its own; or

b. the requirements set forth herein for resident architects.

4. To satisfy the continuing education requirements for the year 1998 only, an architect may use hours obtained during calendar years 1997 and 1998.

5. If an architect is being re-registered after having been unregistered then, in addition to all other requirements, the architect must have acquired that number of total CEHs that would have been required if registration had been regularly renewed.

E. Acceptable Educational Activities

1. Credit will be allowed only for continuing education activities in areas which:

a. directly safeguard the public's health, safety, and welfare; and

b. provide individual participant documentation from a person other than the participant for recordkeeping and reporting.

2. Only subject matters on the ARE, current at the time of the activity, are acceptable. The board shall publish an official list of approved topics to accomplish the purpose of these rules. The board's current list shall be published in the roster and is also available upon written request from the board.

3. Acceptable continuing educational activities in HSW include the following:

a. attending professional or technical seminars, lectures, presentations, courses, or workshops offered by a professional or technical organization (AIA, National Fire Protection Association, Concrete Standards Institute, NCARB, etc.);

b. successfully completing tutorials, short courses, correspondence courses, televised courses, or videotaped courses;

c. successfully completing monographs or other self-study courses such as those sponsored by NCARB or a similar organization which tests the architect's performance;

d. making professional or technical presentations at meetings, conventions, or conferences;

e. teaching or instructing;

f. authoring a published paper, article, or book; and

g. successfully completing college or university sponsored courses.

4. Continuing educational activities need not take place in Louisiana, but may be acquired at any location.

5. All continuing education activities shall:

a. have a clear purpose and objective;

b. be well organized and provide evidence of preplanning;

c. be presented by persons who are well qualified, by education or experience, in the field being taught; and

d. provide individual participant documentation from a person other than the participant for recordkeeping and reporting.

F. Number of Continuing Education Hours Earned

1. Continuing education credits shall be measured in CEHs and shall be computed as follows:

a. attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each contact hour of attendance;

b. successfully completing tutorials, short courses, correspondence courses, televised or videotaped courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor;

c. teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two CEHs for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university, or other educational institution;

d. authoring a published paper, article, or book shall be equivalent of eight CEHs;

e. successfully completing one or more college or university semester- or quarter-hours shall satisfy the continuing education hours for the year in which the course was completed.

2. Any program in HSW contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in HSW in the AIA/CES Transcript of Continuing Education Activities will be accepted by the board for both resident and nonresident architects.

3. No carry over of CEHs from prior years is permitted.

G. Reporting, Recordkeeping, and Auditing

1. Each architect shall complete the language on the renewal application pertaining to that architect's continuing education activities during the calendar year immediately preceding the license renewal period. Any untrue or false statement, or the use thereof with respect to course attendance or any other aspect of continuing educational activity, is fraud or misrepresentation and will subject the architect and/or program sponsor to license revocation or other disciplinary action.

2. To verify attendance each attendee shall obtain an attendance certificate from the program sponsor. Additional evidence may include, but is not limited to, attendance receipts, canceled checks, and sponsor's list of attendees (signed by a responsible person in charge of the activity). A log showing the activity claimed, sponsoring organization, location, duration, etc., should be supported by other evidence. Evidence of compliance shall be retained by the architect for two years after the end of the period for which renewal was requested.

3. The board will annually select a number of renewal applications randomly for audit for verification of compliance with these requirements. Upon request by the board, evidence of compliance shall be submitted to substantiate compliance of the requirements of these rules. The board has final authority with respect to accepting or rejecting continuing education activities for credit.

4. The board may disallow claimed credit. If so, unless the board finds that the architect willfully disregarded these requirements, the architect shall have six months after notification of disallowance to substantiate the original claim or earn other CEH which fulfill the minimum requirements (and such CEH shall not again be used for the next renewal).

H. Pre-Approval of Programs

1. Upon written request, the board will review a continuing education program prior to its presentation, provided all of the necessary information to do so is submitted in accordance with these rules. If the program satisfies the requirements of these rules, the board will pre-approve same.

2. A person seeking to obtain pre-approval of a continuing education program shall submit the following information:

a. program sponsor(s)—name(s), address(es), and phone number(s);

b. program description—name, detailed description, length of instructional periods, and total hours for which credit is sought;

c. approved seminar topic—division(s) and topic(s) from the current list of approved seminar topics;

d. program instructor(s)/leader(s)—name(s) of instructor(s)/leader(s) and credential(s);

e. time and place—date and location of program; and

f. certification of attendance: sponsor's method for providing evidence of attendance to attendees.

3. Such information shall be submitted at least 30 calendar days in advance of the program so that the board may analyze and respond.

4. The sponsor of a pre-approved program may announce or indicate as follows:

"This course has been approved by the Louisiana State Board of Architectural Examiners for a maximum of _____ CEH."

I. Noncompliance

1. Failure to fulfill the continuing education requirements shall result in nonrenewal of that architect's certificate of registration and loss of the right to practice architecture.

2. If the board finds that the architect willfully disregarded these requirements, the board may subject the architect to all of the disciplinary actions allowed by law, including license revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:753 (June 1991), amended LR 18:250 (March 1992), LR 24:910 (May 1998).

Mary "Teeny" Simmons
Executive Director

9805#020

RULE

**Department of Economic Development
Racing Commission**

Blanks and Envelopes (LAC 35:XI.9937)

The Racing Commission hereby amends LAC 35:XI.9937, "Blanks and Envelopes," to clarify its intent and to prevent future discrepancies and voided claims due to the spelling of horses' names.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9937. Blanks and Envelopes

All claims shall be on blanks and in envelopes furnished by the association and approved by the commission. Both blanks and envelopes must be filled out completely, and the horse's name must be spelled accurately to identify the claim, otherwise the claim shall be void. The horse's name shall be spelled as it appears in the official racing program of the association, otherwise the claim shall be void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission, 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), repromulgated LR 3:42 (January 1977), LR 4:286 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 24:912 (May 1998).

Paul D. Burgess
Executive Director

9805#015

RULE

**Department of Economic Development
Racing Commission**

Extension of Contract (LAC 46:XLI.709)

The Racing Commission hereby amends LAC 46:XLI.709, "Extension of Contract," to allow for education as an additional condition to grant an apprentice jockey's contract extension.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§709. Extension of Contract

In the event an apprentice jockey is unable to ride for a period of 14 consecutive days or more because of service in the armed forces of the United States, or because of physical disablement, or because of restrictions on racing, or due to secondary or higher education with proper documentation, the commission, upon recommendation of the stewards and after consultation with the racing authority which first approved the original apprentice contract, may extend the time during which such apprentice weight allowances may be claimed for a period no longer than the period such apprentice rider was unable to ride.

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

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended and promulgated by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), amended LR 3:27 (January 1977), LR 4:276 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 24:912 (May 1998).

Paul D. Burgess
Executive Director

9805#016

RULE

**Department of Economic Development
Racing Commission**

Minors (LAC 35:I.315)

The Racing Commission hereby amends LAC 35:I.315, "Minors," to allow minors as young as six years old to attend races (proof of age unnecessary).

Title 35

HORSE RACING

Part I. General Provisions

Chapter 3. General Rules

§315. Minors

Minors are prohibited from attending racing meetings except that any minor six years of age, or older, may attend any race meeting if accompanied by a parent, grandparent, or

companion. In no case shall any minor in attendance be allowed to engage in wagering. (For the purpose of this rule, *companion* is defined as any person 21 years of age or older who is a relative of the minor.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 10:592 (August 1984), amended by the Department of Economic Development, Racing Commission, LR 24:912 (May 1998).

Paul D. Burgess
Executive Director

9805#017

RULE

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

Hazardous Air Pollutant (HAP) Control Technology Requirements for New Sources (LAC 33:III.551)(AQ168)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.551 (AQ168).

As required by section 112(g) of the Clean Air Act, all new major sources of air toxics are required to have a case-by-case maximum achievable control technology (MACT) determination when no federal MACT emission limitation has been promulgated. The state is required by Louisiana's part 70 Operating Permit Program and 40 CFR part 63, subpart B, to adopt a 112(g) program that complies with the requirements of 40 CFR part 63, sections 63.40-63.44. This rule, adopting and implementing the 112(g) program, carries out those requirements by requiring new major sources of air toxics to do MACT prior to EPA establishing a federal MACT standard. This rule provides the affected facilities with direction and instruction in regards to applicability determinations, application requirements, and administrative procedures. In addition to adopting and implementing this rule by June 28, 1998, the department must also certify to EPA that this program meets all requirements in 40 CFR part 63, sections 63.40-63.44. In the event the state fails to adopt this program, the state may still be able to make the case-by-case MACT determinations, or they may request that EPA make these determinations.

The basis and rationale for this rule are to comply with the requirements of Louisiana's part 70 Operating Permit Program to adopt and implement the 112(g) program. Continued failure to adopt this rule could result in EPA sanctions for the state's failure to adequately administer and enforce Louisiana's part 70 Operating Permit Program.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 5. Permit Procedures

§551. Hazardous Air Pollutant (HAP) Control Technology Requirements for New Sources

A. Applicability. The provisions of this Section apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998. The provisions of this Section do not apply to major sources specifically regulated or exempted from regulation under a standard issued in accordance with section 112(d), 112(h), or 112(j) of the Clean Air Act and incorporated in 40 CFR part 63 or to major sources for which the owner or operator has received all necessary air quality permits for construction or reconstruction prior to June 29, 1998.

B. Definitions. The terms used in this Section have the meaning given to them in LAC 33:III.111 and 5103, the Clean Air Act, and 40 CFR part 63, subpart A except for those terms defined herein as follows:

Affected Source—the stationary source or group of stationary sources that, when fabricated (on-site), erected, or installed, meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this Section.

Available Information—for the purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the department:

- a. a relevant proposed regulation, including all supporting information;
- b. background information documents for a draft or proposed regulation;
- c. data and information available for the Control Technology Center developed in accordance with section 113 of the Clean Air Act;
- d. data and information contained in the Aerometric Information Retrieval System, including information in the MACT database;
- e. any additional information that can be expeditiously provided by the administrator; and
- f. for the purpose of determinations by the department, any additional information provided by the applicant or others and any additional information considered available by the department.

Construct a Major Source—

a. to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources that is located within a contiguous area and under common control and that emits, or has the potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs; or

b. to fabricate, erect, or install at any developed site a new process or production unit that in and of itself emits, or has the potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, unless the process or production unit satisfies the following criteria:

- i. all HAPs emitted by the process or production unit that would otherwise be controlled under the requirements

of this Section are controlled by emission control equipment that was previously installed at the same site as the process or production unit;

ii. the department determines:

(a). within a period of five years prior to the fabrication, erection, or installation of the process or production unit, that the existing emission control equipment represents the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on state air toxics rules for the category of pollutants that includes those HAPs to be emitted by the process or production unit; or

(b). that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or state air toxic rule MACT determination);

iii. the department determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

iv. the department provides notice and an opportunity for public comment concerning its determination that criteria in Clauses i-iii of Subparagraph b of this definition apply and concerning the continued adequacy of any prior BACT, LAER, T-BACT, or state air toxic rule MACT determination;

v. if any commentor has asserted that a prior BACT, LAER, T-BACT, or state air toxic rule MACT determination is no longer adequate, the department shall determine that the level of control required by that prior determination remains adequate; and

vi. any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the department are applicable requirements under section 504(a) of the Clean Air Act either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

Control Technology—measures, processes, methods, systems, or techniques to limit the emissions of HAPs through process changes, substitution of materials, or other modifications which:

a. reduce the quantity of, or eliminate emissions of, such pollutant through process changes, substitution of materials, or other modifications;

b. enclose systems or processes to eliminate emissions;

c. collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point;

d. are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

e. are the combination of Subparagraphs a-d of this definition.

Electric Utility Steam Generating Units—any fossil fuel-fired combustion unit, of more than 25 megawatts, that serves a generator that produces electricity and supplies more than one-third of its potential electrical output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale.

Greenfield Site—a contiguous area under common control that is an undeveloped site.

Hazardous Air Pollutants—any air pollutants listed in or pursuant to Section 112(b) of the Clean Air Act.

Maximum Achievable Control Technology (MACT) Emission Limitation for New Sources—the emission limitation that is not less stringent than the emission limitation achieved in practice by the best controlled similar source and that reflects the maximum degree of reduction in emissions that the department, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

Process or Production Unit—any collection of structures and/or equipment that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

Reconstruct a Major Source—the replacement of components at an existing process or production unit that in and of itself emits, or has that potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs whenever:

a. the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

b. it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this Subsection.

Research and Development Activities—activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

Similar Source—a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

C. Exemptions and Prohibitions. The requirements of this Section do not apply to:

1. electric utility steam generating units unless and until such time as these units are added to the source category list in accordance with section 112(c)(5) of the Clean Air Act;

2. stationary sources that are within a source category that has been deleted from the source category list in accordance with section 112(c)(9) of the Clean Air Act; and

3. research and development activities, as defined herein.

D. Source Obligation

1. No person may begin actual construction or reconstruction of a major source of hazardous air pollutants after June 29, 1998, unless the owner or operator obtains or revises a permit issued in accordance with Louisiana's part 70 Program (LAC 33:III.507) and follows the administrative procedures of that program and:

a. the department has made a final and effective case-by-case determination in accordance with the provisions of this Section such that emissions from the affected source will be controlled to a level no less stringent than the MACT emission limitation for new sources; or

b. the major source in question is specifically regulated by or exempted from regulation under a standard issued in accordance with section 112(d), 112(h), or 112(j) of the Clean Air Act and incorporated in 40 CFR part 63.

2. The owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such data satisfies the requirements of this Section for each such scenario.

3. The MACT emission limitation and requirements established shall be effective as required by Subsection I of this Section, supported by information listed in Subsection E of this Section and consistent with principles established in Subsection E of this Section. The owner or operator shall comply with requirements in Subsections G and J of this Section, and with all applicable requirements in 40 CFR part 63, subpart A.

E. Principles of Case-by-Case MACT Determinations. The following general principles shall govern preparation of each permit application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source and all subsequent review of and actions taken concerning such an application by the department:

1. the MACT emission limitation or MACT requirements recommended by the applicant and approved by the department shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source as determined by the department;

2. based upon available information, the MACT emission limitation and control technology (including any requirements under Subsection E.3 of this Section) recommended by the applicant and approved by the department shall achieve the maximum degree of reduction in emissions of hazardous air pollutants that can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction, any non-air quality health and environmental impacts, and energy requirements associated with the emission reduction;

3. the applicant may recommend a specific design, equipment, work practice, operational standard, or a combination thereof. The department may approve such a standard based on these recommendations if the department

specifically determines that it is not feasible to prescribe or enforce an emission limitation as defined herein; and

4. if the administrator has either proposed a relevant emission standard in accordance with section 112(d) or 112(h) of the Clean Air Act or adopted a presumptive MACT determination for the source category that includes the constructed or reconstructed major source, then the MACT requirements applied to the affected source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

F. Application Requirements for Case-by-Case MACT Determination

1. The application shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined by Subsection E of this Section.

2. In the event that an affected source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

a. identifying information, including company name, physical address and mailing address, facility name and address, if different from the company, a map showing the location of the facility, owner's and operator's names and agent, and telephone number and name of plant manager or contact;

b. a brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

c. the expected commencement date for the affected source;

d. the expected completion date for the affected source;

e. the anticipated date of start-up for the affected source;

f. the hazardous air pollutant emitted by the affected source and the estimated emission rate for each such hazardous air pollutant, to the extent this information is needed by the department to determine MACT;

g. any federally enforceable emission limitations applicable to the affected source;

h. the maximum and expected utilization of capacity of the affected source, to the extent this information is needed by the department to determine MACT;

i. the controlled emissions for the affected source in tons per year at expected and maximum utilization of capacity, to the extent this information is needed by the department to determine MACT;

j. a recommended emission limitation for the affected source consistent with the principles set forth in Subsection E of this Section;

k. the selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, and estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the department);

l. supporting documentation including identification

of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

m. any other relevant information required in accordance with 40 CFR part 63, subpart A.

3. In the event that an affected source will be in compliance, upon start-up, with the case-by-case MACT provisions in accordance with this Section without a change in control technology, the application for a MACT determination shall also contain documentation of the control technology in place.

G. Compliance with MACT Determination. An owner or operator of an affected source that has obtained a MACT determination shall be deemed to be in compliance with section 112(g)(2)(B) of the Clean Air Act only to the extent that the affected source is in compliance with all part 70 permit requirements. Any violation of such requirements by the owner or operator shall be deemed by the department and by EPA to be a violation of the prohibition on construction or reconstruction in section 112(g)(2)(B) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Clean Air Act.

H. Requirement for Affected Source Subject to a Subsequently Promulgated MACT Standard or MACT Requirement

1. If the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department issues a determination under section 112(j) of the federal Clean Air Act that is applicable to a stationary source or group of sources that would be deemed to be an affected source under this Section before the date that the owner or operator has obtained a final and legally effective MACT determination in accordance with this Section, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination in accordance with this Section and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

2. If the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department makes a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources that was deemed to be an affected source under this Section and has been subject to a prior case-by-case MACT determination in accordance with this Section and the owner or operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the department shall issue an initial operating permit that incorporates the emission standard or determination or revise the operating permit according to the reopening procedures in LAC 33:III.529, whichever is relevant, to incorporate the emission standard or determination.

a. The EPA may include in the emission standard

established under section 112(d) or 112(h) of the Clean Air Act a specific compliance date for those sources that have obtained a final and legally effective MACT determination in accordance with this Section and that have submitted the information required by this Section to the EPA before the close of the public comment period for the standards established under section 112(d) of the Clean Air Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than eight years after such standard is promulgated. In that event, the department shall incorporate the applicable compliance date in the part 70 permit.

b. If no compliance date has been established in the promulgated 112(d) or section 112(h) standard or section 112(j) determination of the Clean Air Act, for those sources that have obtained a final and legally effective MACT determination in accordance with this Section, then the department shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than eight years after such standard is promulgated or a section 112(j) determination is made.

3. Notwithstanding the requirements of Subsection H.1 and 2 of this Section, if the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources that was deemed to be an affected source under this Section and that is the subject of a prior case-by-case MACT determination in accordance with this Section, and the level of control required by the emission standard issued under section 112(d) or 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the department is not required to incorporate any less stringent terms of the promulgated standard in the part 70 permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

I. Effective Date of MACT Determination. The effective date of a MACT determination shall be the date of issuance of a part 70 permit incorporating a MACT determination.

J. Compliance Date. On and after the date of start-up, an affected source that is subject to the requirements of this Section shall be in compliance with all applicable requirements specified in the MACT determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:913 (May 1998).

Gus Von Bodungen
Assistant Secretary

9805#069

RULE

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

**Refinery Vacuum Producing Systems
Exemption (LAC 33:III.2139)(AQ167)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.2139 (AQ167).

Refinery vacuum producing systems shall be exempt from the requirements of LAC 33:III.2139 if controls are installed and maintained in accordance with a more stringent regulation. The basis and rationale for this rule are to change LAC 33:III.2139 in order to eliminate unnecessary recordkeeping and reporting requirements. Facilities affected by the rule will comply with one set of reporting and recordkeeping requirements rather than two.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

**Subchapter G. Petroleum Refinery Operations
§2139. Refinery Vacuum Producing Systems**

* * *

[See Prior Text in A-B]

C. Exemptions. This Section does not apply to refinery vacuum producing systems that are required by another federal or state regulation to implement controls that reduce VOCs to a more stringent standard than would be required by this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 24:917 (May 1998).

Gus Von Bodungen
Assistant Secretary

9805#068

RULE

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

**Laboratory Accreditation
(LAC 33:I.Chapters 45-57)(OS007)**

Under the authority of the Environmental Quality Act, R.S.

30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted Office of the Secretary regulations, LAC 33:I.Subpart 3 (OS007).

The laboratory accreditation rule will require accreditation of commercial environmental laboratories by DEQ every three years. The accreditation program will require third-party laboratory audits, submission of samples for independent analysis, and inspections of regulated laboratories. The rule will also provide for quality assurance/quality control procedures, laboratory personnel qualifications, and sampling protocol and integrity. This rule and the accompanying program will enhance the accuracy, reliability, and veracity of environmental laboratory data in the state. This will help to promote and maintain public, government, and customer confidence in laboratory data in Louisiana. The program will also promote improved permitting and enforcement indirectly by promoting quality data.

The basis and rationale for this rule are to implement R.S. 30:2012.D(22), which provides for the secretary to promulgate regulations for certification of commercial laboratories that provide chemical analysis, analytical results, or other appropriate test data to the department required as part of any permit application, by any order of the agency, to be included in any monitoring report submitted to the agency, or by any regulation of the agency.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the rule. This report is published in the Potpourri Section of this issue of the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. These regulations provide requirements for an accreditation program specifically applicable to commercial laboratories and federal, state, and local government laboratories performing analyses reportable to the Louisiana Department of Environmental Quality (the department). The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in the generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department.

B. This accreditation covers the following fields of testing:

1. air emissions;
2. wastewater/surface water;
3. groundwater;
4. solid/hazardous wastes;
5. soils, sediments, and sludges;
6. biological materials;
7. radiologicals/radioassays; and
8. bioassays/biomonitoring/toxicological testing.

C. Each field of testing is divided into test categories.

Applications for accreditation may be made for one or more test categories within specified fields of testing. To apply the laboratory must identify the specific department-approved methods it will be using for each test category and participate in all relevant department-approved proficiency testing programs. Any variance from approved protocol or procedure is acceptable only with prior written confirmation by the department.

D. Applicants must have an acceptable quality control system and associated documentation. Accreditation earned from other states or regulatory agencies may be accepted by the department, provided that a review shows that the requirements are no less stringent than those required by these regulations. Reciprocity with other state accreditation programs will be reviewed by the department, and if the requirements of these regulations are met, then accreditation may be granted.

E. This Subpart shall not apply to laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998).

§4503. Definitions

When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below:

Accreditation—the formal recognition by the department of a laboratory's competence wherein specific tests or types of tests can be accurately and successfully performed in compliance with all minimum requirements set forth in these regulations.

Annual Renewal Date—July 1.

Applicant—the laboratory requesting accreditation.

Commercial Laboratory—any laboratory that performs analyses or tests for third parties for a fee or other compensation, except those commercial laboratories accredited by the Department of Health and Hospitals in accordance with R.S. 49:1001 et seq.

Department—the Louisiana Department of Environmental Quality.

Department Accreditation Program—a program instituted by the department by which a laboratory that generates data for submittal to any area of the department may be deemed an accredited laboratory producing acceptable data, based upon the accuracy and reliability of the generated data, the use of department-approved methodology for the generation of the data, and the utilization of an acceptable quality control/quality assurance program to document the quality of the data produced.

Department-Approved Testing Methods—the laboratory and field procedures that have been approved by the department. These include all EPA-recognized methods, as well as those deemed equivalent by the department, that are adopted from existing standards and regulations or developed for specific fields of testing, specific testing technologies, or specific types of tests. This refers to the methods cited in the 40 CFR and subsequent changes published in the *Federal*

Register from such sources as U.S. EPA, *Standard Methods for the Examination of Water and Wastewater*, ASTM, NIOSH, SW-846, *American Public Health Association for Microbiological Methods*, USGS, AOAC, and alternate test procedures approved for use.

Discreditation—the revocation by the department of the formal recognition of the laboratory's accredited status because of a violation of LAC 33:I.5705.F.

EPA—the United States Environmental Protection Agency.

EPA-Accepted Methods—the methods cited in the 40 CFR and subsequent changes published in the *Federal Register*; from such sources as EPA, *Standard Methods for the Examination of Water and Wastewater*, ASTM, NIOSH, SW846, *American Public Health Association for Microbiological Methods*, USGS, AOAC, and alternate test procedures approved for nationwide use, as well as any method approved by the department.

Field of Testing—air emissions; wastewater/surface water; groundwater; soils, sediments, and sludges; solid/ hazardous wastes; biological materials; radiologicals/ radioassays; and bioassays/biomonitoring/toxicological testing.

Laboratory—any facility, whether fixed-based, mobile, or field, that analyzes environmental samples and that seeks accreditation by the department.

Laboratory Representative—the laboratory employee who is designated as the contact person responsible for the information provided in the application and for ensuring compliance with the requirements for accreditation.

Mobile Laboratory—any facility that analyzes environmental samples and that seeks accreditation by the department that is capable of moving or being moved from one site to another.

NIST—National Institute of Standards and Technology.

NRC—Nuclear Regulatory Commission.

Pending Accreditation—a status that exists in the accreditation process wherein all application requirements have been met by the laboratory, but formal accreditation status has not been granted by the department.

Proficiency Evaluation Test Sample (PE)—a sample of known composition (unknown to laboratory) provided by an external source (e.g., EPA) that is used to evaluate lab performance.

Reaccreditation—the reinstatement of a fully accredited status by the department, thereby signifying that all violations of LAC 33:I.5705.F that initiated the discreditation action have been corrected and that the laboratory is deemed in compliance with requirements of these regulations.

Reciprocity—a method of obtaining accreditation, whereby the applicant laboratory provides documentation that demonstrates that its current certification or accreditation is no less stringent than required by these regulations. All fees associated with accreditation in the state of Louisiana shall be applicable. Laboratories located within the state of Louisiana shall be required to apply for a certification and shall not be eligible for reciprocity.

Round Robin Testing—a method of proficiency testing, whereby a blind sample is split and sent to laboratories for

analysis from the department or its representative. Laboratories participating in round robin testing shall not pass test samples from one laboratory to another. This form of testing shall be limited to use where applicable.

Small Laboratory—a laboratory consisting of 10 or fewer people who influence the quality of data from sample collection through report generation.

Suspension—a temporary removal by the department of the accredited status, in part or whole, of a laboratory because of an infraction(s) of LAC 33:I.5705.F until such time that the infraction(s) is satisfactorily corrected and the laboratory is returned to a fully accredited status or the infraction(s) is not corrected and the laboratory is discredited.

Test Category—any one of the 10 categories listed in LAC 33:I.4705.B in which a laboratory may request department accreditation for a specific test or analysis.

Variance—any deviation from a department-approved method that has the potential for affecting the analytical results generated from a test procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:918 (May 1998).

Chapter 47. Program Requirements

§4701. Accreditation Process

A. The department accreditation process comprises four basic steps:

1. the submittal to the department of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

2. an on-site assessment/evaluation of the laboratory submitting the request/application by authorized representatives of the department with the appropriate laboratory background;

3. the successful participation in department-approved applicable proficiency evaluations; and

4. both periodic technical evaluation of the laboratory and periodic submittal by the laboratory of written documentation that all requirements of the department accreditation program are being fulfilled in order to maintain accreditation.

B. When all requirements for accreditation have been successfully fulfilled, the department shall grant the applicant laboratory a formal notice of accreditation and a certificate of accreditation that lists those parameters for which the laboratory is accredited. The certificate of accreditation must be posted within public view in the laboratory setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998).

§4703. Application for Accreditation

A. An applicant for environmental laboratory accreditation must be legally identifiable and possess a permanent business address and telephone number. The applicant laboratory must have the staff and resources in order to satisfactorily accomplish those analyses/tests for which accreditation is requested.

B. An application for environmental laboratory accreditation shall be made in writing to the department. This application will provide all requested information and be accompanied by the appropriate application fee. Information will include at least one satisfactory round of the most recent department-specified proficiency evaluation test results or an analytical data package for test categories where no accessible proficiency tests exist. Supplemental information may be required.

C. Laboratories maintained on separate premises, even though operated under the same management, shall be required to maintain distinct accreditation. If a laboratory is located outside of the state of Louisiana, it shall be considered a separate and distinct laboratory and shall require individual accreditation. Separate accreditation is not required for buildings on the same or adjoining grounds. If a mobile laboratory is operating independently within the state, separate accreditation may be necessary.

D. Each laboratory must identify an official to represent it in all matters related to attaining and maintaining environmental laboratory accreditation. This official is the point of contact with the laboratory and is known as the laboratory representative. The laboratory representative may be any senior person from either the technical or managerial staff. The laboratory representative should be in a position of authority to ensure that the laboratory complies with the criteria and conditions for accreditation and should have the authority to bind the company in a legal manner.

E. In cases where all application requirements have been met, including review of all methodology and quality assurance program data, a special status of "pending accreditation" may be granted at the discretion of the department. Before a laboratory is granted full accreditation, all requirements of these regulations must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998).

§4705. Categories of Accreditation

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of approved methodologies for each parameter/analyte will be maintained by the department accreditation office, and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

B. A laboratory may apply for accreditation in any one or more of the eight fields of testing (e.g., air emissions,

wastewater/surface water, etc.) and in one or more of the 10 test categories applicable to the field(s) of testing selected. The laboratory shall be accredited in those parameters within the test category(ies) for which the laboratory demonstrates acceptable performance on proficiency samples (when available) and meets all other requirements of the department accreditation program. The accreditation test categories are as follows:

1. metals;
2. air pollutants (including industrial hygiene and Toxic Organic Compounds (T.O.) methods);
3. nutrients, minerals, ions, demands, classical wet chemistry, and total and fecal coliform;
4. microbiology (including fecal coliform and total coliform);
5. bioassay and biomonitoring;
6. organics (including volatiles, semi-volatiles, pesticides, herbicides, and PCBs);
7. dioxins and furans;
8. radiochemistry and radio assay;
9. asbestos; and
10. minor conventional parameters-BOD₅, oil and grease, TSS, pH, fecal and total coliform, and residual chlorine.

C. An accredited laboratory may request the addition of field(s) of testing and test category(ies) to its scope of accreditation at any time. Such a request must be submitted in writing to the department. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998).

§4707. Fees

A. Testing laboratories applying for accreditation or renewal of accreditation shall submit the appropriate fee calculated from the fee schedule along with the required application or update materials. Fees are nonrefundable. Fees are based on test categories and not the fields of testing.

B. In-house laboratories owned and/or operated by the state, local, or federal government are exempt from the fee requirements paid to the department, but shall make appropriate application for accreditation in accordance with other provisions of these regulations. Required proficiency samples shall be purchased by the laboratory and the required third-party audit shall be billed directly to the laboratory.

C. The annual fees shall not be prorated and shall apply in full to any portion of the fiscal year that remains prior to the annual renewal date (July 1).

D. The following basic fee structure will be used in determining the initial or annual fees due to the department:

Accreditation application fee payable every three years	\$500
Per major test category payable every year	\$250
Minor conventional category payable every year	\$200

Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$250
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

E. Additional fees may be charged for the expansion of accreditation to include new test categories. Fees must be received prior to granting accreditation. Fee assessment will depend on the category(ies) of analyses and the need for a supplemental on-site inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998).

§4709. Inspection of Laboratory

A. As a condition of obtaining and maintaining accreditation, a laboratory shall permit and facilitate inspections by personnel or designated representatives of the department. The specific requirements of an on-site inspection are outlined in LAC 33:I.Chapter 51.

B. Inspectors shall conform to appropriate safety procedures during an on-site inspection. The authorized representatives of the department who perform the on-site evaluation must be experienced professionals and hold at least a bachelor's degree in a science-related field with technical experience in a laboratory. The representative(s) must successfully complete a laboratory certification course presented by the United States Environmental Protection Agency, the National Institute of Standards and Technology, or other department-approved training group.

C. Regular inspections of accredited laboratories shall be conducted at intervals of not more than two years. Such inspections shall be conducted by representatives of the department upon presentation of credentials. Prior to granting initial accreditation and after all documentation provided to the department has been reviewed, an announced on-site laboratory inspection shall be performed.

D. Inspections may include on-site proficiency test sample(s) analyses but shall not exceed 10 percent of the test parameter(s) but must maintain minimum of one test. If there is a cost for these samples, the department will bill the laboratory, and the laboratory shall remit within 30 calendar days.

E. Laboratories that utilize mobile and/or field laboratories shall not be required to certify each laboratory individually. The mobile and/or field facilities shall be considered a part of the fixed-based laboratory and shall be required to participate in performance evaluation studies. Mobile and/or field laboratories shall not be exempt from any applicable requirements of an on-site evaluation as outlined in LAC 33:I.Chapter 51. Mobile and/or field laboratories may be

inspected at the discretion of the department. In the event an organization is composed entirely of mobile and/or field laboratories and no fixed-based laboratory exists, the business address of the organization shall be utilized as the location for accreditation purposes.

F. Fixed-base laboratories that have moved to a new location shall be inspected within 30 calendar days after the laboratory has notified the department, in writing, of such change in location as required in LAC 33:I.5707.

G. The department shall reserve the right to inspect or observe the testing procedure(s) of the laboratory if such action is deemed necessary by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998).

§4711. Proficiency Testing Participation

A. All accredited environmental laboratories or laboratories seeking accreditation must participate in department-approved proficiency testing programs relevant to their scope of accreditation, except when determined by the department that an appropriate proficiency test is not accessible or readily available. The department may provide appropriate commercial test samples at the applicant's expense whenever necessary.

B. If proficiency test samples are not available for particular test categories, the laboratory requesting accreditation will submit an "analytical data package." An "analytical data package" shall include all relevant analytical methodology, technical information, and quality assurance results concerning a particular type of analysis for which there is no current proficiency testing program.

C. Department-approved proficiency tests shall be used to provide suitable evidence of laboratory proficiency.

D. Proficiency testing studies will be available at a minimum of every six months. Laboratories may set up round robin testing programs under the department's supervision in order to satisfy this requirement, using splits where applicable.

E. Laboratories shall satisfactorily analyze at least one of the two proficiency test studies offered per year for each test category accredited. A year shall be considered as the 12-month period from the first day of July until the last day of June. Results shall be considered satisfactory when they are within the acceptable limits established by the testing agency or the department.

F. Each participating laboratory must supply the department with a copy of the proficiency evaluation (PE) test results within 30 days of receipt by the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the department along with the submittal of test results.

G. In cases of on-site proficiency testing, the department shall inform the laboratory of the results of the evaluation. The department may require the laboratory to analyze additional proficiency samples if the results of such test are "unacceptable."

H. Results of proficiency testing during the preceding 12 months shall be made available by the laboratory, upon request, to any person utilizing or requesting the services of the laboratory.

I. Accredited laboratories that desire to extend the range of tests or analyses offered shall submit a written request with the appropriate fees, shall comply with the requirements of these regulations, and shall demonstrate satisfactory results in at least one round of proficiency testing samples prior to receiving accreditation.

J. Laboratories shall bear the cost of any subscription(s) to a proficiency testing program required by the department for compliance purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998).

§4713. Interim Acceptance of Accreditation by Another Accrediting Authority for In-State Laboratories

A. Acceptance of accreditation from another accrediting authority as equivalent accreditation shall be determined by the department.

B. All of the following requirements must be fulfilled:

1. a completed application form and support documents submitted;
2. any appropriate fee(s) paid;
3. evidence of successful participation in a proficiency testing program or its equivalent;
4. written documentation of accreditation sent to the department;
5. a comparison of certification requirements from the accredited laboratory; and
6. an on-site evaluation/inspection conducted by authorized representatives of the department or the previous inspection conducted by the accrediting authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998).

§4715. Accreditation for Laboratories not Located in Louisiana

A. Out-of-state laboratories may receive accreditation via two mechanisms:

1. direct application to the department based on the requirements of this program; or
2. reciprocity based on evaluation of current accreditation maintained. Reciprocal accreditation is based on meeting the requirements set forth in LAC 33:I.4713.

B. A testing laboratory located outside of Louisiana may receive accreditation from the department or from another agency having environmental regulatory responsibility or delegated administrative authority, if approved by the department. The laboratory shall comply with all documentation and fee requests from the department.

C. If the out-of-state laboratory's accreditation is revoked, the Louisiana authorization is thereby automatically canceled. The environmental representative shall notify the state and all clients in Louisiana that utilize the laboratory of the revocation

within 10 calendar days.

D. When accreditation of the laboratory has been reinstated, the department will request adequate documentation from the laboratory indicating that the laboratory is in compliance with these regulations. The following requirements must be fulfilled before the department reinstates the laboratory as accredited:

1. a completed application form and support documents submitted;
2. fee(s) paid in accordance with LAC 33:I.4707;
3. evidence of successful participation in a proficiency testing program or its equivalent;
4. written documentation of accreditation sent to the department; and
5. an on-site evaluation/inspection conducted by authorized representatives of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998).

§4717. Accreditation for Laboratories Participating in the NELAP Certification Program

In-state laboratories participating in the National Environmental Laboratory Accreditation Program (NELAP) shall be certified under standards established by these regulations and those of the NELAP program as found at <http://134.67.104.12/html/nelac/standards.htm> or by writing NELAP, U.S. Environmental Protection Agency (MD-75A), Research Triangle Park, NC 27711, attention: NELAC Director, telephone (919) 541-1120. NELAP-certified laboratories shall be required to meet the requirements for reciprocity as set forth in LAC:33:I.4713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998).

§4719. Implementation

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC 33:I.4701.A.1, including the review fee, within 180 days of the effective date of these regulations. The department will not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 within one year of the effective date of these regulations. The department will not accept data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998).

Chapter 49. Organization and Personnel Requirements

§4901. Laboratory Staff for All Programs Covered by these Regulations

A. Managerial Staff. The laboratory shall have the managerial staff with the authority and resources needed to discharge their duties. The laboratory shall be organized in such a way that confidence in its independence of judgment and integrity is maintained at all times. The laboratory shall specify and document the responsibility, authority, and interrelation of all personnel who manage, perform, or verify work affecting the quality of calibrations and tests. Such documentation shall include:

1. a clear description of the lines of responsibility in the laboratory;
2. personnel proportioned such that adequate supervision is ensured. An organizational chart is recommended; and
3. job descriptions for all positions.

B. Laboratory Technical Director

1. Academic Training. The laboratory technical director must have a bachelor's degree in science or a minimum of four years' equivalent experience in a related field.
2. Experience. The laboratory technical director must have a minimum of two years' experience in the area of environmental analysis.

C. Quality Assurance Manager

1. Academic Training. The quality assurance manager must have a minimum of a bachelor's degree in science or four years' equivalent experience in a related field.
2. Experience. The quality assurance manager must have a minimum of two years' environmental laboratory experience.
3. Reporting Authority. The quality assurance manager must have direct access to the highest level of management for decisions regarding laboratory quality assurance policy and resources. He or she must have independent authority regarding quality assurance oversight and implementation of the quality assurance program. This organizational position must not report through the technical management of the laboratory. The quality assurance manager must have the opportunity and freedom to evaluate data objectively without influence from technical or financial management.

4. Technical Knowledge. The quality assurance manager must have a general knowledge of all analytical methods that are performed by the laboratory.

5. Small Laboratories. In smaller laboratories (staff less than 10 total employees), the quality assurance manager's responsibilities may be performed by an upper level technical or operational manager of the facility. Academic and experience requirements apply.

D. Supervisors

1. Academic Training. Supervisors must have a

minimum of a bachelor's degree or a minimum of four years' experience in a related field.

2. Experience. Supervisors must have a minimum of one year of experience in the area to be supervised, preferably with a minimum of six months' supervisory experience.

3. Radiochemistry. If the individual is supervisor of a radiochemistry laboratory, the individual must have a minimum of four years' experience in the field/area of radiochemistry; however, each year of additional college-level training in related fields may substitute for one year of experience, up to a maximum of two years.

E. Instrument Operators

1. Academic Training. Instrument operators must have a minimum of a high school diploma or equivalent and satisfactory completion of a short course or structured in-house equivalent on the operation of the instrument (by equipment manufacturer, professional organization, university, or other qualified training facility).

2. Experience. Instrument operators must have a minimum of six months' experience in the operation of the instrument with documentation that acceptable results are achieved by the operator (performance evaluation and quality control samples successfully analyzed).

3. On-the-Job Training. During on-the-job training to fulfill the requirement for experience, the data produced by the operator shall be deemed acceptable when validated and reviewed by a qualified instrument operator and/or laboratory supervisor.

F. Analyst

1. Chemistry Procedures

a. Academic Training. An analyst must have a minimum of a high school diploma or equivalent, plus proper training in a methods training course or by a qualified analyst.

b. Experience. An analyst must have a minimum of six months' laboratory experience with the analysis procedure(s) with documentation that acceptable results are achieved by the analyst (performance evaluation and quality control samples successfully analyzed).

c. On-the-Job Training. During on-the-job training to fulfill the requirement for experience, data produced by the analyst shall be deemed acceptable when validated and reviewed by a qualified analyst and/or laboratory supervisor.

2. Microbiological Procedures

a. Academic Training. An analyst must have a minimum of a bachelor's degree in science or four years' experience in a related field. He or she must have training in water analyses for total coliform and fecal coliform, a minimum of a high school diploma, or the equivalent, and satisfactory completion of a short course or structured in-house equivalent on the proper techniques of analysis.

b. Experience. An analyst must have a minimum of six months' experience in microbiological analysis and techniques.

3. Radiological Procedures (Gross Alpha, Gross Beta, and Specific Radionuclides)

a. Academic Training. An analyst must have a minimum of a high school diploma or equivalent, plus specialized training in standards and sample preparation, instrument calibration, calculations, and data handling.

b. Experience. An analyst must have a minimum of six months of on-the-job training. An analyst may assist in routine sample preparation and radioanalytical procedures provided that the work is supervised and validated by a qualified analyst and/or laboratory supervisor.

4. Biomonitoring Procedures

a. Academic Training. An analyst must have a minimum of a high school diploma, or the equivalent, and documented training by a qualified analyst. EPA video training tapes should be utilized where available.

b. Experience. An analyst must have six months of on-the-job training with documentation of acceptable results from standard reference toxicant tests performed by the analyst.

c. On-the-Job Training. During on-the-job training to fulfill the requirements for experience, data produced by the analyst shall be deemed acceptable when validated and reviewed by a qualified analyst and/or laboratory supervisor.

G. Information on the relevant qualifications, training, and experience of the technical staff shall be maintained by the laboratory.

H. The laboratory shall provide additional training as needed in order to keep personnel current with new procedures, changes in existing procedures, and/or equipment changes or improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998).

Chapter 51. On-site Inspection/Evaluation §5101. Inspection Procedures

A. The authorized representative(s) of the department shall schedule the initial on-site inspection with the applicant laboratory. The authorized representative(s) of the department may make an announced or unannounced inspection or examination of an accredited laboratory whenever the department, in its discretion, considers such an inspection or examination necessary to determine the extent of the laboratory's compliance with the conditions of its accreditation and these regulations. Any refusal to allow entry to this representative shall constitute a violation of a condition of accreditation and is grounds for discreditation. The laboratory shall provide appropriate safety equipment for the department representative(s) when required.

B. Additional inspections may be conducted when evaluations and submissions from the laboratory or its clients indicate significant technical changes in the capability of the laboratory have occurred.

C. The following shall be available for review at the laboratory:

1. quality assurance plan;
2. approved methodology manual;
3. quality assurance data; and
4. proficiency test data.

D. During inspections, consideration will be given to:

1. competence of the staff;
2. working conditions, including adequacy of space;
3. lighting, equipment, and supplies;

4. efficient organization of the laboratory;
5. testing or analytical methods used;
6. quality control procedures;
7. maintenance of all required records; and
8. compliance with all the requirements of these regulations.

E. Laboratory inspection will follow this general outline:

1. an entry briefing with laboratory management;
2. review of quality documentation, sample handling, and records, such as typical lab results and reports of test data;
3. interviews with technical staff;
4. demonstration of selected tests, as necessary;
5. examination of equipment and calibration records;
6. an exit briefing including the specific identification of any deficiencies; and

7. a written report of inspection findings to be forwarded to the laboratory within 60 working days after the on-site visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:923 (May 1998).

§5103. Laboratory Facilities

A. The laboratory conditions in which the tests are undertaken shall not invalidate the test results or adversely affect the required accuracy of measurement. The laboratory shall have the equipment and energy sources needed for proper testing. They shall be equipped with devices to monitor essential environmental conditions. Specifically, the testing laboratory shall include the following:

1. adequate work space, ventilation, light, and access to stable power sources at work stations;
2. exhaust hoods for proper elimination of volatile materials;
3. contamination-free work areas as necessary;
4. chemical and sample handling areas that will provide safe working areas and prevent cross contamination of samples;
5. adequate storage facilities for samples, extracts, reagents, solvents, reference materials, and standards to preserve their identity, concentration, purity, and stability;
6. adequate procedures and facilities in place for collection, storage, and disposal of wastes;
7. where relevant, adequate procedures and facilities for handling materials that may transmit infectious agents and radioactive materials;
8. appropriate storage for volatile, corrosive, or explosive chemicals and flammable solvents;
9. adequate separation of activities to ensure that no activity has an adverse effect on analyses;
10. separate culturing and testing facilities for biomonitoring laboratories; and
11. counting rooms that are physically separated from other activities in radiological laboratories.

B. Access to and use of all test areas shall be regulated in a manner appropriate to their designated purpose, and entry by persons external to the laboratory shall be controlled.

C. Adequate measures shall be taken to ensure cleanliness in the testing laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:924 (May 1998).

§5105. Test Methods and Procedures

A. The testing laboratory shall have adequately documented instructions on the use and operation of all relevant equipment, on the handling and preparation of test items, where applicable, and on standard testing techniques, where the absence of such instructions could jeopardize the efficiency of the testing process. All instructions, standards, manuals, and reference data relevant to the work of the testing laboratory shall be maintained up-to-date and be readily available to the staff.

B. The testing laboratory shall use department-approved methodologies. These methodologies shall be available to the staff performing the tests.

1. Any variance from department-approved methodology is acceptable with prior written confirmation by the department. When an approved method or an appropriate modification is not available, the data may be accepted when submitted with the method validation package that must include, at a minimum, the requirements found in Subsection B.2 of this Section.

2. Where it is necessary to deviate from department-approved methods, a method validation package shall be submitted. This validation package must include, at a minimum, the following:

- a. origin of method;
- b. deviations from standard;
- c. reason for deviations;
- d. effects of deviations; and
- e. comparison with the department-approved methods

replaced, with documentation indicating results achieved from the modified method are equal to or better than the original method.

C. Any federal and/or state regulations applicable to the request for alternate methodology shall have priority over these regulations, and shall be utilized in the assessment of the request.

D. The testing laboratory shall have implemented the written standard operating procedures (SOPs), which shall be available to the staff and the inspector.

E. The testing laboratory shall have an acceptable and written quality assurance program plan that is implemented by the staff and readily available to the inspector.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:924 (May 1998).

§5107. Deficiencies Identified During On-Site Inspection

A. Whenever deviations or deficiencies are found during an inspection, documentation of same will be included in the written report as required in LAC 33:I.5101.E.7. The laboratory representatives (or designees) will be asked to attest to (sign) receipt of the on-site inspection form and review same with the representative of the department conducting the

inspection. The laboratory shall have a period of 30 calendar days from date of receipt of the laboratory inspection report in which to respond to the deficiencies reported and submit a plan for correcting all identified deficiencies. If the laboratory fails to respond, the accreditation process will terminate and the laboratory will be considered as nonaccredited.

B. The laboratory shall correct any deficiencies or deviations within six months from the date of receipt of the inspection report. If deficiencies affecting the accuracy of results are found, the accreditation shall be immediately suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:924 (May 1998).

§5109. Report of On-Site Inspection

A. The department shall prepare for each accredited laboratory a listing of the test categories for which the laboratory has demonstrated proficiency during inspections. Inspection reports and listings shall be deemed public records. The department shall prepare a certificate of accreditation identifying the test categories for which the laboratory has been approved.

B. Whenever an accredited laboratory completes the requirements for increasing the scope of accredited analyses performed, another on-site inspection may be required, unless the previous annual on-site inspection verifies the competency of the laboratory to perform the additional tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:925 (May 1998).

§5111. Laboratory Safety Program

While specific safety criteria are not an aspect of laboratory accreditation, laboratory personnel should apply general and customary safety practices as part of good laboratory procedures. Each laboratory is strongly encouraged to have a written safety plan as part of their standard operating procedures. However, when safety practices are included in any approved method, those procedures become mandatory and must be strictly followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:925 (May 1998).

Chapter 53. Quality System Requirements

§5301. Quality Assurance/Quality Control Requirements

A. Each laboratory seeking accreditation shall:

1. have documented quality control procedures in use for each analytical procedure;
2. comply with all quality control procedures required by applicable federal, state, or public health agencies when performing analyses; and
3. have procedures to be followed for feedback and corrective action whenever testing discrepancies are detected or departures from documented policies and procedures occur.

B. The laboratory shall operate an internal quality

assurance program appropriate to the type, range, and volume of work performed. A person/persons having responsibility for quality assurance within the laboratory shall be designated by the laboratory management and have direct access to top management.

C. The quality assurance program shall be documented in a quality assurance manual that is available for use by the laboratory staff. The quality assurance manual shall be maintained by the quality assurance manager. The quality assurance manual shall contain information regarding:

1. the structure of the laboratory (organizational charts and generic position descriptions);
2. the operational and functional duties and services pertaining to quality assurance, so that each person concerned knows the extent and the limits of his/her responsibility;
3. general quality assurance procedures;
4. procedures for feedback and corrective action whenever testing discrepancies are detected;
5. chain of custody procedures;
6. a quality policy statement, including objectives and commitments, by management;
7. references to procedures for the control and maintenance of documentation, including document control of laboratory notebooks, instrument logbooks, standards logbooks, and records for data reduction, validation, storage, and reporting;
8. the laboratory's procedures for achieving traceability of measurements;
9. the laboratory's scope of tests;
10. references to procedures for handling submitted samples;
11. references to major equipment, as well as the facilities and services used by the laboratory;
12. references to procedures for calibration, verification, and maintenance of equipment;
13. references to verification practices including interlaboratory comparisons, proficiency testing programs, use of reference materials, and internal quality control schemes;
14. the laboratory management arrangements for departures from documented policies and procedures or from standard specifications;
15. references to procedures for dealing with complaints;
16. references to procedures for protecting confidentiality and proprietary rights;
17. references to procedures for audit and review; and
18. references to processes/procedures for establishing that personnel are adequately experienced in the duties they are expected to carry out and/or receive any needed training.

D. The quality assurance system shall be reviewed annually by management to ensure its continued effectiveness. Such reviews shall be documented with details of any changes.

E. Standard operating procedures (SOPs) shall be kept in a manual available to the analyst and the inspector. SOPs may be included as a part or section of the laboratory's quality assurance manual. The laboratory shall have clearly defined, written SOPs or an equivalent, addressing, at a minimum, and as appropriate:

1. methods of analysis;
2. sample collection, preservation, storage, handling, and chain of custody;
3. procurement and inventory procedures;
4. preventive maintenance;
5. recordkeeping and record storage (archives);
6. data reduction, validation, and reporting;
7. correcting erroneous reports;
8. management of laboratory wastes and hazardous materials; and
9. complaints registered against the laboratory's testing procedures, reporting procedures, and/or other general operating procedures.

F. Supervisory staff shall be responsible for quality assurance/quality control implementation and compliance.

G. The following general quality control principles shall apply, where applicable, to all testing laboratories. The manner in which they are implemented is dependent on the types of tests performed by the laboratory (e.g., chemical, microbiological, radiological). The standards for any given test type shall assure that the following applicable principles are addressed:

1. all laboratories shall have protocols in place to monitor the following quality controls:
 - a. adequate controls to monitor tests such as blanks, spikes, or reference toxicants;
 - b. adequate tests to define the variability and/or reproducibility of the laboratory results such as duplicates;
 - c. measures to ensure the accuracy of the test data, including sufficient calibration and/or continuing calibrations, use of certified reference materials, proficiency test samples, or other measures;
 - d. measures to evaluate test performance, such as method detection limits, or range of applicability such as linearity;
 - e. selection of appropriate formulae to reduce raw data to final results such as linear regression, internal standards, or statistical packages;
 - f. selection and use of reagents and standards of appropriate quality; and
 - g. measures to assure constant and consistent test conditions (both instrumental and environmental) where required by the method, such as temperature, humidity, light, or specific instrument conditions;
2. all quality control measures shall be assessed and evaluated on an ongoing basis, and quality control acceptance limits shall be used to determine the validity of the data. The acceptance/rejection criteria shall be updated at a frequency established by the method or by the department's standards;
3. the laboratory shall have procedures for the development of acceptance/rejection criteria where no method or regulatory criteria exists; and
4. the method-specified and/or method-recommended quality control protocols shall be followed. The essential standards shall be used if no protocols are written into the method or if the method protocols are less stringent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:925 (May 1998).

§5303. Equipment and Supplies

A. The laboratory shall be furnished with or have access to all items of equipment required for correct performance of the analytical procedures for which it is accredited.

B. All equipment shall be properly maintained. Maintenance shall be documented.

C. Defective equipment shall be removed from service and labeled until it has been repaired and shown to function satisfactorily.

D. Maintenance log book(s) shall be maintained for all major equipment. Each log shall include:

1. the name of the item of equipment;
2. the manufacturer's name, type identification, and serial number;
3. the date received and the date placed in service;
4. the condition of equipment when placed in service (new, used, or reconditioned);
5. the current location;
6. the location of manufacturer's instruction manual (if available); and
7. the details of maintenance.

E. In the case of measuring equipment, calibration records shall be maintained.

F. Records shall be maintained for acquisition of all equipment, reagents, and support services utilized by the laboratory in the generation of analytical data.

G. Supplies used for environmental testing shall meet the following minimums:

1. analytical reagents:
 - a. analytical reagent grade (AR) chemicals or equivalent are acceptable, unless individual procedures specify other reagent requirements;
 - b. stock and working standard solutions shall be checked regularly for signs of decomposition and expiration;
 - c. all solutions shall be labeled with identification of the compound, concentration, date prepared, analyst who prepared solution, and expiration date;
 - d. all purchased chemicals, solutions, and standards shall be labeled with dates of receipt, the dates of expiration on the container, and the date when the container is opened;
 - e. when reagents are removed from a container, they shall be used entirely or the unused portion discarded. Unused portions of a reagent may not be returned to the original container; and
 - f. compressed gases shall be of commercial grade, unless individual procedures specify other requirements.
2. glassware shall be cleaned and maintained properly as required by the test methodology; and
3. thermometers:
 - a. the laboratory shall have access to a NIST (National Institute of Standards and Technology) traceable thermometer where applicable;
 - b. the calibration of working thermometers, with the exception of dial thermometers, shall be checked at least annually against a NIST traceable certified thermometer and

results recorded and documented per thermometer;

c. the calibration of dial-type thermometers shall be checked at least quarterly against a NIST traceable thermometer and results recorded per thermometer; and

d. thermometers shall be labeled when calibrated and the correction factor recorded.

H. Equipment used for environmental testing shall meet the following minimums:

1. analytical balances/pan balances:

a. records of balance calibration shall be kept for at least two ranges with a minimum class S or S-1 reference weights (weights should be recertified every two years). Records or equivalent showing daily (or before each use) functional/calibration checks for analytical balances and monthly functional/calibration checks for pan balances shall be maintained;

b. balances shall be calibrated and serviced at a minimum of once per year and service date recorded on the balance; and

c. balances may only be used with suitable support;

2. pH meters:

a. the laboratory shall use a pH meter with appropriate electrode with scale graduations at least 0.1 pH units (calibrated to ± 0.1 pH units for each use period) with temperature correction;

b. either a thermometer or a temperature sensor for automatic compensation shall be in use;

c. records shall be maintained indicating calibration daily or before each use, whichever is less frequent; and

d. aliquots of standard pH 4 and pH 7 or pH 7 and pH 10 shall be used only once;

3. conductivity meter:

a. a conductivity meter and probe of sufficient sensitivity shall be in use;

b. records shall be kept to show a daily or before each use calibration check, whichever is less frequent. Calibration shall be within the range of interest using standard solutions; and

c. records shall be kept showing that the cell constant is determined annually;

4. refrigeration equipment:

a. thermometer(s) in each refrigerator shall be immersed in liquid to the appropriate immersion line;

b. thermometers shall be graduated in increments no larger than 1°C;

c. temperatures for each refrigerator shall be recorded for each day in use for laboratory activities;

d. samples shall be stored in separate refrigerators from all standards where a potential for cross-contamination exists; and

e. refrigerator temperature should be maintained between 1EC and 6EC (inclusive), and freezer temperature shall be less than 0EC;

5. visual comparison devices:

a. visual devices shall be calibrated according to manufacturer's specifications and/or test methodologies; and

b. results shall be recorded and maintained; and

6. ovens/incubators/baths:

a. temperature shall be adequately controlled; and

b. records shall be kept to show that temperature is maintained (e.g., beginning and end of each use cycle or daily for extended drying periods).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:926 (May 1998).

§5305. Calibration

A. Measuring and testing equipment used by the testing laboratory shall be calibrated, where appropriate, before being put into service and thereafter according to an established program.

B. The overall program of calibration of equipment shall be designed and operated so as to ensure that measurements made in the testing laboratory are traceable (where the concept is applicable) to national standards of measurement and, where available, to international standards of measurement specified by the International Committee of Weights and Measures. Where the concept of traceability to national or international standards of measurement is not applicable, the testing laboratory shall provide satisfactory evidence of correlation or accuracy of test results (e.g., by participation in a suitable program of interlaboratory comparisons).

C. The laboratory shall record all calibration data including frequency, conditions, and standards used for all analytical methodology.

D. The laboratory shall verify and document all standards versus primary (reference) standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:927 (May 1998).

§5307. Test Methods and Procedures

A. The laboratory shall have procedures for making and controlling revisions to in-house SOPs, using revised SOPs only after written authorization from the designated laboratory authority.

B. Quality control procedures shall be documented and available to the staff as required in LAC 33:I.5301.C.

C. All manual calculation and data transfers shall be subject to appropriate checks.

1. When manual calculations are checked by a supervisor or another analyst, the results shall be initialed and dated on the work sheet by the individual who verified the results.

2. Where results are derived by electronic data processing techniques, the stability of the system shall be such that the accuracy of the results is not affected. This generally implies an ability to detect malfunctions in the hardware during program execution and take appropriate corrective action. Adherence to good automated laboratory practices (GALP) is recommended; however, at a minimum the laboratory must comply with the following:

a. computer software must be appropriate for the intended use;

b. procedures must be established and implemented for the protection of the integrity of data. Such procedures shall include:

- i. integrity of data entry or capture;
- ii. data storage;
- iii. data transmission; and
- iv. data processing;

c. computer and automated equipment must be provided with acceptable environmental operating conditions in order to maintain the operating integrity of the system; and

d. appropriate procedures must be implemented in order to maintain the security of data. These procedures must include prevention of unauthorized access to computer records and prevention of unauthorized amendments or changes to computer records.

D. Whenever samples are subcontracted to another environmental testing laboratory, the original laboratory shall maintain a verifiable copy of results with a chain of custody. This procedure may not be used to circumvent proper accreditation or any state requirements. The original laboratory is responsible for ensuring that the secondary laboratory used is properly accredited for the scope of testing performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:927 (May 1998).

§5309. Radiochemistry and Radionuclide Assay

A. General Requirements. Radiochemistry and radionuclide assay laboratories shall be subject to the requirements set forth throughout these regulations and to those specific requirements established in this Section. These are minimum specifications, and more stringent criteria may be utilized.

B. Quality Control Practices

1. The laboratory shall continually evaluate its performance for each method and matrix that includes the determination of accuracy and precision.

2. Supervisory personnel shall conduct a documented review of the data calculations and quality control (QC) results.

3. Deviations or deficiencies shall be reported to management and documented. QC data shall be retrievable for all analyses.

4. Method detection limits shall be determined and documented. Confirmation of detection limits shall be done yearly or as required by the method.

C. Quality Assurance Checks

1. Radiochemistry and Associated Radionuclide Assay. Ten percent of all analyses shall be QC, unless otherwise specified by the specific method. A minimum of three QC samples should be performed for each batch. The lab should repeat all samples if the QC check standard is outside the 95 percent confidence interval (\pm two standard deviations). Samples should be performed as follows:

a. QC samples should include one spike in 10 or one spike per batch if less than 10;

b. QC samples should include one blank in 10 or one blank per batch if less than 10;

c. QC samples should include one duplicate or spiked duplicate in 10 or one duplicate per batch if less than 10; and

d. spike samples should be representative of specified regulatory limits and/or they should approach the method-specific minimum detectable activities or lower limit of detections.

2. Radionuclide Assay Other than Radiochemistry. Ten percent of all analyses shall be QC, unless otherwise specified by the method. A minimum of three QC samples should be performed for each batch. The lab should repeat all samples if the QC check standard is outside the 95 percent confidence interval \pm two standard deviations. Samples should be performed as follows:

a. QC samples should include one spike in 10 or one spike per batch if less than 10;

b. QC samples should include one blank in 10 or one blank per batch if less than 10;

c. QC samples should include one duplicate or spiked duplicate in 10 or one duplicate or spiked duplicate per batch if less than 10;

d. spike samples should be representative of specified regulatory limits and/or they should approach the method-specific minimum detectable activities or lower limit of detections; and

e. standard NIST traceable sources may be substituted for spike analysis.

D. General Equipment and Supplies

1. Supplies

a. Distilled and/or deionized water shall be demonstrated to be free of interferants at applicable detection limits. This may be accomplished through the use of blanks.

b. Analytical reagents shall be demonstrated to be free of interferants at applicable detection limits. This may be accomplished through the use of blanks.

c. Reference sources should be traceable to NIST or an equivalent and shall be replaced after an appropriate period of time, not to exceed five half-lives of a single nuclide or, in the case of mixed nuclide standards, they should be replaced after they have been determined to be unusable. Unusable is determined by the inability to meet calibration criteria as set forth by the method or technical manual.

2. Equipment—Auto Pipetors/Diluters

a. Apparatus having sufficient sensitivity for the application shall be used.

b. Records shall be kept showing delivery volumes are checked periodically.

c. Laboratory technicians shall periodically demonstrate the ability to properly use the equipment. This shall be documented.

E. Analytical Instrumentation. Maintenance log book(s) shall be maintained on all instrumentation or measuring devices. Each log shall include:

1. information as set forth in LAC 33:I.5303.D;
2. calibration frequency;
3. standards used for calibration;
4. calibration history;

5. the authorized calibration personnel or institute; and
 6. records of all maintenance performed.
- F. Environmental Testing Equipment. Equipment used for environmental testing shall meet the following minimums:
1. low background alpha/beta counting systems:
 - a. the systems shall be calibrated at least yearly;
 - b. the systems shall be calibrated in accordance with the appropriate methodologies or their appropriate technical manual;
 - c. attenuation curves shall be developed for appropriate alpha/beta energies that best represent the energies of the radionuclide of concern;
 - d. voltage plateaus shall be performed yearly, whenever counting gas has been changed, or if major maintenance is performed to the system. If the voltage plateau changes by more than 50 volts, the calibration curves shall be performed;
 - e. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use; and
 - f. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;
 2. gamma spectroscopy systems:
 - a. the systems shall be calibrated at least yearly and shall include energy, peak width, and efficiency;
 - b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;
 - c. daily reference source checks shall be performed when in use or weekly when not in use;
 - d. monthly background checks shall be performed; and
 - e. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;
 3. liquid scintillation systems:
 - a. the systems shall be calibrated at least yearly and shall include energy, peak width, and efficiency;
 - b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;
 - c. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use; and
 - d. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;
 4. alpha spectroscopy systems:
 - a. the systems shall be calibrated at least yearly;
 - b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;
 - c. daily reference source checks shall be performed when in use or weekly when not in use;
 - d. monthly background checks shall be performed; and
 - e. sample log books shall be maintained for all

samples that were counted/analyzed on the appropriate systems; and

5. analytical instrumentation not mentioned above, such as counter scalers or ionizing radiation detection equipment:
 - a. the instrumentation shall be calibrated at least yearly or as mandated by a specific regulatory agency such as EPA, Nuclear Regulatory Commission (NRC), or state governments;
 - b. the instrumentation shall be calibrated according to the appropriate methodologies or to the manufacturer's technical manual;
 - c. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use, if applicable; and
 - d. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems.

G. Laboratory Environment

1. Radiochemistry and radionuclide assay counting rooms, wet chemistry rooms, and sample preparation and sample storage rooms shall be physically separated. Access and egress shall be controlled.

2. Radiochemistry and radionuclide assay counting rooms shall be adequately monitored for room temperature, humidity, pressure, and electrical supply characteristics on a daily basis when in use. These characteristics shall be maintained to ensure proper operation of the analytical equipment. Records shall be maintained.

3. Adequate measures shall be taken to ensure good housekeeping in the laboratory.

H. Waste Disposal. Radioactive waste disposal shall be thoroughly documented. The documentation shall include the following:

1. quantity disposed of;
2. where the radioactive material was disposed;
3. when it was disposed;
4. who disposed of the material; and
5. activity of disposed material, as applicable.

I. Records (Control Charts)

1. Control charts shall be updated at least monthly.

2. Copies of the control charts shall be available for technician review.

3. Control charts shall have at a minimum the following information:

- a. all axes labeled;
- b. instrument I.D. and/or serial number;
- c. one and two sigma values as well as the normal expected values; and
- d. applicable units as necessary.

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HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:928 (May 1998).

§5311. Quality Assurance for Biomonitoring Laboratories

A. Quality assurance practices for toxicity testing laboratories must address all activities that affect the quality of the final effluent toxicity data, such as:

1. effluent sampling and handling;

2. the source and condition of the test organisms;
3. condition of equipment;
4. test conditions;
5. instrument calibration;
6. replication;
7. use of reference toxicants;
8. recordkeeping; and
9. data evaluation.

B. Facilities, Equipment, and Test Chambers

1. Separate test organism culturing and toxicity testing areas shall be provided to avoid loss of cultures to cross-contamination. Ventilation systems shall be designed to prevent recirculation of air from chemical analysis laboratories into organism culturing or testing areas and from sample preparation areas into culture rooms.

2. Laboratory and toxicity test temperature control equipment shall be adequate to maintain recommended test water temperatures.

3. Recommended materials shall be used for test equipment and test chambers.

C. Laboratory Water Used for Culturing and Test Dilution Water

1. The dilution water used in effluent toxicity tests will depend on the objectives of the study or requirements of discharge permits.

2. Water used for culturing organisms, dilutions, and internal quality assurance tests with food, organisms, and reference toxicants shall be analyzed for toxic metals and organics annually or whenever difficulty is encountered meeting minimum acceptability control requirement. The concentration of the metals Al, As, Cr, Co, Cu, Fe, Pb, Ni, and Zn, expressed as total metals, shall not exceed one ug/L each, and Cd, Hg, and Ag, expressed as total metals shall not exceed 100 ng/L. Total organochlorine pesticides plus PCBs shall be less than 50 ng/L. Pesticide levels shall not exceed EPA's ambient water quality chronic criteria values where available.

3. Water used for culturing and test dilutions shall be prepared using methods in the test manuals.

D. Sample holding times and temperatures of effluent samples must conform to conditions described in the test methods and/or the discharge permit.

E. Test Conditions

1. Water temperature shall be maintained within limits specified for each test.

2. Environmental chambers, incubators or equivalent facilities shall be adequately monitored by utilizing a seven-day continuous recording chart for temperature and light/dark cycle. Verification that the light/dark cycle is maintained shall be done at a minimum of twice monthly if a recording device is not utilized. Temperature recording charts shall be maintained in record form.

F. Test Organism Quality

1. If the laboratory does not maintain in-house cultures of test organisms and obtains organisms from an outside source, the sensitivity of each batch of test organisms shall be determined with the appropriate reference toxicant test performed concurrently with the effluent test, unless the organism supplier provides control chart data from, at a minimum, the last five monthly reference toxicity tests.

2. If the laboratory maintains in-house cultures, the sensitivity of the offspring shall be determined with the appropriate toxicity test performed with a reference toxicant at least once each month. If a given species of test organisms is used only monthly, or less frequently, in toxicity tests, a reference toxicant test shall be performed with each effluent and/or receiving water toxicity test.

3. If the laboratory maintains in-house cultures, records shall be maintained on organism health, mortality, water quality, and culture system maintenance.

4. Test organisms shall be positively identified to species.

G. Food Quality

1. Problems with nutritional suitability of food will be reflected in the survival, growth, and reproduction in cultures and toxicity tests. *Artemia* cysts and other foods shall be obtained and analyzed as described in the test manuals, unless analysis is provided by the supplier, then the certificate of analysis shall be maintained.

2. New batches of food used in culturing and testing should be analyzed for toxic organics and metals or whenever difficulty is encountered meeting minimum acceptability criteria for control survival and reproduction or growth. Foods exceeding the requirements in the test manuals should not be used.

H. Test Acceptability

1. A control shall be run with each toxicity test.

2. The minimum criteria stated in the appropriate test manuals and/or the discharge permit must be met for a test to be valid.

3. Individual tests may be conditionally acceptable if temperature, dissolved oxygen (DO), and other specified conditions fall outside specifications, depending on the degree of departure and objectives of the test. The acceptability will depend on the experience and professional judgment of the laboratory investigator and reviewing staff of the regulatory agency.

I. Analytical methods for analyses of culture and dilution water, food, and test solutions must include established quality assurance practices outlined in EPA manuals (USEPA 1979a and USEPA 1979b).

J. Calibration and Standardization

1. Instruments used for routine measurements of chemical and physical parameters such as pH, DO, temperature, and conductivity must be calibrated and standardized according to the instrument manufacturer's procedures as indicated in LAC 33:I.5301 on quality assurance. Calibration data is recorded in a permanent log book.

2. Wet chemical methods used to measure hardness, alkalinity, and total residual chlorine must be standardized prior to use each day according to the procedures for these specific EPA methods.

K. The minimum number of replicates stated in the test methods and/or permit shall be used for each toxicity test.

L. It is the laboratory's responsibility to demonstrate its ability to obtain consistent, precise results with reference toxicants before it performs toxicity tests with effluents for permit compliance purposes. To meet this requirement, the

intralaboratory precision, expressed as percent coefficient of variation (CV percent), of each type of test used in the laboratory shall be determined by performing five or more tests with different batches of test organisms, using the same reference toxicant at the same concentrations, with the same test conditions and the same data analysis methods. A reference toxicant concentration series (0.5 or higher) shall be selected that will consistently provide partial mortalities at two or more concentrations.

M. Documenting Ongoing Laboratory Performance

1. Satisfactory laboratory performance shall be demonstrated by performing one acceptable test per month with a reference toxicant for each test method used in the laboratory. For a given test method, successive tests must be performed with the same reference toxicant, at the same concentrations, in the same dilution, and using the same data analysis methods.

2. A control chart should be prepared for each combination of reference toxicant, test species, test conditions, and end points. Control limits are stated in test method manuals.

N. Reference toxicants such as sodium chloride (NaCl), potassium chloride (KCl), cadmium chloride (CdCl₂), copper sulfate (CaSO₄), sodium dodecyl sulfate (SDS), and potassium dichromate (K₂Cr₂O₇) are suitable for use by the laboratory. Standard reference materials can be obtained from commercial supply houses or can be prepared in-house using reagent grade chemicals.

O. A complete file shall be maintained for each individual toxicity test or group of tests on closely related samples. Original data sheets shall be signed and dated by the personnel performing the tests. The file should contain:

1. a record of the chain of custody;
2. a copy of the sample log sheet;
3. the original bench sheets;
4. chemical analysis data on the sample(s);
5. detailed records of the test organisms used in the test, such as species, source, age, date of receipt, and other pertinent information relating to their history and health;
6. information on calibration of equipment and instruments; and
7. results of reference toxicant tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:929 (May 1998).

§5313. Reports

A. The work carried out by the testing laboratory shall be covered by a report that accurately, clearly, and unambiguously presents the test results and all other relevant information. The report format should be specifically designed for the type of test/analysis reported, but standardized headings should be utilized whenever possible.

B. Each test report shall include at least the following information:

1. name and address of testing laboratory;
2. title of report, unique identification of report (such as log number), identification of each page of the report by number, and total number of pages in the report;

3. description and identification of the sample(s);
4. date of receipt of sample(s) and date(s) of performance of test, as appropriate;
5. identification of the test method;
6. any deviations, additions to, or exclusions from the test method and any other information relevant to a specific test;
7. disclosure of any nonstandard test method utilized;
8. measurements, examinations, and results, accompanied by appropriate quality assurance (QA) documents;
9. a statement on measurement uncertainty (where relevant);
10. a signature and title of person(s) accepting technical responsibility for the test report and date of issue;
11. if applicable, a statement that indicates that the results relate only to the items tested; and
12. if applicable, a statement that indicates that the report shall not be reproduced in full (or in part, if required) without the written approval of the customer.

C. Corrections or additions to a test report after issue shall be made only by a further document suitably marked (e.g., "Supplement to test report log number..." or as otherwise identified) and shall meet the relevant requirements of this Section.

D. In instances where the laboratory transmits a report via telephone, telex, facsimile (FAX), or any other means of electronic transmittal, the laboratory must have in place a written procedure that will provide protection and/or preservation of client confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:931 (May 1998).

§5315. Records

A. The testing laboratory shall retain on record all raw data and observations, calculations and derived data, calibration records, and the final test report for a minimum of five years or as required by regulatory or legal requirement.

B. All records and test reports shall be held securely and in confidence to the client, unless otherwise required by law.

C. The testing laboratory shall maintain a system that provides for retrievability of the chain of custody of the sample source, the analytical method, results (including calibration and instrument checks), the analyst performing the analysis, and the date. If laboratory records indicate that incorrect or questionable data has been generated by defective or improperly operated equipment, erroneous data entry, or other such anomalies, and a report has been issued, then the laboratory shall immediately notify the client. A written, corrected or amended report must be forwarded to the client.

D. Current reference documents (e.g., EPA manuals, CFRs, Standard Methods) shall be maintained and available to the staff.

E. Entries to all laboratory analytical records shall be made in a legible, permanent fashion and corrections made without obliterating original entries. All corrections shall be initialed and dated.

F. A permanent record of employees' signatures and

initials shall be maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:931 (May 1998).

Chapter 55. Sample Protocol/Sample Integrity

§5501. Unacceptable Samples

When a sample is received by the testing laboratory and it is apparent or suspected that the sample protocol has not been followed, the laboratory should have a written procedure for handling of the questionable sample. The laboratory may choose to notify the customer and either request another sample or, if the customer insists upon analysis of the sample, reserve the right to include a disclaimer in the final report identifying the sample anomaly. This disclaimer must be permanently attached to the final report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998).

Chapter 57. Maintenance of Accreditation

§5701. Display of Accreditation Certificate

A. A current accreditation document shall be displayed at all times in a location visible to the public in each accredited laboratory. In cases of suspension or discreditation, the document shall be immediately removed.

B. The accreditation documents shall note the scope of accreditation (classes/parameters of approved testing) as well as the time frame for which the laboratory is accredited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998).

§5703. Renewal of Accreditation

A. Accreditation shall be renewed annually, provided the testing laboratory has maintained compliance with these regulations, has reported acceptable proficiency test values for accredited classes, and has paid appropriate fees.

B. Failure to receive a renewal notice does not exempt laboratories from meeting the renewal date requirements.

C. Failure to pay the required renewal fees for 30 days shall automatically suspend accreditation of the laboratory until the fee is received by the department.

D. Failure to pay the required renewal fees for 90 days shall automatically result in discreditation of the laboratory. A laboratory whose accreditation has expired may reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998).

§5705. Discreditation and Suspension

A. The department may suspend or discredit a laboratory in any or all test categories when the laboratory fails to fully meet all requirements of these regulations. Factors such as the gravity of the offense, the danger to the public of the offense, the intent of the violation, the extent of the violation, and the proposed correction of the problem will be considered to

determine if suspension or discreditation is to be imposed. An emergency order immediately discrediting the laboratory may be issued if any conditions exist that present an eminent danger to public health and safety.

B. The department shall notify the laboratory by registered or certified letter of the suspension or discreditation and the reasons for the action.

C. Suspensions shall not be withdrawn until the basis for the suspension has been eliminated or rectified.

D. Appeals for laboratories that have received discreditation notices are governed by applicable statutes.

E. If the testing laboratory's accreditation is revoked by the department or another agency having primary enforcement responsibility or delegated administrative responsibility (e.g., out-of-state laboratories), the laboratory management shall notify, in writing, all clients that utilize the laboratory for analysis of samples and reporting of data to the department that the laboratory's accreditation has been revoked. Clients must be advised of the change in accreditation status within 10 calendar days from the official notice of the action.

F. The following shall be considered grounds for discreditation/suspension:

1. violation of a condition of the accreditation;
2. violation of a statute, regulation, or order of the department;
3. misrepresentations or falsifications made to the department, including any documents associated with accreditation applications;
4. demonstrable nonconformance with the requirements of these regulations, including failure to correct deficiencies;
5. nonpayment of applicable fees;
6. demonstrating incompetence or making consistent errors in analyses or erroneous reporting;
7. failure to report, in writing within 30 days, any changes in location, ownership, management and supervisory staff, authorized representative, major facilities of the laboratory, modification of technique, or any revisions to the accreditation application or required support documentation;
8. failure to employ approved testing methods in the performance of analyses;
9. failure to maintain facilities or equipment properly;
10. failure to report analytical test results as required or to maintain required records of test results;
11. failure to participate successfully in a required performance evaluation program;
12. violation or aiding and abetting in the violation of any provision of these regulations or the rules promulgated hereunder;
13. advertising false credentials;
14. failure to indicate clearly in the records when analyses were subcontracted to another laboratory;
15. performing and charging for additional tests or analyses that have not been requested by the customer, falsifying analyses, or engaging in other unethical or fraudulent practices; and
16. subcontracting performance evaluation samples to another laboratory and using the results to satisfy requirements for accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S.

30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998).

§5707. Changes in Laboratory Operation

Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which the laboratory was originally accredited shall be reported to the department within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998).

§5709. Reaccreditation

Reaccreditation shall require the submission of a new, revised application demonstrating and documenting corrective action implemented since loss of accreditation status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998).

Herman Robinson
Assistant Secretary

9805#070

RULE

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Domestic Relations Orders

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (the "fund"), pursuant to R.S. 11:3363(F) has amended rules and regulations for determining qualified status of domestic relations orders.

Determining Qualified Status of Domestic Relations Orders

1. Intent and Construction

These procedural rules are adopted in order to satisfy the requirements of all applicable state law including, but not limited to, R.S. 11:291, and 292, R.S. 11:3408, Subsection 206(d) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1056(d), and §414(p) of the *Internal Revenue Code*, 26 U.S.C. §414(p), and shall be construed consistently with this purpose.

The trustees are aware that §401(a)(13)(A) of the code provides that benefits under a qualified plan may not be assigned or alienated. Section 401(a)(13)(B) establishes an exception to the anti-alienation rule for assignments made pursuant to domestic relations orders that constitute Qualified Domestic Relations Orders ("QDROs") within the meaning of §414(p)(1)(B) and of Paragraph 2 hereof. Moreover, R.S. 11:291 and 292 similarly establish exceptions to the anti-assignment prohibition imposed by R.S. 11:3408 in regard to this fund. In view of the trustees' intent to administer

the fund as a qualified plan, as well as their awareness that R.S. 11:291 and 292 require the fund to honor certain court-ordered assignments relating to community property rights and child support, these rules hereby establish the trustees' willingness to recognize and enforce any QDRO that meets the requirements set forth herein.

It is further intended that the provisions of §414(p)(3) of the code and R.S. 11:291 and 292 be strictly observed. Therefore, the trustees shall not honor the terms of any QDRO that purports to require the fund to provide any type or form of benefit, or any option, not otherwise provided under the fund; that requires the fund to provide increased benefits (determined on the basis of actuarial value); or that requires the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO.

However, the trustees shall not treat a domestic relations order as failing to meet the requirements of §414(p)(3)(A) and thus to constitute a QDRO solely because the order requires payment of benefits to an alternate payee on or after the participant's earliest retirement age, even if the participant has not separated from service at that time.

Finally, it is the trustees' intent to honor the provision of any QDRO that the participant's former spouse shall be treated as the participant's surviving spouse for purposes of the right to receive all or part of any survivor benefits payable, and that any other spouse of the participant shall not be treated as a spouse of the participant for these purposes, except as to portions of the survivor benefits not assigned to the former spouse via the QDRO. In the event the participant's former spouse is required by the provisions of a QDRO to be treated as a surviving spouse for these purposes, the former spouse must be accorded the same rights that would otherwise accrue to the surviving spouse.

2. Definitions

As used in these procedural rules, unless the context indicates otherwise, the following terms shall have the following meanings:

Alternate Payee—the participant's spouse (or former spouse) or child, or any parent, guardian, government entity, or other agent authorized by the terms of a judicial order to act on the child's behalf, who is entitled to receive some or all of the fund's benefit payments with respect to the participant under the terms of the QDRO. The same QDRO may identify more than one alternate payee; and several alternate payees may be identified in multiple QDROs. However, the trustees shall not recognize the entitlement of any alternate payee, even if specified in a domestic relations order, if the benefits assigned therein have already been assigned by reason of an earlier QDRO validly served upon the fund.

Domestic Relations Order—any judgment, decree, or order (including approval of a property settlement or community property partition) that:

(i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant; and

(ii) is made pursuant to a state domestic relations law (including a community property law).

A state court shall actually issue an order or formally

approve a proposed property settlement in order for it to be recognized by the trustees as a domestic relations order. A property settlement or community property partition signed by a participant and the participant's former spouse, or a draft order to which both parties consent, shall not be considered a domestic relations order until the state authority has adopted it as an order or formally approved it and made it part of the domestic relations proceeding.

Earliest Retirement Date—the earlier of:

- (i) the date on which the participant is entitled to a distribution under the fund; or
- (ii) the later of:
 - (A) the date the participant attains age 50; or
 - (B) the earliest date on which the participant could begin receiving benefits under the fund if the participant separated from service.

Participant—any employee or former employee of an employer in relation to the fund who is or may become eligible to receive a benefit of any type from the fund, and who is the individual whose benefits under the fund are being divided by the QDRO.

Qualified Domestic Relations Order—a domestic relations order that creates or recognizes the existence of an alternate payee's right (or assigns to an alternate payee the right) to receive all or a portion of the benefits payable with respect to a participant in the fund, provided that the order:

- (i) clearly specifies:
 - (A) the name and last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order or, in the event the alternate payee is a minor or legally incompetent, the name and address of the alternate payee's legal representative; provided, however, that the trustees shall not withhold recognition as a QDRO of a judicial order issued in connection with a participant's child support obligations merely because the name of the child on whose behalf the order has been issued is not specified therein, so long as the order identifies the name of the authorized individual or agency, with appropriate address to which the benefit assignment is to be forwarded, and so long as the order specifically identifies the payment as a child support obligation;
 - (B) the amount or percentage of the participant's or the survivor benefits to be paid by the fund to each such alternate payee, or the manner in which such amount or percentage is to be determined;
 - (C) the number of payments or the period to which such order applies, and
 - (D) the name and identity of the fund;
- (ii) does not require:
 - (A) the fund to provide any type or form of benefits, or any option, not otherwise provided under the fund;
 - (B) the fund to provide increased benefits (determined on the basis of actuarial value); or
 - (C) the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

Trustees—the Board of Trustees for the Firefighters'

Pension and Relief Fund for the City of New Orleans, or such person or entity to whom the board has delegated responsibility to make determinations on its behalf under these rules.

3. QDRO Language

Many factors should be taken into account by the drafters of a QDRO in determining which benefits to assign to an alternate payee and how these benefits are to be assigned. Because of the complexity and variety of the factors that should be considered and the need to tailor the assignment of benefits under a QDRO to the individual circumstances of the parties, it would be inappropriate for the trustees to propose specific sample language for inclusion in a QDRO. Instead, individual participants and alternate payees, and their respective attorneys, are directed to collaborate jointly upon the drafting of orders that meet their individual needs. Nevertheless, if so requested, the trustees shall review any proposed order submitted to the fund prior to its submission to the appropriate court for execution and entry, with a view to indicating the trustees' probable determination concerning its status as a QDRO. The trustees are required by law to honor and enforce the terms of any QDRO which meets the conditions specified in these rules and as may subsequently be determined by the applicable statutes and the courts' interpretations thereof.

For further guidance concerning those matters that should be considered when drafting a QDRO (e.g., types of benefits, approaches to dividing retirement benefits, form and commencement of payment to alternate payees, survivor benefits and treatment of former spouse as participant's spouse, and tax treatment of benefit payments made pursuant to a QDRO) the parties are encouraged to consult Notice 97-11 issued by the Internal Revenue Service and appearing in *Internal Revenue Bulletin 1997-2* dated January 13, 1997. Additional guidance may be found in the Pension Benefit Guaranty Corporation's booklet entitled *Divorce Orders and PBGC*, which discusses the special QDRO rules that apply for plans that have been terminated and are trustee by PBGC, and provides model QDROs for use with those plans. The publication may be obtained by calling PBGC's Customer Service Center at 1-800-400-PBGC, or electronically via the PBGC Internet site at "<http://www.pbgc.gov>." However, some or all of the principles there set forth may not apply to this fund by reason of its status as a statutory governmental plan and/or the types of benefits payable under R.S. 11:3361 et seq.

4. Notice

Upon the fund's receipt of a domestic relations order with respect to a participant, the trustees shall promptly give notice of these procedural rules to the participant and to each person specified in the order as entitled to payment of any fund benefits under the order, at the address the order specifies.

5. Determination

(a) The trustees shall determine whether a domestic relations order is a qualified domestic relations order within a reasonable time after it is received, and shall have the right to require such evidence as he may reasonably need to make the determination.

- (b) The trustees shall notify the participant and the alternate

payee of the determination no less than 30 days before making any payment pursuant to the order, if it is determined to be a qualified order, or within a reasonable time if it is determined not to be a qualified order.

(c) The participant may appeal such a determination to the trustees upon written application to the trustees. The participant may review any documents pertinent to the appeal and may submit issues and comments in writing to the trustees. No appeal shall be considered unless it is received by the trustees within 90 days after receipt by the participant of written notice of the determination.

(d) The trustees shall decide the appeal within 60 days after it is received. If special circumstances require an extension of time for processing, however, a decision shall be rendered as soon as possible, but not later than 120 days after the appeal is received. If such an extension of time for deciding the appeal is required, written notice of the extension shall be furnished to the participant prior to the commencement of the extension.

(e) The trustees' decision shall be in writing and shall include specific reasons for the decision, expressed in a manner calculated to be understood by the participant and the alternate payee.

6. Payments Pending Determination

During any period in which the issue whether a domestic relations order is a qualified domestic relations order is being determined (by the trustees, by a court of competent jurisdiction, or otherwise), the trustees shall segregate in a separate account in the fund the amounts that would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

(a) To the extent that the domestic relations order is determined to be qualified, the fund shall pay the segregated amounts (plus any interest on them) to the person or persons entitled to them according to the terms of the order. In the case of determinations appealed under these procedural rules, the payment shall be made not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

(b) To the extent that the domestic relations order is determined not to be qualified, the fund shall pay the segregated amounts (plus any interest on them) to the person or persons who would have been entitled to such amounts without regard to the terms of the order. In the case of determinations appealed under these procedures, the payment shall take place not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

(c) To the extent that the issue whether the domestic relations order is qualified is not resolved within 18 months after the fund receives notice of the order, the trustees shall pay the segregated amounts (plus any interest on them) to the person or persons who would have been entitled to these amounts without regard to the terms of the order.

7. Representative of Alternate Payee

An alternate payee, by written notice to the trustees, may designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

William M. Carrouché
President

9805#077

RULE

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Code of Professional Conduct Asset Forfeiture (LAC 22:III.Chapter 61)

In accordance with the provision of R.S. 15:1204, R.S. 15:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby adopts rules and regulations relative to a code of professional conduct for asset forfeiture.

Title 22

CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 7. Asset Forfeiture

Chapter 61. Code of Professional Conduct

§6101. Adoption

The Louisiana Commission on Law Enforcement and Administration of Criminal Justice has adopted a code of professional conduct for asset forfeiture at a meeting held Tuesday, December 2, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).

§6102. Introduction

The purpose of the *Code of Professional Conduct* is to establish ethical standards applicable to asset forfeiture programs throughout the state of Louisiana. These standards are similar to the *National Code of Professional Conduct for Asset Forfeiture*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).

§6103. Code of Professional Conduct

A. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.

B. A prosecutor's or sworn law enforcement officer's employment or salary shall not be contingent upon the level of seizures or forfeitures he or she achieves.

C. Whenever practical, and in all cases involving real property, a judicial finding of probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedure.

D. A judicial finding of probable cause must be secured as provided by law.

E. Seizing entities shall have a manual detailing the statutory grounds for forfeiture and all applicable policies and procedures.

F. The manual shall include procedures for prompt notice

to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.

G. All property forfeited must be sold at public sale, and the proceeds distributed according to law.

H. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.

I. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.

J. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).

Michael A. Ranatza
Executive Director

9805#024

RULE

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Uniform Crime Reporting System (LAC 22:III.5501)

The Commission on Law Enforcement and Administration of Criminal Justice, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and by the authority of the commission, as provided in R.S. 15:1204(9), has adopted rules regarding the UCR program.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

**Subpart 6. Grant Applications or Subgrants Utilizing
Federal, State or Self-Generated Funds**

**Chapter 55. Uniform Crime Reporting System
§5501. Funding Eligibility**

A. Effective January 1, 1998, law enforcement agencies that fail to participate in the state Uniform Crime Reporting System (UCR) or having been relieved of that obligation through certification as a Louisiana Incident Based Crime Reporting System (LIBRS) agency that fail to participate in the LIBRS program shall not be eligible for funding under any grant program administered by the Commission on Law Enforcement.

B. Any agency receiving funding to participate in the Louisiana Incident Based Crime Reporting System (LIBRS) that fails to participate in the system shall not be eligible for funding under any grant program administered by the Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:936 (May 1998).

Michael A. Ranatza
Executive Director

9805#018

RULE

**Office of the Governor
Office of Veterans Affairs**

Travel (LAC 4:VII.911)

By authority of R.S. 29:254, the Office of Veterans Affairs hereby amends LAC 4:VII.911.A allowing travel reimbursement to commission members in the course of official state business on days per diem is not paid. Section 911 is printed in its entirety for the purpose of continuity.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

Subchapter A. Veterans Affairs Commission

§911. Travel

A. Travel will only be authorized on days that per diem is paid, unless prior approval is granted by the chairman or his designated representative. Travel must be for official state business.

B. Commission members may not be authorized travel reimbursement for out-of-state trips.

C. All travel vouchers for the commission members shall be authorized by the chairman or his designated representative, the director of the Office of Veterans Affairs, with ultimate responsibility held by the chairman, in accordance with adopted rules relating to travel.

D. The director, as secretary of the commission, shall keep the chairman and all members of the commission apprised of the availability or nonavailability of travel monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), LR 24:936 (May 1998).

David C. Perkins
Acting Executive Director

9805#003

RULE

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

Athletic Trainers; Advisory Committee
(LAC 46:XLV.3103-3179)

Notice is hereby given, in accordance with R.S. 49:953, that the Board of Medical Examiners ("the board"), pursuant to the authority vested in the board by the Louisiana Athletic Trainers Law, R.S. 37:3301-3312, and the provisions of the Administrative Procedure Act, has amended its rules governing the certification of athletic trainers, LAC 46:XLV, Subpart 2, Chapter 31, §§3103-3179, to establish and provide for the responsibilities and authority of an Athletic Training Advisory Committee ("the committee") to the board; to reconstitute the existing continuing education advisory committee as a subcommittee of the committee; and to update and effect certain technical amendments to the existing rules. The rule amendments and new rule section are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 31. Athletic Trainers

Subchapter A. General Provisions

§3103. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified:

* * *

3. *The Law or Louisiana Athletic Trainers Law*—Acts 1985, Number 288, as amended, R.S. 37:3301-3312.

* * *

7. *Certification*—the board's official recognition of a person's lawful authority to act and serve as an "athletic trainer" as such term is defined by the law, R.S. 37:3302.

* * *

12. *Advisory Committee*—the Athletic Training Advisory Committee to the Board, constituted under and pursuant to §3104.

B. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998).

§3104. Athletic Training Advisory Committee

A. Constitution. An Athletic Training Advisory Committee ("the advisory committee") to the Board is hereby constituted, to be composed and appointed, to have such functions, and to discharge such responsibilities as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall comprise seven members, including five athletic trainers and two physicians, each of whom shall, to be

eligible for and prior to appointment to the committee, be certified as an athletic trainer or licensed as a physician by and in good standing with the board, have maintained residency and practice in the state of Louisiana for not less than one year and have not less than three years of experience in their respective fields. In addition to such general qualifications, the athletic trainer and physician members of the advisory committee shall satisfy the following qualifications.

1. Athletic Trainer Members. The athletic trainer members of the committee shall be appointed and apportioned as follows:

a. one of such members shall be employed or appointed as an athletic trainer by and for a high school;

b. one of such members shall be employed or appointed as an athletic trainer by and for a college or university; and

c. insofar as practical or possible, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on the advisory committee by certified athletic trainers residing and practicing throughout Louisiana, with at least one member from the Alexandria, Louisiana area or north, and at least one member from south of such area.

2. Physician Members. The physician members of the committee shall each:

a. hold the title of team physician or its equivalent, employed or appointed by a Louisiana high school, college, university or professional athletic team; and

b. have responsibility for and an active role in the direct supervision of athletic trainers.

C. Appointment; Term of Service. Each member of the advisory committee shall be appointed by the board from among a list of not fewer than two qualified nominees for each committee position submitted to the board by the Louisiana Athletic Trainers Association (LATA), or its successor. Each nomination so submitted shall be accompanied by a personal résumé or *curriculum vitae* for the nominee. Each member of the advisory committee shall serve on the committee for a term of three years, or until his or her successor is appointed, and shall be eligible for reappointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. assist the board in examining the qualifications and credentials of applicants for athletic trainer certification and make recommendations thereon to the board;

2. advise and assist the board, as the board may request, with respect to investigative and disciplinary proceedings affecting certified athletic trainers;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies and procedures respecting athletic trainer certification and practice; and

4. establish and appoint a continuing education subcommittee, comprising no fewer than three athletic members of the advisory committee, to discharge the responsibilities prescribed by §3169.

E. Committee Meetings, Officers. The advisory committee

shall meet at least twice each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. The presence of five members, including at least one physician member, shall be requisite to constitute a quorum of the advisory committee. The advisory committee shall elect, from among its members, a chairman, a vice-chair, and a secretary. The chairman, or in his absence or unavailability, the vice-chair, shall call, designate the date, time and place of, and preside at all meetings of the committee. The secretary shall record, or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

F. Confidentiality. In discharging the functions authorized by the board under §3104, the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members pursuant to §3401.D, or pursuant to Subchapter H of this Chapter, shall be considered confidential. As such, advisory committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998).

Subchapter D. Application

§3129. Application Procedure

* * *

D. Application forms and instructions pertaining thereto may be obtained upon personal request at or written request directed to the office of the board. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor. To ensure timely filing and completion of applications, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §3129.B.

E. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for certification set forth in this Chapter;
2. three recent photographs of the applicant; and
3. such other information and documentation as are referred to or specified in this Chapter, or as the board may require, to evidence qualification for certification.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998).

§3131. Effect of Application

* * *

C. The submission of an application for certification to the board shall constitute and operate as an authorization and

consent by the applicant to the board to disclose any information or documentation, set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §3131, to any person, firm, corporation, association, or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the athletic trainer certification or licensing authority of any state, the National Athletic Trainers Association, the Louisiana Athletic Trainers Association, the Louisiana Department of Health and Hospitals, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998).

Subchapter F. Examination

§3137. Dates, Places of Examination

The board's examination is administered annually in the city of New Orleans. Applicants shall be advised of the specific date, time, and location of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998).

Subchapter H. Continuing Education

§3169. Continuing Education Subcommittee

The continuing education subcommittee of the advisory committee ("the CE subcommittee"), constituted under authority of §3104, shall have the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing education programs for athletic trainers and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing education programs and activities pursuant to §§3171 and 3173;
2. review documentation of continuing education by certified athletic trainers, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of certification comply with and satisfy the standards for such programs and activities prescribed by these rules;
3. request and obtain from applicants for renewal of certification such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the CE subcommittee is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:938 (May 1998).

§3171. Approval of Program Sponsors

* * *

B. Upon the recommendation of the CE subcommittee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing education activity under §3167.B.2, 3 and 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:939 (May 1998).

§3173. Approval of Activities

* * *

B. Any such written request shall be referred by the board to the CE subcommittee for its recommendation. If the CE subcommittee's recommendation is against approval, the board shall give notice of such recommendation to the person requesting approval and the person requesting approval may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons requesting board preapproval of continuing education activities should allow not less than 90 days for such requests to be processed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

§3175. Documentation Procedure

* * *

C. Any certification of continuing education activities not presumptively approved or preapproved in writing by the board pursuant to these rules shall be referred to the CE subcommittee for its evaluation and recommendations pursuant to §3169.B.2. If the CE subcommittee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

§3177. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of certification who fails to evidence satisfaction of the continuing education requirements prescribed by these rules shall be given written notice of such

failure by the board. The certification of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing education requirements;

2. applicant is exempt from such requirements pursuant to these rules; or

3. applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The certification of an athletic trainer whose certification has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board upon written application to the board filed within two years of the effective date of expiration, nonrenewal or revocation accompanied by satisfactory documentation of the completion of not less than three continuing education units within the prior two years and payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50. Any continuing education activities recognized for purposes of reinstatement shall not be recognized for purposes of any subsequent renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

§3179. Waiver of Requirements

The board may, in its discretion and upon the recommendation of the CE subcommittee, waive all or part of the continuing education required by these rules in favor of a certified athletic trainer who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the athletic trainer's satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), amended LR 24:939 (May 1998).

Delmar Rorison
Executive Director

9805#025

RULE

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

Boarding and Nonboarding Animals
(LAC 46:LXXXV.700 and 702)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.700 and 702 in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

* * *

Boarding Animal—an animal which is being housed at a veterinary facility and is not actively undergoing diagnosis or treatment for illness. A boarding animal which becomes ill while in a veterinary facility ceases to be a boarding animal under this definition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:940 (May 1998).

§702. Direct Supervision

A. - C. ...

D. A Registered Veterinary Technician (RVT) as defined in §700 shall perform all tasks or procedures under direct supervision of a licensed veterinarian, except:

1. an RVT may perform the duties listed in §702.F.1 without the direct supervision of a licensed veterinarian, but the RVT is required to follow the record keeping requirements found in §702.F.3; and

2. an RVT may administer medications and/or treatments to nonboarding (hospitalized or ill) animals without direct supervision by a licensed veterinarian under the following conditions:

a. the licensed veterinarian must chart the precise treatment plan to be used in the animal's medical record. This treatment plan may include oral, topical, and injectable treatments, including fluid therapy;

b. no diagnostic decisions or treatment changes may be made by an RVT;

c. the licensed veterinarian must personally check the animal and update the treatment plan at least once every 24 hours;

d. the licensed veterinarian has the ultimate responsibility for the proper diagnosis and treatment of the animal, including the work delegated to the RVT;

e. the licensed veterinarian has the responsibility to verify that any person who is assigned duties under §702 is legally licensed in Louisiana as an RVT. Failure to verify this information shall be considered unprofessional conduct within the meaning of R.S. 37:1526;

f. if the animal's medical condition changes, the licensed veterinarian must be available for consultation and reevaluation of the animal.

E. ...

F. A lay person shall perform all tasks or procedures under direct supervision of a licensed veterinarian under the following conditions and with the exception described in §702.F.1:

1. a lay person may administer medications to boarding

animals without direct supervision by a licensed veterinarian if the medication is directed to be used orally or topically and if the licensed veterinarian has recorded the exact treatments to be given in the animal's medical record;

2. when a lay person administers medications to nonboarding animals under the direct supervision of a licensed veterinarian, the licensed veterinarian must personally check the animal and update the treatment plan in the medical record at least once every 24 hours;

3. when a lay person administers medications, with or without direct supervision, the lay person shall keep a written record of all treatments which are performed, and that written record shall be incorporated into the animal's medical record;

4. the licensed veterinarian has the ultimate responsibility for the proper diagnosis and treatment of the animal, including the work delegated to a lay person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:65 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), LR 19:1328 (October 1993), LR 24:940 (May 1998).

Charles B. Mann
Executive Director

9805#028

RULE

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

Complaint Review Committee
Appointments (LAC 46:LXXXV.106)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.106 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 1. Operations of the Board of Veterinary Medicine

§106. Complaint Resolution and Disciplinary Procedures

A. ...

B. Appointing a Complaint Review Committee

1. As provided by R.S. 37:1518, the board may appoint a committee of persons to conduct investigations for the purpose of discovering violations of the statutes and rules governing the practice of veterinary medicine. Any committee so appointed shall be chaired by a member of the board who will select two practicing veterinarians and one nonveterinarian who, preferably, has experience in social work and/or grief counseling to serve as committee members.

2. - 3. ...

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), amended LR 23:967 (August 1997), LR 24:940 (May 1998).

Charles Mann
Executive Director

9805#027

RULE

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

License Renewal
(LAC 46:LXXXV.305)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.305 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§305. Renewals

A. Pursuant to R.S. 37:1524 and R.S. 37:1525, all licenses must be renewed annually. Failure to renew a license shall be considered a violation of the rules of professional conduct. All licenses expire on September 30 of each year unless properly renewed before that date. Licenses which are not renewed by September 30 annually shall be suspended by majority vote of the board at the next available board meeting or revoked by majority vote of the board at the next available board meeting. Suspensions for nonrenewal may be reversed by submitting a complete license renewal application and payment of all applicable fees.

B. Persons failing to annually renew their license by September 30 will receive one notification via certified mail prior to an initial suspension or prior to a revocation of the license. Such notice shall be mailed at least 15 days prior to either the suspension or revocation of the license. Such notice will advise of actions to be taken by the board in conjunction with the failure to renew. These actions may include the imposition of a late fee and/or a fine for reinstatement of the license. The board may also elect to publish, in its own newsletter and/or publications of the Louisiana Veterinary Medical Association (LVMA), and distribute to other parties, the names of such persons holding suspended or revoked licenses. The distribution of this list may include, but is not limited to, the Office of State Narcotics, the federal Drug Enforcement Administration, and Food and Drug Administration, drug supply wholesalers, veterinary supply wholesalers, the Board of Pharmacy, and the LVMA.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), amended LR 23:965 (August 1997), LR 24:941 (May 1998).

Charles B. Mann
Executive Director

9805#029

RULE

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

Over-the-Counter Drugs and Record
Keeping (LAC 46:LXXXV.700 and 701)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.700 and 701 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

* * *

Over-The-Counter (OTC) Product—any product that is sold to the public that is not regulated as a legend drug or as a controlled substance.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:941 (May 1998).

§701. Record Keeping

A.1.a. - b. ...

c. The record keeping requirements contained in §701 do not apply to Over-The-Counter (OTC) products except:

i. if an OTC product has been prescribed by the licensed veterinarian as part of a treatment regimen, then the sale and instructions must be recorded in the medical record in accordance with §701.A.1.a; or

ii. if a licensed veterinarian dispenses an OTC product and directs the client to use the product in any manner not on the product's label, then the product must be treated as a legend drug and its use must be properly recorded in the animal's medical record in accordance with §701.A.1.a.

2. ...

a. - e. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 16:225 (March 1990),

Charles B. Mann
Executive Director

9805#030

RULE

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

Preceptorship Program
(LAC 46:LXXXV.1105)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1105 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

**Chapter 11. Preceptorship Program
§1105. Applicants**

A. Every applicant for a license to practice veterinary medicine in the state of Louisiana must successfully complete a preceptorship program during the senior year in a board-approved school of veterinary medicine or after graduation. The board shall have the discretionary right to waive compliance with the preceptorship program when the applicant has been licensed in another state or is eligible for a license without examination.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 24:942 (May 1998).

Charles B. Mann
Executive Director

9805#031

RULE

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

Lab Service Fees
(LAC 48:V.Chapter 137)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended the following rule pursuant to R.S. 40:29, as amended and reenacted by Act Number 840 of 1997, relative to costs of laboratory services provided by the Office of Public Health as submitted by any physician, hospital, clinic, nurse, veterinarian, sanitarian or any other licensed health care provider authorized by the Office of Public Health to submit

specimens for scientific analysis. This current rulemaking will have the effect of rescinding *en toto* the rulemaking on this subject promulgated May 20, 1977 in Volume 3, Number 5 of the *Louisiana Register*, on pages 245-247. (The 1977 rule was apparently overlooked in the codification work in 1987, and it was not included in the *Louisiana Administrative Code* published in 1987.) This rulemaking will also have the effect of revising the lab fees set out in Volume 15, Number 6 of the *Louisiana Register* promulgated June 20, 1989, on pages 477-478 concerning neonatal and genetic screening, and testing for sexually transmitted diseases. This current rulemaking has been assigned to LAC 48:V.Chapter 137.

Title 48

PUBLIC HEALTH

Part V. Preventive Health Services

Subpart 51. Laboratory Fees

Chapter 137. Laboratory Services

§13701. Definitions

Unless the context otherwise requires, the words defined in §13701 shall have the following meanings in LAC 48:V.Chapter 137.

Billable Submitter—individual authorized to submit specimens for scientific analysis by the Division of Laboratories that does not fall into one of the categories listed under §13703.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:942 (May 1998).

§13703. Applicability

A. These laboratory fees shall not be charged:

1. to the Office of Public Health of the Department of Health and Hospitals or for laboratory services for a patient at a clinic or health unit operated by the Office of Public Health or to any physician, nurse, dentist, veterinarian, sanitarian or other licensed health care provider who is treating a patient or providing services in an official capacity in relation to the treatment of a patient of the Office of Public Health of the Department of Health, including the network of parish health units operated by the Office of Public Health;

2. in any instance when the state health officer declares an epidemic, for any test, procedure, function, or operation related to such epidemic;

3. if exemption from payment is otherwise provided by the *State Sanitary Code*; or

4. to any state hospital or institution when the secretary of the Department of Health and Hospitals requires the Office of Public Health laboratory to act for such institution in case of emergency.

B. These fees shall be charged for all tests, procedures, functions, or any operations performed by each laboratory independently operated by the Office of Public Health of the Department of Health and Hospitals as a state laboratory on human specimens, environmental samples, cultures, analytical and research procedures and related services which are submitted by any physician, hospital, clinic or health unit not operated by the Office of Public Health, nurse, veterinarian, sanitarian or any other licensed health care provider authorized to submit specimens for scientific analysis by the Division of Laboratories of the Office of Public, DHH. The charges or fees

for these services will be assessed according to the following schedule.

Test Description	Fee
1. Ab identification, RBC each panel, each serum technique	\$ 57
2. Ab screen, RBC each serum technique	\$ 21
3. Adenovirus Ab	\$ 18
4. Alpha Fetal protein (amniotic fluid)	\$ 22
5. Alpha Fetal protein (Serum)	\$ 22
6. Antibiotic Disc Test	\$ 4
7. Blood-Hemogram, automated and manual differential WBC (CBC)	\$ 8
8. Blood-RBC antigen other than ABO and Rh(D), each antigen	\$ 5
9. Blood-Rh (D) antigen	\$ 19
10. Blood-typing, ABO	\$ 4
11. Bordetella parapertussis Ab	\$ 19
12. Bordetella pertussis Antigen	\$ 19
13. Bordetella pertussis Culture	\$ 11
14. Borrelia Ab IgG (Relapsing fever)	\$ 19
15. Borrelia Ab IgM (Relapsing fever)	\$ 19
16. Borrelia Ab Total (Relapsing fever)	\$ 19
17. Brucella abortus Ab	\$ 14
18. Chlamydia AB(LGV)	\$ 18
19. Chlamydia testing by DNA gene probe, each probe used	\$ 18
20. Clinical chemistries/21 + amylase	\$ 15
21. Corynebacterium diptheriae culture (throat or nose)	\$ 11
22. Coxiella Burnetti (Q fever) Phase 1-IgG and IgM	\$ 18
23. Coxiella Burnetti (Q fever) Phase 2-IgG and IgM	\$ 18
24. Cryptococcus Ab	\$ 21
25. Culture Typing, Precipitin Method (grouping) per antiserum	\$ 7
26. Culture Typing, Serologic method, agg grouping, per antiserum	\$ 7
27. Culture Typing, Serologic Method, speciation	\$ 5
28. Culture, Bact, screen, stool	\$ 13
29. Culture, Bact, anaerobe, ID, any source without GLC	\$ 11
30. Culture, Bact, ID, aerobe, any source	\$ 11
31. Culture, Bact, screen (aerobic and anaerobic plates)	\$ 15
32. Culture, Bact, screen, other source	\$ 12
33. Culture, Bact, screen, throat or nose	\$ 11
34. Culture, Bact, anaerobe, isolation, any source	\$ 13

35. Culture, Bacti, ID anaerobe with GLC	\$ 20
36. Culture, Bacti, ID any source, in addition to primary culture	\$ 8
37. Culture, Bacti, ID presumptive, any souce, multiple organism	\$ 12
38. Culture, Bacti, ID presumptive, any souce, single organism	\$ 10
39. Culture, Bacti, ID screen, any souce, single Organism	\$ 9
40. Culture, Bacti, ID, screen, multiple organisms	\$ 12
41. Culture, Bacti, ID, urine	\$ 9
42. Cytomegalovirus (CMV) Ab IgG	\$ 20
43. Cytomegalovirus (CMV) Ab IgM	\$ 20
44. Dengue Fever Ab	\$ 18
45. Encephalitis testing in birds (per viral study)	\$ 19
46. Encephalitis, Eastern Equine IgG	\$ 19
47. Encephalitis, Eastern Equine IgM	\$ 19
48. Encephalitis, La Crose (California) IgG	\$ 19
49. Encephalitis, La Crose (California) IgM	\$ 19
50. Encephalitis, Saint Louis IgG	\$ 19
51. Encephalitis, Saint Louis IgM	\$ 19
52. Encephalitis, Western Equine IgG	\$ 19
53. Encephalitis, Western Equine IgM	\$ 19
54. Enterovirus Ab (e.g. coxsackie, echo, polio)	\$ 19
55. Ehrlichia Ab	\$ 18
56. Estradiol Assay	\$ 52
57. Fluorescent Ab screen, each Ab (Bordatella)	\$ 18
58. Fluorescent Ab titer, each Ab	\$ 17
59. Fluorescent Antibody (Direct) (Rabies DFA)	\$ 18
60. Fluorescent Antibody (Indirect)	\$ 34
61. Fluorescent Antibody-double stain	\$ 8
62. Follicle Stimulating Hormone (FSH)	\$ 35
63. Francisella tularensis Ab	\$ 15
64. Glucose quantitative	\$ 7
65. Hepatitis, Anti-A	\$ 18
66. Hepatitis, Anti-C	\$ 18
67. Hepatitis, Anti-HBc Total	\$ 17
68. Hepatitis, Anti-HBe	\$ 18
69. Hepatitis, Anti-HBs	\$ 15
70. Hepatitis, HBe Ag	\$ 16
71. Hepatitis, HBs Ag	\$ 15
72. Herpes I Group IgG	\$ 19
73. Herpes II Group IgG	\$ 19
74. Herpes II Group IgM	\$ 19
75. Herpes simplex Type 1 and 2 Ab differential	\$ 20

76. HIV- Dry Blood spot analysis	\$ 6
77. HIV-1 EIA	\$ 13
78. HIV-1 WB	\$ 28
79. Human Arbovirus IgG	\$ 18
80. Human Arbovirus IgM	\$ 18
81. Human Chorionic Gonadotropic (hCG) Pregnancy Test-Quantitative	\$ 21
82. Human Chorionic Gonadotropic (hCG) Pregnancy Test-Qualitative	\$ 11
83. Human Rickettsia IgG	\$ 10
84. Human Rickettsia IgM	\$ 10
85. Influenza A Ab	\$ 20
86. Influenza B Ab IgG	\$ 20
87. Legionella Ab	\$ 21
88. Leptospira Ab	\$ 19
89. Leutinizing Hormone Assay	\$ 36
90. Lipoproteins HDL cholesterol	\$ 14
91. Lipoproteins triglycerides	\$ 11
92. Lymes-(Borellia burgdorferi) IgG	\$ 22
93. Lymes-(Borellia burgdorferi) IgM	\$ 22
94. Meningoencephalytic Ab (adult)	\$ 18
95. Meningoencephalytic Ab (childhood)	\$ 18
96. Mumps Virus Ab	\$ 19
97. Mycoplasma pneumonia Ab	\$ 19
98. Neisseria gonorrhoeae testing by DNA gene probe	\$ 18
99. Newborn Screening Panel	\$ 31
100. Parainfluenza I Ab	\$ 18
101. Parainfluenza II Ab	\$ 18
102. Borellia III Ab	\$ 18
103. Parasite large volume filtration	\$ 47
104. Polio Virus Ab-Type I	\$ 19
105. Polio Virus Ab-Type II	\$ 19
106. Polio Virus Ab-Type III	\$ 19
107. Prolactin Assay	\$ 36
108. R. rickettsii Ab to antigen (Rocky Mountain Spotted Fever) IgG or IgM	\$ 18
109. R. typhi Ab (Typhus fever) IgG or IgM	\$ 18
110. Rabies Analysis	\$ 73
111. Reovirus Ab	\$ 18
112. Respiratory Syncytial Virus (RSV) Ab	\$ 18
113. Rheumatoid factor-qualitative (latex)	\$ 8
114. Rheumatoid factor-quantitative	\$ 8
115. Rotavirus Ab	\$ 19

116. Rubella (German measles) Ab, IgG	\$ 20
117. Rubella (German measles) Ab, IgM	\$ 20
118. Rubeola (Red measles) Ab, IgG	\$ 18
119. Rubeola (Red measles) Ab, IgM	\$ 18
120. Sensitivity study; antibiotics, disk method, per plate (212)	\$ 10
121. Smear with interpretation	\$ 6
122. Syphilis test VDRL qualitative (serum and CSF)	\$ 6
123. Syphilis test VDRL-quantitative, MHA-TP (serum and CSF)	\$ 6
124. T cells including cell ratio	\$ 54
125. TB Panel (bilirubin, AST, uric acid, creatinine)	\$ 11
126. TB Screen-AST	\$ 7
127. TB, AFB, Antibiotic sensitivities; each drug (includes culture)	\$ 8
128. TB-AFB smear	\$ 8
129. TB-Concentration and Isolation of Mycobacteria, each	\$ 16
130. TB-DNA probe identification of AFB cultures	\$ 18
131. TB-HPLC Ident of Mycobacterium	\$ 26
132. Tissue Culture Studies	\$ 163
133. TORCH Ab (CMV, Herpes, Rubella, Toxo)IgG	\$ 82
134. TORCH Ab (CMV, Herpes, Rubella, Toxo)IgM	\$ 82
135. Toxoplasma Ab, IgG	\$ 18
136. Toxoplasma Ab, IgM	\$ 21
137. Treponema pallidum Ab-Confirmatory test FTA-ABS	\$ 19
138. Typhus in rats-antigen to antibody	\$ 10
139. Varicella Zoster Ab, IgG	\$ 18
140. Vibrio cholerae ID	\$ 93
141. Vibrio vulnificus ID	\$ 47
142. Viral Load studies for HIV	\$ 121
143. Virus ID-Tissue Cult. Additional Studies, each isolate	\$ 34
144. Virus ID-Tissue Cult. Inoculation and Observation	\$ 37
145. Virus ID-Tissue Cult. Inoculation of Egg/Small animal, Observation and Dissection	\$ 28
146. Yersinia pestis (plague) study in rats; includes slide prep, animal inoculation, plague demo	\$ 154
147. Any Public Health Biochemistry procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
148. Any Public Health Microbiology procedure not expressly stated will be charged based on the cost per unit of time(Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU

149. Any Public Health Serology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
150. Any Public Health Virology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
151. Any Research Procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
152. A-1 (FC MPN)	\$ 20
153. Adipates/Phthalates	\$ 160
154. Alfatoxins (HPLC)	\$ 119
155. Alfatoxins (Screen)	\$ 40
156. Alkalinity (Total)	\$ 9
157. Aluminum	\$ 16
158. Antibiotic disc assay	\$ 16
159. Antibiotic sensitivity study/antibiotic	\$ 6
160. Antimony	\$ 33
161. Arsenic	\$ 16
162. Barium	\$ 16
163. Beryllium	\$ 16
164. BOD-5 day (manual)	\$ 160
165. BOD-Automated robotics testing	\$ 26
166. Bottled and Vended waters-Colilert	\$ 4
167. Bottled Water-Herbicides	\$ 237
168. Bottled Water-Trihalomethanes (THM)	\$ 33
169. Bottled Water-VOC (P/T)	\$ 172
170. Butter analysis	\$ 121
171. Butterfat, Babcock	\$ 27
172. Butterfat, Roese-Gotlieb (Confirmation)	\$ 92
173. Butterfats and Nonfat Solids	\$ 32
174. C. jejeuni and C. campylobacter-Environmental	\$ 33
175. Cadmium	\$ 16
176. Cadmium in foods	\$ 3
177. Caffeine	\$ 79
178. Calcium hardness	\$ 8
179. Carbamates	\$ 200
180. Caustics	\$ 11
181. Cereal analysis-qualitative	\$ 1
182. Cereal analysis-quantitative	\$ 32
183. Charm I; App N antibiotic testing	\$ 13
184. Charm II; App N antibiotic testing-Cloxacillin	\$ 13
185. Charm II; App N antibiotic testing-Other	\$ 13

186. Charm II; App N antibiotic testing-Quantitative	\$ 40
187. Charm II; App N antibiotic testing-Sequential	\$ 13
188. Chemical Oxygen Demand (COD)	\$ 80
189. Chloride percent-Hypochlorites and Chloramines (screen)	\$ 7
190. Chloride percent; Hypochlorites and Chloramines (Confirmation)	\$ 21
191. Chlorides	\$ 7
192. Chromium	\$ 17
193. Coffee (chicory)	\$ 4
194. Coliform Determinations-Confirmed (includes MPN for coliform and fecal coliform)	\$ 31
195. Coliform Determinations-E. coli (Verified)-each isolate	\$ 13
196. Coliform Determinations-Fecal	\$ 8
197. Coliform Determinations-Fecal by MPN (includes presumptive, completed and confirmed tests)	\$ 45
198. Coliform Determinations-Fecal Coliforms (includes coliform and E.coli MPN)	\$ 31
199. Colilert	\$ 8
200. Color	\$ 5
201. Color and preservatives in food	\$ 80
202. Compliance analysis of nutritional content and labeling	\$ 13
203. Conductivity	\$ 7
204. Copper Flame AA	\$ 9
205. Copper ICAP	\$ 4
206. Corrosion Control (copper, lead, pH, Alkalinity, THRD)	\$ 53
207. Cosmetics (organoleptics, net weight, filth and foreign material)	\$ 13
208. Cryoscope (added water)	\$ 8
209. Cyanide	\$ 160
210. Dairy Waters-MTF	\$ 19
211. Diquat	\$ 200
212. Dissolved Oxygen (DO)	\$ 8
213. Drained weight analysis	\$ 7
214. Dry Skim Milk-Qualitative	\$ 3
215. Dry Skim Milk-Quantitative	\$ 119
216. Dual Column (confirmation)	\$ 33
217. E. coli 015:H7	\$ 27
218. E. coli MPN	\$ 31
219. E. coli speciation	\$ 20
220. Endothall	\$ 253
221. Ethylene Dibromide (EDB)	\$ 133
222. Etiological agent ID for consumer food, beverages	\$ 100
223. Fecal Coliform MPN (includes presumptive, completed and confirmed tests)	\$ 31

224. Filth and Foreign (filter)	\$ 5
225. Filth and Foreign (Macro)	\$ 5
226. Filth and Foreign (Micro)	\$ 7
227. Filth and Foreign (trap/sv)	\$ 389
228. Fluoride analysis	\$ 20
229. Fluorides	\$ 11
230. Foreign Fat (RI)	\$ 4
231. Formaldehyde testing (AIR)	\$ 409
232. Fossomatic CC	\$ 12
233. Fossomatic OSCC	\$ 13
234. Free CO2	\$ 12
235. Gamma screen	\$ 26
236. GC/MS Confirmation	\$ 479
237. General Chemistry (Borellia, Net weight, filth and foreign materials)	\$ 16
238. Glycol/Recirculating Water (10-Tube MPN)	\$ 13
239. Glycol/Recirculating Water (HPC)	\$ 8
240. Glycophosphate	\$ 160
241. Gross alpha and beta (Radon 222, Radium 226, Radium 228, Radon, Uranium)	\$ 67
242. Heavy Metal (ICAP)	\$ 100
243. Heavy Metals (Includes Hg)	\$ 180
244. Herbicides	\$ 240
245. Heterotrophic Plate Count (HPC)	\$ 8
246. Inorganic Chemicals	\$ 299
247. Iodine 131	\$ 396
248. Iron	\$ 17
249. Iron and alumina oxide	\$ 33
250. Lead-Other analysis by furnace atomic absorption	\$ 55
251. Lead analysis (wipes)	\$ 20
252. Lead analysis in water/chemistry	\$ 20
253. Lead analysis in waters schools, day care, water coolers, faucets/chemistry	\$ 20
254. Lead analysis of paint	\$ 40
255. Lead and copper analysis for private residence water	\$ 23
256. Lead-Blood lead Screen by Graphite Furnace Atomic Absorption	\$ 13
257. Listeria analysis-milk	\$ 27
258. Listeria analysis-food	\$ 100
259. Listeria culture-Environmental	\$ 20
260. Loss on Ignition	\$ 5

261. Manganese	\$ 16
262. Mercury in foods	\$ 79
263. Mercury in Water	\$ 20
264. Metal (1 metal) ICAP	\$ 16
265. Metals (13 metals)ICAP	\$ 53
266. Metals (4 metals) ICAP	\$ 24
267. Metals (ICAP) plus Mercury	\$ 180
268. Metals in food-ICAP	\$ 40
269. Microbiology culture for environmental organisms (Listeria, Campylobacter, Yersinia, Salmonella, Staphylococcus and E.coli)	\$ 175
270. Milk Containers-paper and Plastic	\$ 17
271. Net Weight and Contents	\$ 7
272. Nickel	\$ 16
273. Nitrate	\$ 13
274. Nitrates and Nitrites	\$ 13
275. Nitrites	\$ 13
276. Nonfat Solids	\$ 5
277. Nuisance Organisms	\$ 20
278. Oil and Grease	\$ 158
279. Organoleptic Exam	\$ 3
280. Organoleptic Exam in foods	\$ 13
281. Oyster meat analysis for Vibrio and Salmonella	\$ 40
282. Oyster waters-analysis for Salmonella, Shigella, Vibrio, Staph	\$ 33
283. Oyster waters; metals	\$ 100
284. Oyster waters; organics	\$ 40
285. Oyster waters; Pesticides	\$ 233
286. Pesticide (Endrin, lindane, methoxychem. toxophene)	\$ 100
287. Pesticide battery 12 assays	\$ 201
288. Pesticide residues-food	\$ 273
289. Pesticide residues-grains	\$ 273
290. Pesticide residues-vegetables	\$ 233
291. Pesticide/PCBs in soil	\$ 246
292. Pesticides/Herbicides and PCB	\$ 100
293. Pesticides/metals-ICP	\$ 313
294. Pesticides/PCBs	\$ 233
295. Pesticides/PCBs (Food)	\$ 233
296. Pesticides/PCBs (HECD)	\$ 273
297. Pesticides/PCBs (NPD)	\$ 273
298. Pesticides/PCBS (Serum)	\$ 64
299. Pesticides/PCBS GC/MS	\$ 475
300. Pesticides/PCBs in seafood	\$ 233
301. Pesticides/PCBs in water (multi scan)	\$ 233
302. Pesticides/water (Multi scan)	\$ 231

303. pH	\$ 5
304. Phenols	\$ 319
305. Phosphatase by Fluorophos	\$ 7
306. Phosphatase by Sharer	\$ 11
307. Phosphatase by Sharer-Reactivation	\$ 46
308. Phosphatase by Sharer-Interfering Substances	\$ 11
309. Phosphatase by Sharer-Microbial	\$ 34
310. Phosphates	\$ 40
311. Polyaromatic Hydrocarbons (PAH)	\$ 79
312. Potassium	\$ 16
313. Priority Chemicals	\$ 166
314. Radionuclides; Gamma	\$ 53
315. Radium 226 and 228	\$ 725
316. Radon 222	\$ 79
317. Red Tide (Sample prep for mouse assay)	\$ 67
318. Red Tide (Tissue Culture assay)	\$ 133
319. Reducing Sugars	\$ 133
320. Residual Chlorine (chloramines)	\$ 20
321. Residue/insoluble materials (pipe scales)	\$ 237
322. Salinity	\$ 7
323. Salmonella analysis-food	\$ 27
324. Salmonella and Vibrio analysis	\$ 126
325. Salmonella culture	\$ 20
326. Salmonella culture-chocolate	\$ 47
327. Secondary Chemicals	\$ 146
328. Sediment analysis	\$ 240
329. Selenium	\$ 33
330. Shellfish-Microbial Screen (Staph aureus, Salmonella, Shigella, Vibrio, Listeria)	\$ 166
331. Silicates	\$ 40
332. Silver	\$ 16
333. Silvex 2-,4-D and 2,4 TP	\$ 237
334. Sodium	\$ 16
335. Sodium and Potassium	\$ 11
336. Staphylococcus analysis-Environmental	\$ 20
337. Staphylococcus aureus ID-Environmental	\$ 13
338. Strontium 89 and 90	\$ 396
339. Sulfates	\$ 8
340. Sulfides	\$ 47
341. Sulfite analysis-qualitative	\$ 3
342. Sulfite analysis-quantitative	\$ 48

343. Surfactants (MBAS)	\$ 158
344. Synthetic Organic Chemicals (13 classes)	\$ 1,131
345. Syrup-polarization	\$ 106
346. Thallium	\$ 33
347. Total Chlorine residual	\$ 11
348. Total Dissolved Solids	\$ 11
349. Total Hardness	\$ 8
350. Total Solids	\$ 11
351. Total Solids (lactometer)	\$ 7
352. Total Solids-Drying	\$ 17
353. Total Suspended Solids	\$ 27
354. Trihalomethanes (THM)-(Liquid/Liquid)	\$ 33
355. Trihalomethanes (THM)-(purge and trap)	\$ 79
356. Tritium (H3)	\$ 79
357. Turbidity	\$ 4
358. Unregulated Volatile Organics	\$ 173
359. Uranium	\$ 198
360. Urines for methylparathion	\$ 8
361. Vibrio cholerae Identification and Typing	\$ 150
362. Vibrio vulnificus Identification	\$ 118
363. Vitamin A	\$ 158
364. Vitamin A and D	\$ 185
365. Vitamin D	\$ 158
366. Volatile Organic Chemicals (VOCs) (Liquid/Liquid)	\$ 33
367. Volatile Organic Chemicals (VOCs) (Purge and Trap)	\$ 172
368. Yersinia culture-Environmental	\$ 30
369. Zinc	\$ 16
370. Zinc in foods	\$ 3
371. Any Environmental Chemistry and Toxicology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
372. Any Environmental Microbiology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
373. Any Research Procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 3:245 (May 1977), amended by the Department of

Health and Hospitals, Office of the Secretary, LR 15:477 (June 1989), amended by the Office of Public Health, LR 24:942 (May 1998).

§13705. Billing and Payment Procedures

The fees shall be billed to the submitter as follows.

1. A submitter who meets the definition of a billable submitter and wishes to contract with the Division of Laboratories (DOL) to provide one or more of the laboratory tests described in the fee schedule should contact the health laboratory director or the health laboratory assistant director at (504) 568-5373 or in writing at Box 60630, New Orleans, LA 70160.

2. A contract stating the tests and associated fees to be charged will be signed by both parties and an account number assigned. The submitter will be issued a Laboratory Submission Manual by the DOL and may begin submitting specimens and samples following approved DOL procedures and lab submittal forms. The submitter must place the account number on all lab forms when requesting analysis.

3. Billing will be done on a monthly basis. The Division of Laboratories will submit an invoice of fees for laboratory services by the fifteenth each month for each separate account. The invoice shall describe the analysis performed, the date of analysis, date of report, the fee per test and the total charge for current services rendered. Past due amounts will be added to the current charges and the extended total provided.

4. The customer will remit payment by check within 30 days of the billing date. Checks will be made out to the Office of Public Health and mailed to Box 60630, New Orleans, LA 70160. When the checks are received they will be credited to the appropriate account number by staff in the Division of Laboratories. A roster of checks by number and account will be generated. The checks and the accompanying check roster will be transferred to the Fiscal Office of DHH at 1001 Howard Avenue, New Orleans, LA 70112 for final processing within the state system.

5. If payment is not received within 30 days of the billing date, the DOL will issue a past due letter. The customer must respond in writing or by telephone if a discrepancy exists. Otherwise, payment by check to cover the overdue amount on the statement must be made within 30 days of the date of the past due letter.

6. If the customer does not respond or payment is not received within 30 days, the account will be turned over to the OPH Fiscal Services Department and future laboratory services will be discontinued until full payment is made.

7. If the customer does not respond to the collection agency and payment is not received within 90 days of the transfer of the account to the collection agency then the account will be turned over to the DHH Bureau of Legal Services for action.

8. The DOL will engage the services of a CPA (Certified Public Accountant) to oversee the ongoing collection of fees and to audit the system on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:948 (May 1998).

David W. Hood
Secretary

9805#074

RULE

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

Memorandum of Understanding Between the
Department of Health and Hospitals and the
Capital Area Human Services District—FY 97/98
(LAC 48:I.Chapter 27)

Under the authority of R.S. 46:2661 et seq. as enacted by Act 54 of the first Extraordinary Session of 1996, the Department of Health and Hospitals, Office of the Secretary adopts the following rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

**Chapter 27. Capital Area Human Services District
§2701. Introduction**

This agreement is entered into by and between Department of Health and Hospitals, hereinafter referred to as DHH, and Capital Area Human Services District, hereinafter referred to as CAHSD, in compliance with R.S. 46:2661 et seq. as well as any subsequent legislation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:948 (May 1998).

§2703. Purpose and General Agreement

A. The Department of Health and Hospitals is authorized by law to provide for the direction, operation, development and management of programs of community-based mental health, mental retardation/developmental disabilities, alcohol and substance abuse, public health and related activities for eligible consumers in Louisiana.

B. The legislation authorizes CAHSD to provide services of community-based mental health, developmental disabilities, alcohol and substance abuse, public health and related activities for eligible consumers in the CAHSD, which includes East Baton Rouge, West Baton Rouge, Ascension, Iberville, and Pointe Coupee parishes; and to assure that services meet all relevant federal and state regulations; and to provide the functions necessary for the administration of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:948 (May 1998).

§2705. Designation of Liaisons

The primary liaison persons under this agreement are:

- A, for DHH deputy secretary
- B, for CAHSD chairperson

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998).

§2709. Services to be Delivered

A. In order to provide a broad spectrum of coordinated public services to consumers of OMH, OCDD, OADA, OPH and for the district administration, the CAHSD will assume programmatic, administrative and fiscal responsibilities for including, but not limited to, the following:

- 1. OCDD community support;
- 2. mental health services consistent with the State Mental Health Plan, as required under the annual Mental Health Block Grant Plan;
- 3. outpatient treatment (nonintensive) OADA;
- 4. community-based residential services OADA;
- 5. intensive outpatient treatment/day treatment OADA;
- 6. nonmedical/social detoxification OADA;
- 7. primary prevention;
- 8. healthy community regional program OPH.

B. Attachment B provides definitions for above listed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998).

§2711. Responsibilities of Each Party

A. CAHSD accepts the following responsibilities:

- 1. perform the functions which provide community-based services and continuity of care for the diagnosis, prevention, detection, treatment, rehabilitation and follow-up care of mental and emotional illness;
- 2. be responsible for community-based programs and functions relating to the care, diagnosis, eligibility determination, training, treatment, case management of developmentally disabled and autistic persons as defined by the MRDD law;
- 3. collaborate with Region II PH Managers to assist them to perform community-based functions which provide services and continuity of care for education, prevention, detection, treatment, rehabilitation and follow-up care related to personal health;
- 4. promote and support community based planning of broad health issues through the Healthy Communities Strategic Planning Model;
- 5. provide for the gradual assumption of appropriate community public health functions;
- 6. perform community-based functions related to the care, diagnosis, training, treatment, and education of alcohol or drug abusers and prevention of alcohol and drug abuse;
- 7. maintain services in community-based, mental health, developmental disabilities, and substance abuse at least at the same level as the state maintains similar programs;
- 8. ensure that the quality of services delivered is equal to or higher than the quality of services previously delivered by the state;

- 9. perform human resources functions necessary for the operation of the CAHSD;
 - 10. be responsible for the provision of any function/service mandated by the Block Grant Plan of each respective program office;
 - 11. provide systems management and services data/reports in a format and content as that required of all regions by each DHH Program Office. Specific content of required information sets will be negotiated and issued annually through Program Office directives;
 - 12. utilize ARAMIS, MIS, SPOE and any other required DHH/Program Office systems to meet state and federal reporting requirements;
 - 13. human resource staffing data will be available for on-site review;
 - 14. maintain and support Single Point of Entry (SPOE) state standard;
 - 15. provide for successful delivery of services to persons discharged from state facilities into the CAHSD service area by collaborative discharge planning;
 - 16. provide in-kind or hard match resources as required for acceptance of federal grant or entitlement funds utilized for services in the CAHSD as appropriately and collaboratively applied for;
 - 17. make available a list of all social and professional services available to children and adults through contractual agreement with local providers.
- B. DHH retains/accepts the following responsibilities:
- 1. operation and management of any inpatient facility under jurisdiction of the DHH except that the CAHSD shall have authority and responsibility for determination of eligibility for receipt of such inpatient services (single point of entry function) which were determined at the regional level prior to the initiation of this agreement;
 - 2. operation, management and performance of functions and services for environmental health;
 - 3. operation, management and performance of functions related to the Louisiana Vital Records Registry and the collection of vital statistics;
 - 4. operation, management and performance of functions and services related to laboratory analysis in the area of personal and environmental health;
 - 5. operation, management and performance of functions and services related to education provided by or authorized by any state or local educational agency;
 - 6. monitoring this service agreement, assuring corrective action through coordination with CAHSD and reporting failures to comply to the governor's office;
 - 7. operation, management and performance of functions for pre-admission screening and resident review process for nursing home reform;
 - 8. operation, management and performance of functions for enrollment and monitoring of targeted case management;
 - 9. DHH will share with CAHSD information regarding, but not limited to, program data, statistical data, and planning documents that pertain to the CAHSD;
 - 10. DHH will provide legal support to and representation of the CAHSD in Civil Service matters and Risk Management;

11. DHH retains all prior authorization functions for Mental Health Medicaid Services;

12.a. DHH will perform a feasibility assessment to determine how to best bring public health into the CAHSD. The assessment will:

i. identify the services that are provided in Region II and which ones exist to serve the CAHSD population predominately;

ii. identify funding sources for each program and the numbers and funding source of staff associated with each;

iii. identify what services are provided to the PH office in Region II by the OPH in New Orleans;

iv. identify which services need to remain centralized and which ones can be managed within the district.

b. The study is to be completed in time for preparation of the FY 99 budget request. Information will be shared with the CAHSD Executive Director throughout the assessment period.

C. Joint Responsibilities

1. To determine if community-based mental health, developmental disabilities, substance abuse, and public health services are delivered at least at the same level by CAHSD as the state provides for similar programs in other areas, performance indicators shall be established. Such indicators will measure extensiveness of services, accessibility of services, availability of services and, most important, quality of services. The CAHSD will not be required to meet performance indicators which are not mandated for state-operated programs in these service areas, and which were not previously collected by Region 2.

2. CAHSD's progress toward achieving outcomes which meet or exceed those realized by DHH-operated programs in the affected geographic region shall be measured by comparing the CAHSD data on results to baseline statistics reported by regional DHH programs for the year prior to July 1, 1997. Specific outcome measurements/performance indicators to be compared will be jointly agreed upon by CAHSD and DHH.

3. DHH and its Program Offices, in conjunction with CAHSD, will design a longitudinal program evaluation strategy. The program evaluation should concentrate on management and program specific issues. The strategy shall be formalized and DHH shall provide the resources for any objective third party retained for the purposes of such study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998).

§2713. Reallocation of Resources/Staff and Financial Agreements

A. For FY 97-98, DHH agrees to transfer the personnel and financial resources, as described in Attachment A, to the direction and management of the CAHSD. Data in Attachment A will be adjusted based upon the final appropriation for the CAHSD.

B. The CAHSD will submit to DHH an annual budget request for funding of the cost for providing the services and programs for which the CAHSD is responsible. The format for such request shall be consistent with that required by the

Division of Administration and DHH. The request shall conform with the time frame established by DHH.

C. Revisions of the budget may be made upon written consent between the CAHSD and DHH and/or as appropriate, through the Legislative Budget Committee's BA-7 process. In the event any additional funding is appropriated and received by DHH that affects any budget categories for the direction, operation, and management of the programs of mental health, mental retardation/developmental disabilities, substance abuse services, and public health, and related activities for any other such DHH entities or regions, the CAHSD and DHH will mutually agree upon the allocation due to the CAHSD, and will make the appropriate changes to the budget.

D. In the event of a budget reduction, CAHSD will receive a proportionate reduction in its budget.

E. The CAHSD shall be responsible for the billing of all eligible Title XVIII and Title XIX reimbursements for services as well as all other third-party billable services provided.

F. The CAHSD shall assume all financial assets and/or liabilities associated with the programs transferred.

G. CAHSD shall be responsible for repayment of any funds received which are determined ineligible and subsequently disallowed.

H. DHH agrees to maintain the level of support from the Office of the Secretary and from the Office of Management and Finance which is consistent with the current level of support now provided to the regional OCDD, OH, and OADA and OPH offices. These supports include: Communication and Inquiry, Internal Audit, Environmental Consultant, Fiscal Management, Information Services, Facility Management, Budget, Contract and Lease Management, Research and Development, Materials Management, Appeals, Human Rights, and Staff Development/Training.

I. Payment of premiums to Office of Risk Management for insurance costs associated with transferred staff, functions, and property use shall continue to be made by DHH. CAHSD shall be responsible for adhering to all requirements of the Office of Risk Management regarding maintenance of a risk management program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:950 (May 1998).

§2715. Joint Training and Meetings

CAHSD, through its staff, will participate in DHH and other programmatic training, meetings and other activities as agreed upon by CAHSD and DHH. In a reciprocal manner, CAHSD will provide meetings, training sessions, and other activities that will be available for participation by DHH staff as mutually agreed upon by the CAHSD and the DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:950 (May 1998)

§2717. Special Provisions

A. The CAHSD agrees to abide by all applicable federal, state, and parish law regarding nondiscrimination in service delivery and/or employment of individuals because of race,

color, religion, sex, age, national origin, handicap, political beliefs, disabled veteran, veteran status, or any other nonmerit factor.

B. The CAHSD shall maintain a property control system of all movable property in the possession of the CAHSD that was formally under the control of DHH, and of all additional property acquired.

C. For purposes of purchasing, travel reimbursement, and securing of social service/professional contracts, the CAHSD shall utilize established written bid/RFP policies and procedures. Such policies and procedures shall be developed in adherence to applicable statutory and administrative requirements. The CAHSD shall provide informational copies of such policies and procedures to DHH as requested.

D. The CAHSD shall abide by all court rulings and orders that affect DHH and impact entities under the CAHSD's control, and shall make reports to DHH Bureau of Protective Services all applicable cases of alleged abuse, neglect, exploitation, or extortion of individuals in need of protection in a format prescribed by DHH.

E. This Memorandum of Understanding anticipates that

East and West Feliciana Parishes shall become part of the CAHSD in which said T.O. and monies shall remain part of the resources transferred. In the event that East and West Feliciana Parishes do not become part of the CAHSD, the DHH and CAHSD shall negotiate a reduction of resources ascribed to those parishes.

F. The CAHSD and DHH agree that in matters of State Civil Service, Risk Management, employee appeals and other such State Civil Service related issues, DHH, through its Bureau of Legal Services, shall continue to function as the Legal Counsel of Record for CAHSD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:950 (May 1998).

§2719. Renewal/Termination

This agreement will cover the period of time from July 1, 1996 to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:951 (May 1998).

Attachment A

The DHH agrees to transfer the following T.O. and revenues

Agency	T.O.	S.G.F.	Federal Funds	Self Generated	IAT	Stat. Ded.	Total
PH	1	5,668			38,157 ⁽¹⁾		43,825
OMH	74				7,550,446 ⁽²⁾		
OCDD	17	3,554,158			117,620 ⁽³⁾		3,671,778
OADA	61				4,225,037 ⁽⁴⁾		4,225,037
OM&F	6	378,296					378,296

Source of Revenue

	Total IAT	S.G.F.	Title XIX	Title XVIII	Block Grant	MCH Grant	Preventive Grant	Categorical Grant	Local	Self Generated	PATH Grant	Other
(1)	38,157		3,974			5,139	1,285	25,696				2,063
(2)	7,550,446	6,230,342	634,096	159,135	421,311						80,414	25,148
(3)	117,620		37,620									80,000
(4)	4,225,037	762,311	83,391		3,369,243							10,092

Attachment B

Definitions/Descriptors of Services Provided by DHH Program Offices

Community Based Residential Services: Typically 30 days or less of non-acute care which provides a planned and professionally implemented treatment regimen for persons suffering from alcohol and/or other drugs of abuse. It operates twenty-four hours a day, seven days a week.

Eligible Consumer: Any person residing in the CAHSD area who is not excluded from participation in a given program by virtue of the funding agency's guidelines for eligibility. In regards to utilization of the state and federal grant funds transferred by this Agreement, highest priority for service receipt shall be given to the target populations specified in the State Plan of each respective DHH Program Office. Additionally, the CAHSD shall be responsible for provision of any program components uniformly mandated by the respective State Plans. This provision regarding use of transferred funds shall not govern priorities for use of other revenue which may be generated by the CAHSD, unless specifically noted herein.

Intensive Outpatient Treatment/Day Treatment: Services provided to a client that last two or more hours per day for three or more days per week. Note: Day Care is included in this category.

Long-Term Treatment: Provides treatment and rehabilitation services in excess of 30 days of non-acute care which includes a planned and professionally implemented treatment regimen for persons suffering from alcohol and/or other drugs of abuse. It operates twenty-four hours a day, seven days a week.

Mental Health Services

1. Outreach

A. This service consists of finding, identifying and engaging individuals who have mental health service needs. It promotes prevention and assists in early detection and intervention. It also includes activities designed to promote awareness and understanding of the mental health delivery system and its specialized services and strategies. Target populations may include, but are not limited to, community organizations, consumers, other agencies, mental and

physical health service providers, and special populations such as the homeless, persons in jail, and the dually diagnosed.

2. Mental Health Clinic Services

Traditional mental health outpatient services such as diagnostic screening and evaluation, outreach, day treatment, medication management, and psychotherapy (individual, group and family).

2.1 Assessment/Evaluation

A comprehensive assessment/evaluation includes an individualized treatment plan and determines the appropriateness of the program and level of service. As part of the assessment/evaluation, an interdisciplinary team will complete a written report which includes, at a minimum, demographic data and social history, diagnostic information, functional assessment, and other information necessary to determine service need, mix, intensity, and duration.

2.2 Medication Management

An assessment of the need for medications, the prescription of needed medications, and the ongoing management of a medication regimen.

2.3 Psychotherapy (Individual, Group, Family)

A structured, goal-oriented therapeutic process in which an individual interacts with a therapist, or a group of people interact with each other and a therapist, on a face-to-face basis and in accordance with the individual's treatment plan.

3. Crisis Response Systems (CRS) - Includes Acute In-Patient Services

Professional rehabilitation services that provide immediate emergency intervention with the consumer, family, legal guardian, and/or significant others to ameliorate a consumer's maladaptive emotional/behavioral reaction. Services are designed to resolve the crisis and develop symptomatic relief, increase knowledge of where to turn for help at a time of further difficulty, and facilitate return to pre-crisis routing functioning. Crisis Response System services are available 24 hours a day, seven days a week, on a face-to-face basis and have the capacity to provide the following components:

3.1 24-Hour Screening and Assessment

Emergency evaluation and assessment of the level of intervention needed. The comprehensive assessment/evaluation includes the individualized treatment plan and determines the appropriateness of the program as well as the level of services. An interdisciplinary team performs the evaluation and provides a written report which includes: demographic data and social history, diagnostic information, functional assessment, and other information necessary to determine service need and intensity.

3.2 In-Home Crisis Services

Services available in the community seven days a week, 24-hours a day to provide structural support necessary to stabilize a person in the home while experiencing acute symptoms of mental illness/or emotional distress. Services reduce the likelihood that the person will harm himself or others. Support programs are designed to help restore the person to their pre-crisis level of functioning while preventing inappropriate or premature placement in a more restrictive setting. Crisis support programs are provided on a continuous basis up to 72 hours.

3.3 Crisis Respite

Services which provide temporary, on-site supervision to individuals due to emergency situations and absences of customary caretakers. Services may be provided in the consumer's home or in the respite provider home or facility.

3.4 Acute Psychiatric Inpatient Services

Provision of services in an acute psychiatric setting where the individual is provided room, board and routine monitoring by nursing staff. All appropriate evaluations, treatments and therapies provided to an individual are required service components of this service.

3.5 Crisis Stabilization

Providing acute crisis stabilization in a community setting outside the confine of an acute hospital.

4. Psychosocial Rehabilitation Services

Services which are medically necessary and can reasonably be expected to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functional level in the community. The services are provided outside of a mental institution (or distinct part psychiatric unit) on an as needed basis to assist clients in coping with the symptoms of their illnesses, minimizing the disabling effects of mental illness on their capacity for independent living, and preventing or limiting periods of inpatient treatment. The service components are:

4.1 Mental Health Rehabilitation Assessment

The mental health rehabilitation assessment is an assessment of the person's/family's strengths and needs with regard to functional skills and environmental resources. The purpose of the assessment is to identify and prioritize consumer/family defined rehabilitation goals. The assessment team

is composed of the clinical manager, the licensed physician, the consumer and all other professionals and paraprofessionals providing services to the consumer.

4.2 Clinical Management

The clinical manager provides ongoing clinical direction, oversight, and coordination of services for all MHR consumers in a caseload. The clinical manager is a licensed mental health professional who is an employee of the MHR agency.

4.3 Individual Intervention, Supportive Counseling, Group Counseling, and Parent/Family Intervention

4.3.a Individual Intervention and Supportive Counseling

Individual intervention (adult) and Supportive Counseling (children) are services provided to eliminate psychosocial barriers that impede the development or modification of skills necessary to function in the community, specifically, counseling and therapy services: (A) Maximize strengths, (B) Reduce behavioral problems, and/or functional deficits to change behavior, (C) Promote problem solution, (D) Improve interpersonal skills, and (E) Assist in the development of interest areas and natural supports, (F) Provide illness education, (G) Explore and clarify values, (H) Facilitate interpersonal growth and change and (I) Increase psychological understanding.

4.3.b Parent/Family Intervention

Parent/family intervention is a therapeutic intervention involving the consumer and/or one or more of that consumer's family members. (A) Family members may be the natural parent, foster parent, legal guardian, child, brother, sister, spouse, significant other, grandparent, grandchild, stepparent, aunt, uncle, or first cousin of the consumer. (B) This intervention may include the teaching of parenting skills.

4.3.c Group Counseling

Group counseling is a therapeutic intervention involving direct personal involvement of a counselor/therapist with a limited number of consumers. (A) Sessions are scheduled often enough to provide effective treatment consistent with the Service Agreements of group members. (B) The group focus is face-to-face dialogue of a verbal rather than performance nature. (C) The time period for a group counseling/therapy session generally does not exceed one to 1½ hours. (D) Group counseling is time limited.

4.4 Medication Management Component

Medication Management is directed toward maximizing the consumer's functioning and reducing symptoms. Medication Management is provided only for the purpose of enabling a consumer to make productive use of other Mental Health Rehabilitation services: The Medication Management component provides all of the following services: (A) On-site medication monitoring, (B) Off-site medication monitoring, (C) On-site individual skills training and (D) Off-site individual skills training.

4.5 Psychosocial Skills Training

The Psychosocial Skill Training components provide all the following services: (A) on-site group skills training, (B) Off-site group skills training, (C) On-site individual skills training and (D) Off-site individual skills training. Psychosocial Skills Training teaches skills necessary for the consumer to succeed in his/her environment including but not limited to: (A) Daily and community living skills, (B) Socialization skills, (C) Adaptation Skills, (D) Development of interests and skills in using leisure time, (E) Symptom management skills, (F) Education in mental health/mental illness issues related to the consumer's individual diagnosis and needs and Psychologically supportive individual and/or group activities.

4.6 Service Integration

Service integration includes but is not limited to the following: (A) Integration of therapeutic principles and psychosocial skills into the consumer's natural environment and daily routine, (B) implementation of a person's behavior management plan, (C) Specialized one on one assistance within a group setting, (D) Physical management of a person who is engaged in violent or destructive or disruptive behavior and (E) Other highly individualized services as identified on the consumer's MHR Service Agreement.

5. Supported Living Option

Those services which assist a person to live in permanent, "regular" housing through the specialized support that is available in the intensity and quality needed, but is not present when there is no need. Supported housing refers to assisting people with mental illness to live in permanent, individual housing in a genuine community environment which is not inherently a treatment or service setting, by providing as needed a flexible range of formal and informal supports that are necessary for an individual to maintain that housing.

6. Natural Family Support Networks

Family Support services assure that families of children with serious

emotional disturbance have the necessary personal support, information, and skill to cope and maintain family integrity and to enhance the likelihood that the child with serious emotional disturbance can successfully remain at home. Service elements include planned respite care, wraparound funding, parent education, parent support groups, parent case manager training, cash subsidy, home aide services transportation, and advocacy services.

7. Targeted Case Management

Services provided to eligible consumers to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services.

8. Consultation/Education

These are services which assist other professionals or community members who have regular or frequent contact with the consumer to better understand the consumer's/family's condition or situation, and to respond more effectively/appropriately to that consumer/family's needs and problems. They are often of the nature of explanations of diagnoses, behaviors, or treatment plans/regimens, and suggestions as to how the person can best work to facilitate treatment and not exacerbate the consumer's condition.

9. Day Treatment

This service provides opportunities for teaching new rehabilitative skills to community living and work activities, building networks of peer support, teaching self-help community activities, and providing a place where individuals can learn how to successfully relate to persons and communicate their needs and desires. In addition, these programs provide secure, structured environments where individuals experiencing disruption in routine behaviors brought on by their illness receive treatment and support.

Children/Adolescents Day Treatment is an intensive, structured, non-residential program of several hours duration (usually five or more) which provides an integrated set of counseling, behavioral, education and family interventions that enable children to reside at home and to maintain community, school and family ties. Programs may be located in schools or other community facilities.

10. Interagency Coordination

Interweaving of the components of services provided by the various agencies involved in serving the consumer into a coherent and effective system.

11. Prevention/Early Education

These are services oriented to persons who have not been identified as needing clinical treatment/intervention, or whose condition is thought to be able to be arrested by preventive intervention. These services typically involve promotion of positive behaviors and mental health practices, increasing necessary and sufficient supports as a mechanism for preventing deterioration, or training recipients with information regarding recognition and coping effectively with risk factors.

12. Transition Services

Services that assist in the shift from children's services to adult services. Transition services consist of joint planning between personnel in both settings to determine the appropriate services to assist the child an family with the adjustment.

13. Planned Respite

This service provides temporary supervision to individual consumers or groups of consumers in order to provide regular care givers with relief. Services may be provided in the consumer's home or in the respite provider's home or in a facility.

Non-Medical/Social Detoxification: Twenty-four hour/day services in a non-hospital setting that provides for safe withdrawal from alcohol and/or other drugs and transition to appropriate on-going treatment.

OCDD Community Support Services: These are all of the services that OCDD offer to individuals in the community. Such services are 1) tailored to the individual needs of each person requesting a service; and 2) are funded either through state general funds or Medicaid. The primary goal of these services is to create and sustain supports in the community for individuals with developmental disabilities. Such services are as follows:

1. HABILITATIVE SERVICES—emotional, vocational skills and work-related skills for adults with developmental disabilities over the age of 22. Types of habilitative services include:

- a. SUPPORTED EMPLOYMENT GROUP MODELS
- b. FACILITY BASED SERVICES

c. PRE-VOCATIONAL TRAINING

d. DAY HABILITATION

2. RESIDENTIAL SERVICES—a range of living options in a Title XIX facility which include the following:

a. ICF/MR 16+BEDS

b. GROUP HOMES 7+BEDS

c. COMMUNITY HOME 6 BED OR LESS

d. EXTRAORDINARY RATE—Title XIX allowable services in ICF/MR facilities that cannot be met through the per diem rate.

3. SUPPORTED INDEPENDENT LIVING/RESIDENTIAL HABITATION—individually tailored supports provided to a person in his/her home for the purpose of enhancing the quality of life and ensuring their health and safety.

4. SUBSTITUTE FAMILY CARE/EXTENDED FAMILY LIVING—community care for children and adults in family homes providing for the individuals's physical, emotional, educational, habilitative and social needs.

5. RESPITE—temporary, short-term care of individuals who are unable to care for themselves because of the absence or need for relief of the primary caregiver.

6. PCA—services provided for individuals whose disabilities preclude the acquisition of certain independent living skills related to activities of daily living, such as bathing, dressing, grooming and food preparation and storage.

7. PERSONAL EMERGENCY RESPONSE—immediate assistance to an individual in the event of a physical, emotional or environmental emergency through a community-based electronic communications device.

8. ASSISTIVE DEVICE—specialized medical equipment and supplies, and adaptive and communication aids which increase the individuals's ability to communicate and or perform activities of daily living.

9. ENVIRONMENTAL MODIFICATIONS—assessment of the need for and modifications and or improvements to an individuals' home to allow for community living and ensure safety, security, and accessibility.

10. INFANT HABILITATION EARLY INTERVENTION—habilitative services for infants and toddlers, ages birth to three, and their families.

11. CRISIS ASSISTANCE—short term, emergency services for individuals and their families who are in a crisis situation that are provided until the individual's needs can be met through the regular services system.

12. FAMILY TIES—supports to natural families designed to assist them in bringing home a child, age birth to eighteen, from an institution, group or community home, or other residential facility.

13. CASH SUBSIDY BENEFITS—flat monthly payments to the families of children aged birth through seventeen who have severe developmental disabilities.

Office for Alcohol and Drug Abuse—Hereafter referred to as OADA

Office for Citizens with Developmental Disabilities—Hereafter referred to as OCDD

Office of Mental Health—Hereafter referred to as OMH

Office of Public Health—Hereafter referred to as OPH

Outpatient Treatment (Nonintensive): Treatment/recovery/aftercare or rehabilitation services provided where the client does not reside in a treatment facility. The client receives alcoholism and/or drug abuse treatment services with or without medication, including counseling and supportive services.

Primary Prevention: Programs that are directed at individuals who have not been determined to require treatment for substance abuse. "Substance" abuse is defined to include alcohol, tobacco and other drugs ATOD. Prevention Programs will include the following strategies:

1. Information Dissemination
2. Prevention Education
3. Alternative
4. Problem Identification and Referral
5. Community-Based Process
6. Environmental

Addendum

In the event that Livingston Parish is included in the CAHSD, the table below includes the agreed upon resources that shall be transferred to the CAHSD. It shall also be understood that Livingston Parish shall be part of the memorandum of understanding between the DHH and CAHSD.

Agency	T.O.	S.G.F.	Title XIX	Title XVIII	Block Grant	MCH Grant	Preventive Grant	Categorical Grant	Local	Self Generated	Path Grant	Other	Total
OPH	0												0
OMH	0												0
OCDD	0	264,056	11,968									7,083	283,107
OADA	0			90,000									90,000
OM&F	0												0

**Addendum to
Memorandum of Understanding
Between the Department of Health and Hospitals and
The Capital Area Human Services District
FY 97/98**

This addendum to the memorandum of understanding is entered into, by and between the Department of Health and Hospitals and the Capital Area Human Services District. Given that the MOU was effected before the conclusion of the 1997 regular session, an amendment is necessary to reflect

the programmatic and fiscal directives of that session.

1. Changes in funding that were necessary for the Office of Alcohol and Drug Abuse, Office of Mental Health and for the Office of Citizens with Developmental Disabilities are outlined below:

Agency	T.O.	S.G.F.	Federal Funds	Self Generated	IAT	Stat. Ded.	Total
OADA*	38				3,106,809		3,106,809
OMH	74				7,594,018		7,594,018
OCDD	17	4,229,691			143,544		4,373,235

SOURCE OF FUNDS

Agency	Total IAT	SGF	Title XIX	Title XVIII	Block Grant	MCH Grant	Preventive Grant	Categorical Grant	Path	Other
OADA	3,106,809	762,311	83,391		2,261,107					
OMH	7,594,018	6,275,414	634,096	159,135	419,811				80,414	25,148
OCDD	143,544	25,000	37,620							80,924

* An additional \$225,000 shall be transferred to CAHSD by BA 7. This figure includes funds of \$5000 for SYNAR, \$50,000 for O'Brien House, \$20,000 for Compulsive Gambling and \$150,000 for Drug Court.

**Funding for the Office of Public Health and the Office of Management and Finance remains the same.

2. For purposes of consumer eligibility, residents of East and West Feliciana who meet the DHH Program Office State Plan target population definitions shall have access to services provided by the CAHSD.

David W. Hood
Secretary
Department of Health and Hospitals

Dr. Jan Kasofsky
Executive Director
Capital Area Human Services Director

David W. Hood
Secretary

9805#067

RULE

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

Standards for Payment for Nursing
Facilities (LAC 50:II.10147)

The Department of Health and Hospitals, Office of the

Secretary, Bureau of Health Services Financing amends 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. Standards for Payment for Nursing
Facilities**

Subchapter F. Vendor Payments

§10147. General Provisions

A. - D.2. ...

a. hospitalization for an acute condition including psychiatric stays, which does not exceed seven days per hospitalization;

b. home leave.

Note: Payment cannot be made for hospital leave days while a resident is receiving swing bed SNF services.

D.3. - 4. ...

5. *Home Leave (Leave of Absence)*—a visit with relatives or friends which does not exceed 15 days per calendar

year. Institutionalization is not broken if the absence does not exceed 30 days and if the facility has not discharged the resident.

Note: Elopements (unauthorized absences under the plan of care) count against allowable home leave days. The period of absence shall be determined by counting the first day of absence as the day the resident leaves the facility. Only a period of 24 continuous hours or more shall be considered an absence. Likewise, a temporary leave of absence for hospitalization or home visit is broken only if the resident returns to the facility for 24 hours or longer. Upon admission, a resident must remain in the facility at least 24 hours in order for the facility to submit a payment claim for a day of service or reserve a bed.

Example: A resident admitted to a nursing facility in the morning and transferred to the hospital that afternoon would not be eligible for any vendor payment for facility services.

6. If a resident transfers from one facility to another, the unused home leave days for that calendar year also transfer. No additional leave days are allocated.

7. The facility shall promptly notify the parish/regional BHSF Office of absences beyond the applicable 30 days for temporary absence, 15 days for home leave, or seven days for hospitalization limitations.

E. ...

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 24:954 (May 1998).

David W. Hood
Secretary

9805#072

RULE

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

Title XIX Medically Needy Program
Service Coverage Restrictions

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 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 reinstates Title XIX Medically Needy Program and establishes the following service coverage restrictions in the reinstated Title XIX Medically Needy Program:

Covered Services

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;

- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;
- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy.

Noncovered Services

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic/services;
- 3) mental health clinic services;
- 4) home- and community-based waiver services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) services; and
- 10) Tuberculosis (TB) Clinic services.

All other components of the Title XIX Medically Needy Program shall be in accordance with federal requirements as stated in the *Code of Federal Regulations*.

David W. Hood
Secretary

9805#073

RULE

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

Video Draw Poker—Application and License (LAC 42:XI.2405); Riverboat Gaming—Vendor Recommendations/Solicitations, Surveillance and Security (LAC 42:XIII.2329 and 3301)

The Gaming Control Board hereby adopts LAC 42:XIII.2329 and amends LAC 42:XI.2405 and LAC 42:XIII. 3301 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

* * *

D. Change of Ownership of Licensed Establishment

* * *

7. All device owners shall immediately notify the division, in writing, of any and all facts within their knowledge indicating that a licensed establishment for whom the device owner provides devices or services has had a change of ownership or management. Failure to notify the division as provided in this Subsection shall constitute grounds for suspension or revocation of the device owner's license.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:955 (May 1998).

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 23. Compliance, Inspections and Investigations

§2329. Notification of Vendor Recommendations or Solicitations

A. All persons licensed to conduct riverboat gaming operations shall report on the last day of each month, in writing, to the Gaming Control Board the name, address, and telephone number of any person or legal entity who or which recommends to or solicits through any agent, employee or representative, who has authority to contract for the licensee, for the purpose of the licensee considering the purchase of goods and/or services from a particular vendor. The licensee shall report the name, address, and telephone number of the recommended vendor to the board at the same time. This provision shall only apply to the solicitation or purchase of goods and/or services with a value in excess of \$5,000. This provision shall not apply to any recommendations made to the licensee for the hiring of employees working in the day-to-day operations of the vessel.

B. *Vendor*, for the purposes of this rule, shall include, but is not limited to, any manufacturer, distributor, gaming supplier, nongaming supplier, junket representative, professional, independent contractor, consultant, or other person in the business of providing goods and services regardless of whether required to be licensed, permitted, or registered.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:956 (May 1998).

Chapter 33. Surveillance and Security

§3301. Required Surveillance Equipment

A. The holder of an operator's license shall install in the riverboat a closed circuit television system, in accordance with the specifications herein, and shall provide for access at all times to the system or its signal by agents of the division. The closed circuit television system must meet or exceed specifications established by the division to include:

1. solid state, black and white cameras, as approved by the division, installed in fixed positions with matrix control and/or with pan, tilt, and zoom capabilities, secreted from

public and nonsurveillance personnel view to effectively and clandestinely monitor in detail, from various vantage points, the following:

* * *

2. individual solid state, color television cameras, as approved by the division, with matrix control and/or pan, tilt, and zoom capabilities, secreted from public and nonsurveillance personnel view, augmented with appropriate color corrected lighting to effectively and clandestinely monitor in detail, from various vantage points, the following:

* * *

10. video tape recorders, as approved by the division, capable of producing high quality first generation pictures and recording on a standard 1/2-inch VHS tape with high speed scanning and flickerless playback capabilities in real time, or other medium approved by the division. Such videotape recorders must possess time and date insertion capabilities for taping what is being viewed by any camera in the system.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:956 (May 1998).

Hillary J. Crain
Chairman

9805#004

RULE

**Department of Public Safety and Corrections
Office of State Police**

Motor Carrier Safety and Hazardous
Materials (LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section hereby amends LAC 33:V.10303 pertaining to Motor Carrier Safety and Hazardous Materials requirements to add part 382 of 49 CFR (Controlled Substances and Alcohol Use and Testing) as authorized by R.S. 32:1501 et seq. The amendment is critical to the Motor Carrier Safety efforts and consists solely of the addition of 49 CFR part 382.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials

§10303. Federal—Motor Carrier Safety and Hazardous Materials

A. ...

Hazardous Materials Regulations

Parts 171 - 180 ...

Motor Carrier Safety Regulations

Part 382 Controlled Substances and Alcohol Use and Testing

Parts 383 - 397 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998).

Thomas Normile
Undersecretary

9805#032

RULE

Department of Social Services Office of Family Support

Support Enforcement and Program Administration
(LAC 67:III.Chapter 25 and repeal of §2751)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, SES will cooperate in automated administrative enforcement in interstate cases. Recent review of the SES State Plan by the U.S. Department of Health and Human Services, Office of Child Support Enforcement (OCSE), prompted that agency to advise SES to incorporate this change into the *Louisiana Administrative Code*, §2525. OCSE review also prompted SES to clarify and expand language pursuant to Public Law 104-193 and R.S. 9:311(C) wherein the procedure for review and adjustment of child support cases has been changed (§2512).

Further review of the *Louisiana Administrative Code* for SES revealed that regulations at §2519 and §2751 should be repealed, having been obsoleted by changes in state and federal laws. In order to correctly codify regulations at this time, LAC 67:III.Chapter 25.Subchapter G is being reserved and the current policy at §2525 will maintain its history and be renumbered §2520. Therefore, §2525 as it appears in this notice is new. Language in other sections is being updated to clarify current regulations.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter C. Formula for Support Obligation

§2511. Child Support Award Guidelines

The child support award guidelines established in R.S. 9:315 et seq. shall be used in any proceeding to establish or modify child support orders. There shall be a rebuttable presumption that the amount of the child support established

by use of the guidelines is the proper amount of child support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315 et seq., 45 CFR 302.56.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:497 (September 1987), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:807 (October 1989), LR 16:34 (January 1990), amended by the Office of Family Support, LR 24:957 (May 1998).

§2512. Adjustment of Child Support Orders

SES will send a notice every three years advising both parties to the support order of the right to request a review. If either party requests a review, SES will conduct the review and, if appropriate, judicially adjust the order in accordance with the guidelines if the amount of the child support in the order differs from the amount of the child support award in accordance with the guidelines.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, §351 and R.S. 9:311(C).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1178 (September 1993), amended LR 23:748 (June 1997), LR 24:957 (May 1998).

Subchapter E. Individuals Not Otherwise Eligible

§2519. State Plan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33, 45 CFR 232.11(a)(1), 45 CFR 232.11(a)(4), 45 CFR 302.31, 45 CFR 302.32, 45 CFR 302.51, 45 CFR 302.52 and 45 CFR 232.11.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Youth Services, LR 2:111 (April 1976), repealed by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).

§2520. Locate Fee for Non-FITAP Recipients (previous §2525)

The IV-D Program shall charge a fee of \$10 per request for non-FITAP, locate-only requests. An additional \$4 charge shall be made if the Social Security Number of the noncustodial parent is not provided.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.70.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).

§2521. Child Support Application Fee for Non-FITAP Applicants

SES will charge an application fee of \$25 for services to individuals who do not receive FITAP, Medicaid, or IV-E Foster Care assistance. When SES takes the application, the SES regional office will collect the fee. When a contracted office of the district attorney takes the application, the district attorney's office will collect the fee and retain the nonfederal share of the fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).

Subchapter F. Cooperation with Other States
§2525. Automated Administrative Enforcement in Interstate Cases

A. SES shall use high-volume, automated administrative enforcement on interstate cases to the same extent as used for intrastate cases.

B. SES may transmit a request for assistance to another state by electronic or other means in a case involving the enforcement of a support order. The request shall contain sufficient information to enable the receiving state to compare such information with information in its data base. The request shall constitute a certification of the amount of court-ordered support which is in arrears, and that the state has complied with all procedural due process requirements applicable to the case.

C. SES shall promptly respond to a request made by another state for automated enforcement of a support order. SES shall maintain records of the number of such requests for assistance received, the number of cases for which support was collected in response to such a request, and the amount of support collected.

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998).

Subchapter G. Reserved (previously Parent Locator Service)

(Editor's Note: The previous §2525 is relocated and renumbered §2520.)

Subchapter I. Tax Refund Offset

§2533. Federal Tax Refunds

A. SES shall collect past-due support by federal tax refund offset according to federal criteria.

B. SES shall deduct the processing fee imposed by the Internal Revenue Service from each non-FITAP payee's refund check.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998).

Chapter 27. General Program Administration

Subchapter B. Reserved (previously Notice of Collection of Assigned Support)

§2751. Annual Notice of Collection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.54.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), repealed LR 24:958 (May 1998).

Madlyn B. Bagneris
Secretary

9805#076

RULE

Department of Social Services
Office of Rehabilitation Services

Vocational Rehabilitation Policy Manual
Applicant/Client Appeal Rights and Rehabilitation
Technology (LAC 67:VII.107 and 115)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Rehabilitation Services hereby amends the following rule in the Vocational Rehabilitation Services Policy Manual: Applicant/Client Appeal Rights and Rehabilitation Technology.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. Vocational Rehabilitation Policy Manual

§107. Applicant/Client Appeal Rights

A. Administrative Review

* * *

B. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client must be through the public court system.

2. The fair hearing is a process which may be used by applicants/clients to appeal disputed findings of an administrative review, or as a direct avenue of appeal bypassing the administrative review option.

3. The fair hearing will be conducted by an impartial hearing officer within 45 calendar days of receipt of the initial written request if no administrative review was conducted and within 30 calendar days if the fair hearing follows an administrative review.

4. The impartial hearing officer must render a final decision within 30 calendar days following the fair hearing.

5. The entire appeal process, whether it is inclusive of the administrative review or not, will not exceed 45 calendar days unless an exception is agreed upon jointly by the participating parties, i.e.:

a. the applicant/client and/or their representative, if applicable;

b. the appropriate regional manager, and the impartial hearing officer.

6. An exception to this time line should only be made as a result of sufficient cause as agreed upon by the participants. However, if the request for a fair hearing is directly related to an agency decision to end or alter services in progress, then a fair hearing must be conducted and a decision must be reached within 60 calendar days of the initial request.

7. The client will not have the option of requesting delays past this time.

8. The failure of the client who is contesting an agency decision regarding a plan of services currently in progress to participate in a fair hearing within the 60-calendar-day requirement will result in a dismissal of the appeal.

Note: The maximum 60-calendar-day time period for participating in a fair hearing with a resulting decision does not apply to applicants/clients requesting an appeal regarding matters other than services currently in progress. With sufficient cause and joint agreement of the participating parties, the fair hearing and decision can be delayed for a longer period of time.

9. The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Services Vocational Rehabilitation Advisory Council.

10. The impartial hearing officer shall be selected to hear a particular case on a random basis, or by agreement between the LRS director and the applicant/client (or the client's representation, as appropriate).

11. All applicants/clients must be provided adequate notification of appeal rights regarding eligibility, determination of severe disability, the provision or denial of rehabilitation services, and/or the client's right to representation. Unless services being provided under the current Individualized Written Rehabilitation Program have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client, such services will continue during the fair hearing appeal process.

12. If an administrative review has been conducted, in order to insure that the applicant/client is afforded the option of availing themselves of the opportunity to pursue a fair hearing, adequate notification by the regional manager must include:

- a. the agency's decision;
- b. the basis for, and effective date of, that decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

C. Director's Review of Fair Hearing

1. The director shall notify the individual of the intent to review a fair hearing decision in whole or in part within 20 calendar days of the mailing of the impartial hearing officer's decision to the individual.

2. If the director decides to review the decision, the individual shall be provided an opportunity to submit additional evidence and information relevant to a final decision.

3. The director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless:

- a. the initial decision is arbitrary, capricious, an abuse of discretion, or otherwise unreasonable;

- b. the initial decision is not supported by substantial evidence, i.e., consistent with the facts and applicable federal and state policies;

- c. the initial decision by the impartial hearing officer has not given appropriate and adequate interpretation to such factors as:

- i. the federal statute and regulations as they apply to the specific issue;

- ii. the state plan as it applies to the specific issue in question;

- iii. the state procedures manual as it applies to the issue in question;

- iv. key portions of conflicting testimony;

- v. state agency options in the delivery of services if such options are permissible by federal statute;

- vi. restrictions in the federal statute or regulations with regard to such supportive services as maintenance and transportation;

- vii. approved federal or state agency policy as it relates to the issue in question.

4. A final decision shall be made in writing by the director within 30 calendar days of providing notice of intent to review the impartial hearing officer's decision and shall include a full report of the findings and the grounds for the decision. The director shall provide a copy of the final decision to such individual.

D. Impartial Hearing Officers

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), LR 24:958 (May 1998).

§115. Financial

A. - A.1.b.v. ...

- vi. rehabilitation technology;

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998).

Madlyn B. Bagneris
Secretary

9805#075

RULE

Department of Transportation and Development Office of the General Counsel

Illegal Outdoor Advertising
Signs (LAC 70:I.144)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts a rule entitled "Illegal Outdoor Advertising Signs" in accordance with R.S. 48:461.

**Title 70
TRANSPORTATION**

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertising Signs

§144. Illegal Outdoor Advertising Signs

A. An outdoor advertising sign is deemed to be illegal if:

1. the owner has received a certified letter from the department under the provisions of R.S. 48:461 and has failed to respond within the time allotted;

2. the owner replied to the certified letter provided for in R.S. 48:461; received an administrative review as provided for hereafter; received a ruling of illegality and failed to appeal said ruling within the time allotted; or

3. the owner replied to the certified letter provided for in R.S. 48:461; received an administrative review as provided for hereafter; received a ruling of illegality; appealed said ruling as provided for hereafter; and a final ruling of illegality was rendered by the Court.

B. Penalties

1. If the owner fails to reply to the notice within 30 days, as set forth in §144.A.1, then the owner shall be assessed a penalty of \$100 per day for each day that the violation continues to occur, said fine to begin on the date specified in said notice.

2. If the owner requests and receives an administrative hearing as provided for in §144.D, and the hearing results in a finding that the owner's device is illegal, and he fails to appeal said finding, the owner shall be assessed a penalty of \$100 per day for each day that the violation occurred and continues to occur following 30-day written notice of the ruling of the administrative hearing.

3. If the owner receives and appeals the ruling of the administrative hearing and receives a final ruling of illegality rendered by a court of competent jurisdiction, then the owner shall be assessed a penalty of \$100 per day for each day that the violation occurred and continues to occur. Said penalty shall be retroactive to the date 30 days after written notice of the ruling of the administrative hearing.

C. An applicant who requests an outdoor advertising permit for a sign erected without a permit (even though permissible) shall be assessed a surcharge in addition to the permit fee in a sum equal to three times the permit fee.

D. There is hereby created within the Department of Transportation and Development an administrative review process which is available to permit applicants who have received notification that the department intends to remove their outdoor advertising signs or deny future permits.

1. Composition of the Administrative Review Committee. The administrative review committee shall be composed of representatives of the following divisions within the Department of Transportation and Development:

- a. Traffic Services and/or Maintenance Division;
- b. Legal Division;
- c. Office of District Traffic Operation Engineer (office of particular district in which the sign is located) (nonvoting);
- d. Traffic Engineering.

2. Authority of the Administrative Review Committee. The committee, pursuant to a majority vote, may arbitrate and

resolve disputes which arise during the permit process and grant or deny relief to petitioning permittees.

3. The permittee must bring his complaint before the administrative review committee no later than 30 days after notification to remove the illegal sign, or no later than 30 days after receipt of a permit denial, whichever is applicable.

4. Duties of the Administrative Review Committee. The administrative review committee must meet in a timely fashion to review all protests filed by permittees. The administrative review committee must give each protester due notice of meeting time and place. The administrative review committee must notify the permittee of its action within seven working days of its meeting.

5. Rights of the Protesting Permittee. The permittee shall submit, in writing, his protest and all pertinent exhibits. Such submittal must be received five days before the review committee meeting. The permittee may appear before the administrative review committee to offer a brief explanation of his grievance.

6. Permittee's failure to submit an appeal in a timely manner shall constitute a denial of the administrative appeal.

E. Section 144 shall apply to any illegal sign installed prior or subsequent to its promulgation as a final rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 24:960 (May 1998).

Frank M. Denton
Secretary

9805#071

RULE

**Department of Transportation and Development
Office of the Secretary
Crescent City Connection Division**

Greater New Orleans Mississippi River Bridge
Number 2 Transit Lanes (LAC 70:I.515)

The Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts the rule applicable to the transit lanes on the Crescent City Connection Bridge Number 2.

Title 70

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 5. Tolls

§515. Crescent City Connection—Transit Lanes

A. Intent. It is the intent of this rule to efficiently maximize the use of the vehicular traffic lanes of the Crescent City Connection for the increased mobility of individuals and goods across the Mississippi River at New Orleans, to encourage and promote mass transit and transportation such as the use of carpools and other High Occupancy Vehicle (HOV) use, while minimizing transportation related fuel consumption and air pollution, and to provide for one-way reversible traffic flow on

the transit lanes of the Crescent City Connection Bridge Number 2, and the establishment of the requirements for vehicles operating on the transit lanes.

B. Hours of Operation

1. The transit lanes of the Crescent City Connection Bridge Number 2 will be open for use by eligible vehicles in accordance with the control signals posted by the Crescent City Connection Division through the Crescent City Connection Police.

2. Generally, the transit lanes of the Crescent City Connection Bridge Number 2 will be open for use by eligible vehicles with the traffic proceeding to the Eastbank in the morning and with the traffic proceeding to the Westbank in the afternoon.

3. However, the directional traffic flow of the transit lanes may be reconfigured by the Crescent City Connection Division in its sole discretion at such times and in such directions in order to protect the public safety during emergencies and to accommodate the public interest during special events.

C. Ineligible Vehicles. The objective of the transit lanes is to provide a free flowing facility for mass transit and other high occupancy vehicles. Accordingly, the following vehicles are prohibited from using the transit lanes during the hours of operation even though they may satisfy the vehicle occupancy requirements:

1. vehicles with less than two axles or four wheels;
2. trucks with more than two axles or having a gross weight capacity of one ton or more;
3. vehicles towing trailers;
4. parades;
5. funeral processions;
6. pedestrians;
7. bicycles; and
8. nonmotorized vehicles.

D. Eligible Vehicles. The following vehicles are eligible to use the transit lanes during the hours of operation:

1. all public mass transit vehicles, including Regional Transit Authority buses and Jefferson Transit System buses;
2. school buses;
3. commercial passenger vehicles manufactured to carry seven or more passengers and prequalified to use the transit lanes (HOV-7); and
4. other motor vehicles carrying more than a specified number of persons and properly displaying a valid toll tag issued by the Crescent City Connection Division (HOV-2).

E. Vehicle Occupancy Requirements. The minimum occupancy requirement for vehicles designated as HOV-2 shall be two or more persons during all hours of operation. The minimum occupancy requirement for vehicles designated as HOV-7 shall continue to be seven or more persons during all hours of operation.

F. Qualifications

1. Eligible vehicles meeting the vehicle occupancy requirements must be prequalified to use the transit lanes as follows:

a. **Public Mass Transit Vehicles.** All public mass transit vehicles shall continue to be prequalified to access the transit lanes toll-free during the hours of operation.

b. **School Buses.** All school buses shall continue to be authorized to access the transit lanes toll-free during the hours of operation upon compliance with the school buses exemption provided for under LAC 70:1.509.E.

c. **HOV-7+.** Eligible vehicles meeting the minimum occupancy requirement of seven or more persons must register with the Crescent City Connection Division by providing proof of:

- i. current vehicle registration with the state of Louisiana or other jurisdiction;
- ii. current and valid driver's license; and
- iii. current and fully-paid liability insurance coverage.

d. **HOV-2+.** Eligible vehicles meeting the minimum occupancy requirement of two or more persons and displaying a valid toll tag issued by the Crescent City Connection Division.

2. Toll tags on HOV-2 vehicles must be conspicuously displayed in accordance with the instructions of the Crescent City Connection Division at all times while operating on the transit lanes.

G. Enforcement. During all hours of operation, the Crescent Connection Police shall supervise and actively control access to the transit lanes, and enforce vehicle eligibility, minimum occupancy requirements and permit emblem display.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq. and R.S. 48:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, LR 24:960 (May 1998).

Frank M. Denton
Secretary

9805#019

RULE

**Department of the Treasury
Board of Trustees of the Teachers' Retirement System**

Deferred Retirement Option Plan (DROP)
Withdrawal (LAC 58:III.511 and 519)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) hereby amends rules relative to the withdrawal of Deferred Retirement Option Plan (DROP) funds.

**Title 58
RETIREMENT**

**Part III. Teachers' Retirement System
Chapter 5. Deferred Retirement Option Plan (DROP)
§511. Change of Drop Withdrawal Method**

A. The participant will have one opportunity per 12-month period 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 for all DROP participants first eligible to begin withdrawing on or after November 19, 1996:

Life Expectancy Schedule		
Age when DROP Participant Terminates Employment	Number of Months for Permitted Withdrawals	Number of Years for Permitted Withdrawals
55 or under	360 months	30 years
55 and one day to 60	310 months	25.8 years
60 and one day to 65	260 months	21.7 years
65 and one day to 70	210 months	17.5 years
70 and one day and older	160 months	13.3 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 the 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), LR 24:961 (May 1998).

§519. Application for DROP

A member shall not begin their DROP participation until TRSL has received 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), LR 24:962 (May 1998).

James P. Hadley, Jr.
Director

9805#023

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Triploid Grass Carp (LAC 76:VII.901)

The Department of Wildlife and Fisheries, Office of Fisheries does hereby amend the rule governing triploid grass carp possession and transportation for aquatic plant control in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture—Exotic Species

§901. Triploid Grass Carp

A. Triploid Grass Carp Possession and Transportation for Aquatic Plant Control; Permit Required

* * *

2. Definitions

* * *

Triploid Grass Carp Sales Permit—the official document that allows for the importation, transportation, possession and sale of live triploid grass carp in Louisiana, as approved by the secretary or his designee.

Triploid Grass Carp Seller—a properly licensed fish farmer who possesses a triploid grass carp sales permit.

3. Triploid Grass Carp Habitat Management Request Procedures

* * *

b.i. The completed applications must be returned to the department, after which department personnel will review the application. Site visitations will be made:

(a). if stocking exceeds 100 triploid grass carp;

(b). if the department determines that such a site visit is necessary; or

(c). by specific request from a water body owner.

ii. Site visitations made by fisheries staff of the Louisiana Cooperative Extension Service or other qualified fisheries professionals may be used as a substitution for a departmental site visit.

c. The department will ensure that the applicant is furnished a copy of rules and regulations pertaining to the importation, transportation and possession of live triploid grass carp in Louisiana.

* * *

e. After approval, the application and fee will be forwarded to the License Section for processing.

4. Transport of Triploid Grass Carp for Habitat Management

a. Permittee must have on his immediate possession a Triploid Grass Carp Possession and Transportation Permit when purchasing and/or transporting live triploid grass carp. This permit must be signed by the secretary or his designee.

Permittee shall show this permit upon demand by department representatives.

b. Prior to importation, fish must be certified as triploid grass carp by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department. Such certification must be furnished to and approved by the department prior to introduction of any fish into any waters of this state.

c. A bill of lading must accompany those individuals in possession of living triploid grass carp during transportation and shall include:

- i. source of triploid grass carp (hatchery);
- ii. name, address and phone number of seller;
- iii. name, address and phone number of buyer;
- iv. copy of triploid certification;
- v. total number of fish;
- vi. destination and route of shipment.

5. Triploid Grass Carp Stocking

a. No waters will be stocked without a department permit.

b. Permittee is responsible for containing triploid grass carp in his waters. Permittee is also responsible for erecting barriers to prevent the escape of triploid grass carp into adjoining waters.

6. Triploid Grass Carp Habitat Management

* * *

h. Permittee is responsible for damages caused by any escapement.

i. Except in cases of mortality or unavoidable loss, restocking will be permitted only at intervals of three years or greater following the initial stocking.

j. The cost of an initial triploid grass carp permit shall be \$50 plus an additional fee for on-site inspection, if deemed necessary by the department, or by specific request from a water body owner as stated in §901.A.3.b.i.(c). An individual wishing to stock triploid grass carp supplementally after the period described in §901.A.6.i must notify the department, after which that individual will be re-permitted at an administrative fee of \$25.

k. Qualified universities and public entities conducting research approved by or in conjunction with the department shall be exempt from fee charges.

l. If a permittee terminates the use of triploid grass carp in the permitted water body, the permittee shall notify the department immediately and dispose of the triploid grass carp according to methods approved by the department.

m. In addition to all other legal remedies, failure to comply with any of the provisions in §901 shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense, under the department's supervision, within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319(E).

n. Any permittee charged with violation of §901 has a right to make a written response to the alleged violation(s)

to the secretary, requesting a hearing to review the alleged violation(s).

B. Sale of Live Triploid Grass Carp for Aquatic Plant Control; Permit Required

1. Individuals wishing to sell live triploid grass carp must first obtain a Triploid Grass Carp Sales Permit.

2. A triploid grass carp seller must be a properly licensed fish farmer.

3. The person shipping triploid grass carp shall display the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 4 inches high.

4. A triploid grass carp seller is bound by the triploid grass carp possession and transportation regulations as stipulated in §901.A, except that:

a. the Triploid Grass Carp Sales Permit serves in lieu of the Triploid Grass Carp Possession and Transportation Permit;

b. the holders of a Triploid Grass Carp Sales Permit may sell only live triploid grass carp to holders of a valid Triploid Grass Carp Possession and Transportation Permit or a Triploid Grass Carp Sales Permit.

5. The department shall be notified at a designated telephone number (1-800-442-2511) of shipments of live triploid grass carp to permitted buyers at least 24 hours prior to shipment. Notification shall include buyer's name, address, permit number, number of fish and date and route of transport.

6. The initial Triploid Grass Carp Sales Permit will be issued to cover a period of time ending with the calendar year following the date of the permit. Permits shall be renewed annually thereafter. The cost of a Triploid Grass Carp Sales Permit is \$250.

7. An additional fee for the initial inspection of facilities will be assessed and charged.

8. Each Triploid Grass Carp Sales Permit holder will send the department an annual report detailing each sales transaction, including name and address of permitted buyer, permit number, date and number of triploid grass carp sold. These reports must be postmarked no later than the thirtieth day after the end of the calendar year.

9. In addition to all other legal remedies, failure to comply with any of the provisions in §901 shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense, under the department's supervision, within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, 56:319 and 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August 1991), amended LR 19:511 (April 1993), LR 24:962 (May 1998).

James H. Jenkins, Jr.
Secretary

9805#079

RULE

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

Apprentice Fisherman License (LAC 76:VII.409)

The Wildlife and Fisheries Commission hereby adopts a rule pertaining to an apprentice fisherman license.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 4. License and License Fees

§409. Apprentice Fisherman License

A. Definitions

Apprentice—a real person who engages in the taking of finfish for a period of two years only with and aboard the vessel of a validly-licensed commercial fisherman who also holds a valid and appropriate permit/license issued by the department and who is engaged in the commercial taking of saltwater finfish by approved methods.

B. Application

1. At the time of application for an apprentice license, the applicant must provide a notarized affidavit, signed by both the applicant and the mentor, providing the Social Security Number, name, address and commercial fisherman's license number of his mentor and stating the intent to participate in the apprenticeship program.

2. The cost for the apprentice license shall be one half the cost of a commercial fisherman's license.

C. Seasons. A person who holds an apprentice license shall be aboard the vessel with and in the presence of his mentor while engaged in the taking of finfish under this "special apprentice license." The apprentice license shall authorize, under the same conditions as the regular license or permit, the commercial taking of saltwater finfish by the apprentice while in the presence of his mentor during the period for which it is valid. The special apprentice license shall be valid from January 1 through December 31. An

apprentice license must be purchased prior to January 31 to qualify for one full year as an apprentice for the following license year.

D. Eligibility

1. Having held a valid apprentice license for two full years may substitute for the requirement of having held a gill net gear license in two of the years 1993, 1994 and 1995 when applying for a spotted seatrout permit, mullet permit, or rod and reel license. In addition to providing all commercial license application information, the applicant shall be required to show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species for the two years in which he held the apprentice license. Proof of such income shall be provided by the apprentice using one of the methods listed in the appropriate permit or license section that has been approved by the commission.

2. In addition to all other requirements, any applicant applying for a rod and reel license must provide a signed copy of his/her state income tax return for the years in which an apprentice license was held, or a notarized affidavit certifying that he/she was not required to file a state tax return.

3. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine if applicant meets the income eligibility requirement.

E. General Provision. Any person who previously held a commercial fisherman's license, or who has been convicted of a class three or greater violation, shall not be eligible to purchase an apprentice license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.8.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:964 (May 1998).

James H. Jenkins, Jr.
Secretary

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