

# Rules

## RULE

**Department of Agriculture and Forestry  
Forestry Commission  
and  
Department of Revenue  
Tax Commission**

1998 Timber Stumpage Values  
(LAC 7:XXXIX.101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Forestry Commission, and the Department of Revenue and Taxation, Tax Commission adopt rules regarding the value of timber stumpage for calendar year 1998. These rules comply with and are enabled by R.S. 3:3101 et seq.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXXIX. Forestry

#### Chapter 1. Timber Stumpage

##### §101. Stumpage Values

The Louisiana Forestry Commission and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values, based on current average stumpage market values, to be used for severance tax computations for 1998.

Trees and Timber	Price/Scale	Price/Ton
1. Pine Sawtimber	\$392.40/MBF	\$49.05/ton
2. Hardwood Sawtimber	\$207.96/MBF	\$21.89/ton
3. Pine Chip and Saw	\$89.53/cord	\$33.16/ton
<b>Pulpwood</b>		
5. Pine Pulpwood	\$25.46/cord	\$9.43/ton
6. Hardwood Pulpwood	\$15.79/cord	\$5.54/ton

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

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), LR 21:1069 (October 1995), amended by the Louisiana Forestry Commission and Louisiana Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), amended by the Department of Agriculture and Forestry, Forestry Commission, and

the Department of Revenue, Tax Commission, LR 24:1081 (June 1998).

Billy Weaver, Chairman  
Forestry Commission

Malcolm Price, Chairman  
Tax Commission

9806#056

## RULE

**Department of Agriculture and Forestry  
Office of Marketing  
Market Commission**

Sweet Potato Logo  
(LAC 7:V.2101-2115)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Marketing, Market Commission adopts regulations for the purpose of advertising, publicizing and promoting the increased production and packaging of Louisiana sweet potatoes in the state of Louisiana through the creation, licensing, and use of a Louisiana sweet potato logo. These rules are enabled by R.S. 3:413 and 415. No preamble concerning the proposed rules is available.

### Title 7

## AGRICULTURE AND ANIMALS

### Part V. Advertising, Marketing and Processing

#### Chapter 21. Louisiana Sweet Potato Logo

##### §2101. Statement of Authority and Purpose

The state Market Commission hereby adopts LAC 7:V.Chapter 21 under the authority of R.S. 3:415 for the purpose of advertising, publicizing and promoting the increased production and packaging of Louisiana sweet potatoes, in the state of Louisiana, through the creation, licensing and use of a Louisiana sweet potato logo.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:415.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1081 (June 1998).

##### §2103. Definitions

The terms defined in this Section have the meaning given to them herein, for purposes of LAC 7:V.Chapter 21, except where the context expressly indicates otherwise.

*Commission*—the Louisiana State Market Commission.

*Commissioner*—commissioner of the Louisiana Department of Agriculture and Forestry.

*Department*—the Louisiana Department of Agriculture and Forestry.

*Farm*—any area of land used to grow and package Louisiana sweet potatoes.

*Louisiana Sweet Potato*—any sweet potato grown and packaged in the state of Louisiana.

*Louisiana Sweet Potato Logo*—a distinctive mark, motto, device, symbol or emblem which may be affixed to Louisiana sweet potatoes or the shipping crates, boxes or other packaging containing the Louisiana sweet potatoes so that Louisiana sweet potatoes may be identified as such in the market, and their origin vouched for.

*Person*—any individual, corporation, partnership, association or other legal entity.

*Producer*—any person who grows or packs Louisiana sweet potatoes.

*Promote*—includes the use of the Louisiana sweet potato logo on packages, documents, promotional materials and business correspondence to further enhance the marketability of Louisiana sweet potatoes.

*Stop Order*—a written, printed or stamped order issued by the department preventing a person from shipping or selling sweet potatoes under the Louisiana sweet potato logo or removing them from the premises where they are found in crates, boxes or other packaging marked with the Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1081 (June 1998).

#### **§2105. Development, Adoption and Registration of an Official Logo for Louisiana Sweet Potatoes**

A. The commission may develop and adopt a Louisiana sweet potato logo to be placed on boxes, crates, or other packages to certify that the sweet potatoes in the boxes, crates or other packages are Louisiana sweet potatoes.

B. Upon adoption of a Louisiana sweet potato logo the commission may register the logo as a trademark or a certification mark with the state of Louisiana, U.S. Government or any other governmental or private entity where necessary or proper to protect the logo's status as a trademark or as a certification mark.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

#### **§2107. Licensing Eligibility for Use of Logo**

A. The commission may license a producer to use the Louisiana sweet potato logo if the producer meets the following requirements:

1. the producer makes written application to the commission for a license, on a form provided by the department;
2. the producer pays the license fee;
3. the producer agrees in writing to abide by LAC 7:V.Chapter 21 regarding the use of the Louisiana sweet potato logo;
4. the producer agrees in writing to apply the Louisiana sweet potato logo only on crates, cartons or other forms of packaging containing sweet potatoes grown and packed entirely in the state of Louisiana.

B. No sweet potatoes grown in any other state shall qualify for packing and shipping under the Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

#### **§2109. Use and Transferability of Logo**

A. The Louisiana sweet potato logo shall be reserved for the exclusive use of the department in promoting, advertising and marketing Louisiana sweet potatoes and for each producer licensed to use the logo.

B. The Louisiana sweet potato logo shall not be placed on any box, crate or other package containing sweet potatoes unless the box, crate or other package contains only Louisiana sweet potatoes.

C. No producer licensed to use the Louisiana sweet potato logo shall sell, assign or transfer the use of the Louisiana sweet potato logo to any other person without the specific written permission of the commission.

D. No person shall use the Louisiana sweet potato logo for any purpose unless that person is authorized in writing by the commission to do so or unless that person is a producer licensed by the commission to use the logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

#### **§2111. Fees and Costs**

A. Each producer applying for and receiving an initial license to use the logo shall pay a fee of \$25 before being licensed.

B. Each producer, thereafter, shall pay an annual renewal fee of \$25 on or before June 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

#### **§2113. Enforcement**

A. The department or its authorized representative shall have the right to enter any Louisiana sweet potato farm and any packaging plant to inspect that facility and any records pertaining to the growing, packaging or sale of any Louisiana sweet potato by any producer licensed under LAC 7:V.Chapter 21.

B. The department or its authorized representative may, while enforcing the provisions of LAC 7:V.Chapter 21, issue and enforce a written, printed or stamped stop order to prevent the use of the Louisiana sweet potato logo on any sweet potatoes to be sold, shipped or removed from the premises where they are found if:

1. the authorized representative of the department has been refused the right to enter the premises where the sweet potatoes are being grown and packaged;
2. the sweet potatoes do not meet the department's inspection and grading standards;

3. the licensed sweet potato producer is in violation of LAC 7:V.Chapter 21;

4. the sweet potatoes in any box, crate or package carrying the Louisiana sweet potato logo are not entirely Louisiana sweet potatoes; or

5. any person is found to be using the Louisiana sweet potato logo either without being a licensed producer or without written authorization from the commission to use the logo.

C. Upon issuance of a stop order the department may:

1. order that the sweet potatoes may not be sold, shipped or removed from the premises at the time the stop order is issued; or

2. prohibit the use of the Louisiana sweet potato logo on any sweet potato subject to the stop order, or on any crate, box or package containing such sweet potatoes when the sweet potatoes are sold, shipped or moved from the premises.

D. The stop order may be released by the department when:

1. proof of compliance with LAC 7:V.Chapter 21 is furnished to the department if the stop order was issued because of a violation of LAC 7:V.Chapter 21;

2. the authorized representative of the department has been allowed to enter the premises where the sweet potatoes are grown or packaged and inspect those sweet potatoes or the records if the stop order was issued based on refusal to allow entry or inspection;

3. the department determines that circumstances warrant the release of the stop order, upon such terms and conditions that the department deems necessary or proper.

E. Any person aggrieved by the issuance of a stop order by the department may request an administrative adjudicatory hearing to contest the validity of the stop order by making a written request, within five calendar days, to the department for such a hearing. Within 10 calendar days after the department receives the written request an administrative adjudicatory hearing shall be held by the department in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

### **§2115. Penalty for Violations; Injunctive Relief; Costs; Notification**

A. Whoever violates the use of the Louisiana sweet potato logo adopted pursuant to R.S. 3:415 or LAC 7:V.Chapter 21 may be fined not less than \$25 nor more than \$500 for each violation or may have his license to use the Louisiana sweet potato logo suspended, revoked or placed on probation or both.

B. Each violation of LAC 7:V.Chapter 21, any stop order or other orders issued by the department or the commission in the enforcement of LAC 7:V.Chapter 21 and every day of a continuing violation shall be considered a separate and distinct violation chargeable under LAC 7:V.Chapter 21.

C. The commission may impose any or all of the penalties stated in §2115.A and B after an adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act. Any such adjudicatory hearing may be presided over by a

hearing officer appointed by the commissioner. The commission may delegate to the Louisiana Sweet Potato Advertising and Development Commission the authority to conduct any such adjudicatory hearing, to make findings of fact and conclusions of law and to impose penalties for any violation.

D. The commission, through the commissioner, may apply for injunctive relief restraining violations of the Louisiana sweet potato logo or violations of LAC 7:V.Chapter 21 or institute necessary actions for failure to pay accounts due the commission. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the department or the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

E. If any Louisiana sweet potatoes inspected by the department are the subject of a stop order or if any producer's license to use the Louisiana sweet potato logo has been suspended, revoked or placed on probation then notification of such action and the reasons therefore shall be sent, by the department, to any and all appropriate public entities or agencies who may be affected by the stop order or by the suspension, revocation or probation of the producer's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:413 and 415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1083 (June 1998).

Bob Odom  
Commissioner

9806#058

## **RULE**

### **Department of Economic Development Office of Financial Institutions**

#### **Disbursement of Security Monies (LAC 10:XV.503)**

In accordance with the authority granted by the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority granted by R.S. 9:3576.1 et seq., the Commissioner of the Office of Financial Institutions adopts a rule to provide for the procedures this office and all affected constituents are to follow upon suit being brought against a surety bond or other security monies; and further to provide for a dissolution procedure to liquidate a forfeited surety bond or other security monies.

#### **Title 10**

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

#### **Part XV. Other Regulated Entities**

#### **Chapter 5. Debt Collection Agencies**

#### **§ 501. Reserved**

#### **§ 503. Disbursement of Security Monies**

A. Purpose. The Office of Financial Institutions is presently faced with competing claims by former clients of now defunct collection agencies to the security monies represented by surety bonds or cash monies posted by these licensed

companies and assigned to this office in accordance with R.S. 9:3576.15. This office must promulgate procedures for the discovery and recognition of claims against this security, and for the fair, equitable and expeditious distribution of these funds among all qualified claimants.

#### B. Definitions

*Bar Date*—the date after which no new claims may be filed.

*Claim*—any obligation of a licensed debt collection agency owed to a client for the payment of money arising out of any agreement or contract for the collection of funds owed to the client by a debtor.

*Client*—any person authorizing or employing a collection agency to collect a debt on their behalf.

*Commissioner*—the Commissioner of Financial Institutions.

*Concursus*—a proceeding similar to that which is set forth in the *Louisiana Code of Civil Procedure*, LSA-C.C.P. arts. 4651-4662.

*Defunct Agency*—a debt collection agency that has voluntarily relinquished its license or has had its license terminated, and does not have sufficient funds in its trust account(s) to pay its outstanding claims owed to its clients.

*Security Monies*—a surety bond or cash monies which are required to be posted by a debt collection agency to ensure the prompt and full payment of claims.

C. Background. R.S. 9:3576.15(A) requires entities licensed as debt collection agencies under the Collection Agency Regulation Act ("CARA") R.S. 9:3576.1, et seq., to post a surety bond in favor of the Office of Financial Institutions ("Office") in the amount of \$10,000. R.S. 9:3576.15(C) permits a licensee to deposit cash or other securities with the office in lieu of such bond. R.S. 9:3576.16 permits clients or customers to bring suit against such bond or other security when such parties allege damages through the failure of the licensee to properly remit due and owing funds in accordance with R.S. 9:3576.18. R.S. 9:3576.16(B) requires the Commissioner to maintain a record of all suits commenced under CARA upon a surety bond, cash or other security deposited in lieu thereof.

D. Bar Date. The bar date for filing claims shall be the same as provided for in Rule 3002(c) of the Federal Bankruptcy Rules of Procedure, which shall be 90 days after the post mark date on the notice form. The post mark date on the notice form shall not be included in calculating the 90-day bar date period.

E. Maintenance of Suit Records. The office will file a motion with the appropriate Clerk of Court for the Judicial District wherein the affected debt collection agency is located, requesting that the clerk provide notice of all suits commenced against the surety bond or cash monies which have been posted with the Commissioner in accordance with R.S. 9:3576.16(C), when he has knowledge that a suit may be or has been commenced.

F. Action on a Surety Bond. If the Commissioner receives notice that a client has commenced an action on a surety bond posted as security by the licensee, he may require the debt collection agency to provide notice to each client, as identified on the records of the licensee, of the commencement of said

action, and include therein the name and address of the surety company that has issued the surety bond.

#### G. Procedure to Resolve a Defunct Agency

1. If the licensee has opted to post security in the form of cash, in accordance with the requirements established by the Commissioner, and the licensee has surrendered its license or has had its license terminated, and if the licensee does not have sufficient funds available in its trust account(s) to pay all of its outstanding client claims, the office may avail itself of the following method of resolving competing claims.

2. Such an action may be initiated in the nature of a concursus proceeding; however, the Commissioner may modify the procedures set out in La. C.C.P. Articles 4651-4662 in any manner he deems necessary to accomplish the dissolution and distribution of the cash monies in an equitable and expeditious manner.

3. The following is an illustrative listing of the steps to be followed in providing notice to claimants and to distribute securities monies to all qualified persons having competing claims. The Commissioner may modify this procedure as he deems necessary and appropriate to effectuate its purposes.

a. A written notice shall be provided to all clients advising them of the intention of the Office to distribute the cash monies held in actual or constructive possession by the Commissioner.

b. Such notice shall provide the name and address of the office where claims may be filed, and the person to whom such claims should be directed.

c. The notice shall also provide that any and all claims which are either disqualified or which are not timely filed will be barred from participating in the distribution of the cash monies.

d. Along with the notice referred to in §503.G.3, the Commissioner will provide each claimant with a proof of claim form which must be completed in every respect and filed with the Office within the bar period provided in §507. The Commissioner will be required to verify each proof of claim as being valid before accepting them for filing. If a claim cannot be verified, it will be disqualified and will not be eligible to participate in the distribution of the cash monies.

e. Upon the expiration of the bar date, and after each qualified proof of claim has been verified, the Commissioner will compile a list of all persons who are eligible to participate in the distribution of the cash monies and the amount of funds that each person has claimed they are owed.

f. All notices, proof of claim forms, and other required forms shall be as prescribed by the Commissioner.

#### H. Distribution of the Cash Monies

1. After the office has determined the names of all eligible claimants, the Commissioner shall petition the Nineteenth Judicial District Court for authority to have each claimant recognized as having a valid claim against the cash monies in the possession of the office.

2. To his petition the Commissioner shall attach a proposed method of distribution, setting out the amount he proposes each claimant is due, and seeking Court approval of the method of distribution.

3. The Commissioner may pray in his petition for an order of the Court authorizing payment of the competing

claims in accordance with the method of distribution set out in his petition.

4. The method of distribution of the cash money shall be accomplished in a manner which the Commissioner deems to be reasonable, and which shall assure prompt and expeditious payment to the claimants and is calculated to minimize the expenses associated with the distribution of funds.

5. After the distribution of funds has been completed, the Commissioner shall seek an order of the Court to be released from any further liability for the distribution of funds.

6. The Commissioner may also pray for any other relief, both legal and/or equitable, that he deems necessary and appropriate to effectuate the purposes of LAC 10:XV.503.

I. Severability. If any section, term, or provision of any of LAC 10:XV.503 is, for any reason, declared or adjudged to be invalid, such invalidity shall not affect, impair, or invalidate any of the remaining rules, or any term or provision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3576.16(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:1083 (June 1998).

Larry L. Murray  
Commissioner

9806#044

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Course Credit  
for Private Music Lessons

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, Credit for Strings Lessons.

**2.105.24** Approval by the State Department of Education shall be granted before private piano and strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1085 (June 1998).

Weegie Peabody  
Executive Director

9806#052

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Nonpublic Schools

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, Louisiana Handbook for

School Administrators, Nonpublic. The majority of the changes are for clarity and flexibility, and are editorial in nature. A complete text of the changes is as follows:

### Operation and Administration

#### General Authority

**6.001.02** Nonpublic schools are designed to meet the needs of a specific group of students. Each nonpublic school will evaluate itself on the basis of its stated goals and objectives.

#### Philosophy and Purposes of School

**6.003.00** Each nonpublic school shall develop and maintain a written statement of its philosophy and/or mission statement and the major purposes to be served by its program. The statement shall reflect the individual character of the school and the characteristics and needs of the students it serves.

**6.003.02** The statement of philosophy shall be reviewed annually and shall be revised as necessary.

**6.003.04** Copies of the philosophy and/or mission statement shall be furnished to all staff members and made available to interested persons on request.

**6.003.06** Each school shall maintain, on file, the following:

- a) written statement of philosophy and/or mission statement;
- b) goals and objectives for the current year; and
- c) plan for implementation of these goals and objectives.

#### School Approval

**6.006.01** Each state-approved nonpublic school receiving state and/or federal funds shall permit all colleges and universities to have equal access to the schools for the purpose of college recruitment.

**6.006.02** When applying to the State Department of Education for a classification category, all nonpublic schools seeking state approval shall include all grades/programs taught at the school.

#### Classification Categories

Schools shall be classified according to the following categories:

Approved (A). School meets all standards specified in Standards for Approval of Nonpublic Schools.

Provisionally Approved (PA). School has some deficiencies in standards, such as: library books below the required number per pupil; class size; curriculum do not meet prescribed requirements; and number(s) of the faculty teaching in an area for which qualifications specified are not met, etc.

Probationally Approved (P). School has one or more of the following deviations from standards:

(a) principal does not hold a master's degree or principalship certification;

(b) nondegreed teacher with fewer than five years' teaching experience is employed;

(c) school has been on provisional approval for the previous two years for the same deficiency.

Unapproved (U). School maintains any of the above-mentioned deviations from standards which placed it in the probationally approved category the preceding year. A school may not maintain a probationally approved category for two consecutive years.

Each nonpublic school shall submit an Annual School Report to the appropriate bureau (Elementary or Secondary

Education) according to the established time line.

The State Department of Education (Bureaus of Elementary and Secondary Education) shall analyze each nonpublic school's annual school report according to the Standards of Approval of Nonpublic Schools approved by the SBESE.

The Department of Education shall submit to the SBESE a yearly report recommending the classification status of the nonpublic schools in accordance with the nonpublic school standards.

After the annual school reports are submitted by the State Department of Education to the State Board of Elementary and Secondary Education (SBESE) for approval classification, all nonpublic schools seeking to change their classification category must submit their request to the SBESE.

#### **6.006.04 Re-Applying for State Approval**

An unapproved school reapplying for state approval must qualify as either approved or provisionally approved.

#### **6.009.04 Pre-Kindergarten/Kindergarten**

The local educational governing authority shall have the option of establishing a pre-kindergarten and/or kindergarten program on a half-day or full-day schedule.

The pre-kindergarten program shall be listed on the Annual School Report when operated as a developmental program within the total school program.

Any other program which operates in a school as a child care program, shall follow the standards as prescribed by the Department of Health and Hospitals (DHH) and is not to be listed on the Annual School Report.

#### **6.009.16 Minimum Session/Instructional Day**

Each school shall adopt a calendar for a minimum session of 180 days, of which at least 175 days shall be scheduled to provide the required instructional time.

Effective with the 1995-96 school year, the length of the school year shall consist of 180 days of which no less than 175 days shall be student contact teaching days, or the equivalent; the remaining five days may be used for emergencies and/or other instructional activities.

Two or more partial days may be combined to meet the minimal school year requirement of 175 days of 330 minutes of instructional time.

The class schedule must be abbreviated in order to ensure that all classes are taught during partial days.

Each school may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

#### **Written Policies**

**6.010.00** Each school shall have written policies and/or regulations governing the general operation of the school.

#### **Emergency Planning and Procedures**

**6.011.00** Each school shall have written plans and procedures that address the immediate response to emergency situations that may develop in the school.

#### **Certification of Personnel**

##### **Instructional Staff**

**6.016.15** All members of the instructional staff teaching secular subjects, pre-kindergarten through 12, shall have received a bachelor's degree from a regionally-accredited institution.

They shall also have completed a minimum of 12 semester

hours of professional education courses. A beginning teacher shall have a two-year period in which to meet this 12-semester-hour standard. The teacher shall be required to have a certificate or college major in the field of work for which the teacher is responsible during one-half or more of the school day or shall have earned credits in the required specific specialized academic courses as described in Bulletin 746, Louisiana Standards for State Certification of School Personnel. A teacher may work in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in Trade and Industrial Education classes.)

Teachers of the pre-kindergarten class shall be qualified in either elementary, kindergarten, or nursery school or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Teachers of the kindergarten class shall be qualified in either elementary or kindergarten or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Staff members teaching Religion at the high school level (9-12) for Carnegie units must have a minimum of a bachelor's degree. Staff members teaching Religion who do not meet minimum qualifications may be employed in a nonpublic school provided they were employed during the 1995-96 school year as teachers of Religion.

#### **Records and Reports**

##### **Maintenance and Use of School Records and Reports**

**6.026.00** Each school shall maintain necessary records for the effective operation of the school. These records shall be retained by the school for not less than three years.

##### **Transfer of Student Records from Schools That Are Not State-Approved**

**6.026.08** Local school principals from any state-approved school receiving a student from an unapproved school, in- or out-of-state, will determine the placement and/or credits for the student. The principal and/or superintendent may require the student to take an entrance examination on any subject matter for which credit is claimed. The school issuing the high school diploma shall account for all credit required for graduation, and its records will show when and where the credit was earned.

##### **Students Transferring from Home Study**

**6.026.09** The school shall adhere to the policies and procedures established by the school/system for students entering or reentering the school/system from an approved home study program.

##### **Students Transferring from Foreign Schools**

**6.026.10** The school shall determine placement of students transferring from foreign schools. This determination shall be accepted by the State Department of Education (SDE).

**6.026.11** Credits earned by students in American schools in foreign countries shall be accepted at face value.

##### **Textbook Records**

**6.026.13** State funds allocated for buying textbooks shall be

used to buy books on the state-adopted textbook lists and academically related ancillary materials according to the state guidelines.

Waivers: Local schools may use state textbook dollars for the purchase of nonadopted instructional materials when:

(1) they are purchasing instructional materials for grades K-3 that are manipulative concrete materials, or gross motor materials;

(2) they do not exceed 10 percent of the total state textbook allocation; and

(3) schools may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance.

**Health Records**

**6.026.15** A health record shall be maintained on each student from pre-kindergarten through grade 12.

**School Reports**

**Annual Financial and Statistical Report**

**6.027.02** Information required for the completion of the Annual Financial and Statistical Report shall be recorded on forms furnished by the State Department of Education.

A complete form shall be sent to each nonpublic school principal by the State Department of Education. A copy of this report shall be filed in the principal's office and a copy forwarded to the Bureau of School Accountability in the State Department of Education.

**Scheduling**

**Secondary Scheduling**

**6.037.09** The minimum length of periods for any high school class in which a Carnegie unit is earned shall be no less than 55 minutes of instructional time in a six-period day and no less than 50 minutes of time in a seven-period day.

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week provided that the yearly aggregate time requirements are met.

9,625 minutes (six-period day)

8,750 minutes (seven-period day)

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week, provided that the aggregate time requirements are met. Significant modifications may be made for special education students in accordance with the Individualized Education Program (IEP) provided that the integrity of the Carnegie unit is not diminished.

**Student Services**

**Age Requirements**

**6.055.19** The minimum age for kindergarten shall be one year younger than the age requirement for that child to enter first grade.

Each school may adopt by rule and enforce ages for entrance into first grade in the school.

**Health Services and Screening**

**Immunization**

**6.056.04** The school principal of each school shall be responsible for checking student records to ensure that

immunization requirements are enforced. (Refer to R.S. 17:170.)

**6.056.05** After parental notification that a student's immunization schedule is not up-to-date, the student shall be excluded from school until evidence has been presented that the required immunization program is in progress or unless R.S. 17:170(E) is invoked. (Refer to R.S. 17:170.)

**Curriculum and Instruction**

**Elementary Schools**

**6.090.05** The following elementary program of studies will be followed for nonpublic elementary schools:

**Program of Studies**

**For Nonpublic Elementary Schools  
(Grades 1-6)**

Subject	Percent of School Day
Reading	50 Percent (Minimum)
Language Arts	
Mathematics	
Social Studies	50 Percent (Maximum)
Fine Arts	
Science	
Physical Education/Health Religion and/or Electives	

An articulated elementary foreign language program is recommended for academically-able students and optional for all others.

The above minimum time requirements shall apply to all students performing at or above grade levels in Language Arts and Mathematics. Subject to review and approval of the principal, teachers may vary the daily schedule for the various subject time requirements as long as the weekly aggregate of time for each subject is in accordance with the above.

For students performing below grade level in Language Arts or Mathematics, teachers may increase the daily/weekly time in Language Arts or Mathematics by reducing instructional time in other subjects.

**Grades 7 and 8  
(Six-Period Day Option)**

	Periods per Week	Minimum Time
Language Arts	5	55
Mathematics and Introduction to Algebra	5	55
Social Studies (Louisiana Studies and American History)	5	55
Science	5	55
Health and Physical Education; or Health and Physical Education and Electives	10	110
		330 minutes per day

**Grades 7 and 8  
(Seven-Period Day Option)**

	Periods per Week	Minimum Time
Language Arts	5	50

Mathematics and Introduction to Algebra	5	50
Social Studies (Louisiana Studies and American History)	5	50
Science	5	50
Health and Physical Education and Electives	15	150
		350
		minutes per day

Grade 6 may adhere to the six-period or seven-period options only in organizational patterns which include grades 7 and 8.

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of minutes per week, provided that the yearly aggregate time requirements are met.

9,625 minutes (six-period day all subjects except Language Arts)  
19,250 minutes (six-period day Language Arts)

8,750 minutes (seven-period day all subjects except Language Arts)  
17,500 minutes (seven-period day Language Arts)

Grades 7 and 8 (including grade 6 when grouped with grades 7 and 8) may offer electives from the following:

- Reading;
- Exploratory Agriculture;
- Industrial Arts;
- Construction;
- Manufacturing;
- Communication;
- Transportation;
- Industry (sixth);
- Exploratory Homemaking;
- Art;
- Foreign Languages;
- Instrumental or Vocal Music;
- Typing/Keyboarding;
- Speech;
- Computer Literacy/Computer Science.

In Industrial Arts, the minimum time for any cluster is six weeks. Maximum time allowed in a cluster is 36 weeks. All areas in each cluster should be taught.

Choice of electives may be alternated during the year and/or semester. Additional electives may be offered with the approval of the State Department of Education.

For a six-period day option:

1. electives may be offered on alternate days with Health and Physical Education for the entire year, provided an equal number of days is given to each subject;
2. electives may be offered five periods per week, for one semester; and Health and Physical Education for five periods per week, for one semester.

### Secondary Schools

**6.099.01** The 23 units required for graduation shall include 15 required units and eight elective units.

### Minimum Requirements for High School Graduation

English—shall be English I, II, and III in consecutive order; and English IV or Business English. 4 units

#### Mathematics

(Effective for 1998-99 incoming freshmen and thereafter.)

Shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

(Effective for incoming freshmen prior to 1998-99.)

Shall be Algebra I and one of the following options: (1) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year), or (2) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year) and one of the following: Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry. 3 units

Science—shall be Biology and two of the following:

General Science or Physical Science (but not both), Earth Science, Chemistry, Chemistry II, Physics, Physics II, Aerospace Science, Environmental Science, Physics for Technology, Biology II, or both Vocational Agriculture I and II for one requirement of science. 3 units

Social Studies—shall be American History; Civics or ½ unit of Civics and 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization. 3 units

Health and Physical Education—shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students.

Note: The substitution of R.O.T.C. is permissible. A maximum of four units may be used toward graduation. 2 units

Electives 8 units

**Total 23 Units**

### The State Board of Elementary and Secondary Education Honors' Curriculum

English  
English I, II, III, IV (no substitutions) 4 units

Mathematics  
Algebra I; Algebra II, Geometry; and one additional unit to be selected from Calculus, Trigonometry, or Advanced Mathematics 4 units

Natural Science  
Biology; Chemistry; and Earth Science or Physics 3 units

Social Studies  
United States History; World History; and World Geography or Western Civilization 3 units

Free Enterprise ½ unit

Civics ½ unit

Fine Arts Survey Any two units of credit in band, orchestra, choir, dance, art or drama may be substituted for one unit of Fine Arts Survey	1 unit
Foreign Language (in same language)	2 units
Physical Education	2 units
Electives	4 units
<b>Total</b>	<b>24 units</b>

The Fine Arts requirement can be met by completing the courses Fine Arts Survey (Art) ½ unit and Fine Arts Survey (Music) ½ unit.

### Special Requirements

#### High School Credit for Elementary Students

**6.102.01** An elementary student shall be eligible to receive high school credit in a course listed in the program of studies provided that:

- the time requirements for the awarding of a Carnegie unit are met;
- the teacher is qualified at the secondary level in the course taught; and
- the student has mastered the set standards of the course taken.

The school system may grant credit on either a letter grade or a Pass or Fail (P/F) basis, provided there is consistency systemwide. The course title, year taken, Pass or Fail (P/F) or the letter grade and unit of credit shall be entered on the Certificate of High School Credits (transcript). High School Credit (H.S.C.) must be indicated in the remarks column; or

- the student has passed the credit examination in the subject taken, mastering the set standards for the course.

Credit shall be granted on a Pass or Fail (P/F) basis only. The course title, year taken, Pass or Fail (P/F), and unit of credit earned shall be entered on the Certificate of High School Credits (transcript). Credit Examination (C.E.) must be indicated in the remarks column.

If a credit examination has not been developed in a subject area, the school may submit an examination developed locally that will test mastery of the performance objectives in the state curricular guides. The testing instrument and the passing score must be approved by the Bureau of Secondary Education, State Department of Education.

Credit or credit examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English I-IV, Advanced Mathematics, Algebra I-II, Calculus, Geometry, Trigonometry, and Keyboarding. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science, and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon request of the school principal.

#### Proficiency Examination

**6.102.04** High school credit shall be granted to a student following the student's passing of a Proficiency Examination for the eligible course. Refer to Standards 6.026.09 for students transferring from an approved Home Study Program.

A proficiency examination shall be made available to a student when a school official believes that a student has mastered eligible subject matter and has reached the same or

a higher degree of proficiency as that of a student who successfully completed an equivalent course at the regular high school or college level.

The testing instrument and the passing score shall be submitted for approval to the Bureau of Secondary Education, State Department of Education.

The course title, year taken, Pass or Fail (P/F) and unit of credit earned shall be entered on the Certificate of High School Credits (transcript). Minimum Proficiency Standards (M.F.P.) must be indicated in the remarks column.

**6.102.05** Students shall not be allowed to take proficiency examinations in courses previously completed in high school or at a level below that which they have completed.

Proficiency examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English I-IV, Advanced Mathematics, Algebra I-II, Calculus, Geometry, Trigonometry, and Keyboarding. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon the request of the school principal.

#### High School Program of Studies

**6.105.15 Mathematics.** Effective for 1998-99 incoming freshmen and thereafter, three units of Mathematics shall be required for graduation. They shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

**For incoming freshmen prior to 1998-99, three units of Mathematics shall be required for graduation. They shall be:**

Algebra I and one of the following options: (1) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year), or (2) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year) and one of the following: Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry. The Mathematics course offerings shall be as follows:

Course Title	Unit(s)
Advanced Mathematics	1
Algebra I	1
Applied Algebra IA	1
Applied Algebra IB	1
Business Mathematics	1
Calculus	1
Consumer Mathematics	1
Geometry	1
Applied Geometry (1996-97 school year)	1

Integrated Algebra/Geometry	1
Trigonometry	½

Business Mathematics may be taught by the Business Education Department.

Students may not earn a unit in both Business Mathematics and Consumer Mathematics.

Teachers selected to teach Applied Algebra IA, Applied Algebra IB, or Applied Geometry shall be provided with the appropriate staff development/in-service.

### Science

**6.105.20** Three units of Science shall be required for graduation. They shall be Biology and two of the following:

General Science or Physical Science (but not both); Earth Science, Chemistry, Chemistry II, Physics, Physics II, Aerospace Science, Environmental Science, Physics for Technology, Biology II, or both Vocational Agriculture I and II for one requirement of science. Science course offerings shall be as follows:

Course Title	Unit(s)
Aerospace Science	1
Biology	1
Biology II	1
Chemistry	1
Chemistry II	1
Earth Science	1
Ecology	1
Environmental Science	1
General Science	1
Physical Science	1
Physics	1
Physics II	1
Physics for Technology	1

### Social Studies

**6.105.21** Three units of Social Studies shall be required for graduation. They shall be American History; Civics or ½ unit of Civics and ½ unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization. Social Studies course offerings shall be as follows:

Course Title	Unit(s)
American Government	1
American History	1
Anthropology	1
Civics	1
Economics	1
Far East Studies	1
Free Enterprise System	½
Law Studies	1
Modern European History	1
Psychology	1

Sociology	1
Western Civilization	1
World Geography	1
World History	1

Economics may be taught in Business Education.

Free Enterprise shall be taught by teachers qualified in Social Studies, Business Education, or Distributive Education.

### Course Credit for Religion

**6.105.23** A maximum of four units of credit in Religion shall be allowed to meet graduation requirements.

Course Title	Unit(s)
Religion I, II, III, IV	1 each

A maximum of four units in Religion shall be granted to students transferring from state-approved private and sectarian high schools. Those credits shall be accepted in meeting the requirements for high school graduation.

### Home Economics—Consumer and Homemaking Education

**6.105.29** Home Economics—Consumer and Homemaking Education course offerings shall be as follows:

Course Title	Grade Level	Units
<b>Recommended</b>		
Family and Consumer Sciences	9-10	1
<b>Education I</b>		
Family and Consumer Sciences	10-12	1
<b>Education II</b>		
Adult Responsibilities	11-12	½
Child Development	10-12	½
Clothing and Textiles	10-12	½
Family Economics	10-12	½
Food and Nutrition	10-12	½
Home and Family	11-12	½
Housing	10-12	½
Nutrition Education	10-12	½
Parenthood Education	11-12	½
<b>(Advanced Semester Courses)</b>		
Advanced Child Development	10-12	½
Advanced Clothing and Textiles	10-12	½
Advanced Food and Nutrition	10-12	½
Advanced Nutrition Education	10-12	½

### Secondary Students Attending a Postsecondary Technical College

**6.105.35** Secondary students attending a postsecondary technical college may receive credit for instruction in any program area offered in the vocational-technical school, if

time requirements for Carnegie units are met and if an equivalent course is not offered by the local school system.

If the course content is equivalent to the content of a vocational education course offering listed under Standards 6.105.24 - 6.105.32, the unit(s) of credit shall be reported on the student's transcript by that title.

If the course content is not equivalent to a course listed under Standards 6.105.24 - 6.105.32, the unit(s) of credit shall be reported by the postsecondary title.

#### **High School Credit for College Courses**

(Applies to students attending colleges part time)

**6.105.46** The student shall have scored at least a minimum composite score of 25 on the ACT or a minimum of 28 in English or 25 in Mathematics if pursuing those areas or have a SAT composite score of 1050 or have a score of 500 on the verbal portion or 560 on the Mathematics portion of the SAT in the area to be pursued at the college level.

#### **Early College Admissions Policy**

(Applies only to high school students attending college full time)

**6.108.02** The student shall have earned a minimum composite score of 25 on the ACT or a SAT score of 1050; this score must be submitted to the college.

#### **Summer Schools**

##### **Elementary Summer Schools**

##### **6.113.14 Time Requirements**

Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies.

##### **Secondary Summer Schools**

The local system may impose a stricter minimum attendance policy.

#### **Instruction by Private Teachers**

**6.116.18** Credit may be allowed for high school work completed under private instructors, subject to the following conditions:

1. The instruction must be under the direction of a private tutor only when the tutor is eligible for regular employment in an approved nonpublic high school.
2. The time requirements for credits in a regular high school will apply.
3. The necessary facilities peculiar to a particular subject must be available for instructional purposes.
4. Prior to enrolling in a privately tutored course, a student must obtain written approval from the principal of the high school in which he/she is enrolled.

Southern Association of Colleges and Schools member schools should comply with Principle D, Standard 6. (Member schools shall not give credit for private tutoring.)

#### **Approval of Alternative Schools/Programs**

**6.151.01** Approval shall be obtained from the State Board of Elementary and Secondary Education (SBESE), prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (Alternative within Regular Education or Alternative to Regular Education placement);

4. list of the Louisiana Handbook for School Administrators, Bulletin 741 policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class size;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs certification;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau (Elementary Education or Secondary Education, State Department of Education) and the State Board of Elementary and Secondary Education no later than March 1 for approval for the subsequent school year. Refer to guidelines for alternative schools.

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

HISTORICAL NOTE: Amended by the State Board of Elementary and Secondary Education, LR 24:1085 (June 1998).

Weegie Peabody  
Executive Director

9806#050

### **RULE**

#### **Board of Elementary and Secondary Education**

##### **Bulletin 746—Family and Consumer Science Certification**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education changed the name of the certification area of Home Economics to Family and Consumer Sciences. The certification requirements are listed in Bulletin 746, Louisiana Standards for State Certification of School Personnel, and are amended as printed below.

##### **Family and Consumer Sciences\* (Vocational)**

A minimum of 42 semester hours distributed as follows:

- A. Clothing and Textiles—6 semester hours;
- B. Consumer Education and Management—6 semester hours;
- C. Food and Nutrition—6 semester hours;
- D. Housing, Home Furnishings and Equipment—3 semester hours;
- E. Human Development and Relationships (including observation and participation in the nursery school)—9 semester hours;

F. Family and Consumer Sciences Electives—12 semester hours.

\*Early Childhood Endorsements, see pages 11-13

Mandatory for all individuals applying for certification in Family and Consumer Sciences (Vocational) on or after July 1, 1998.

**Family and Consumer Sciences (Occupational Programs)**

Authorization to teach Family and Consumer Sciences occupational programs may be added to the certificate of a teacher who is certified in vocational Family and Consumer Sciences and has completed the following:

1. at least 3 semester hours in organization and administration of Family and Consumer Sciences occupational programs including cooperative education; and
2. 2,000 hours of successful work experience or a minimum of 120 hours in supervised field practicum in the area of occupational certification.

**Family and Consumer Sciences (Food Science)**

Authorization to teach Family and Consumer Sciences food science programs may be added to the certificate of a teacher who is certified in vocational Family and Consumer Sciences provided that the teacher has:

1. at least six semester hours in college chemistry; and
2. at least six semester hours in food science.

**Ancillary Family and Consumer Sciences (Occupational Programs)**

1. Provisional Certification. Valid for three years and renewable upon request of employing authority, may be issued to a person who has completed the following:

- a. bachelor's degree in a subject area of Family and Consumer Sciences;
- b. at least 12 semester hours in professional education courses to include organization and administration of Family and Consumer Sciences occupational programs; and
- c. 2,000 hours of successful work experience in the area of occupational certification.

2. Permanent Certification. Valid for life for continuous service, may be issued upon completion of the requirements for provisional certification and three years of teaching experience in Family and Consumer Sciences occupational programs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:1091 (June 1998).

Weegie Peabody  
Executive Director

9806#053

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1882—Principal/Assistant Principal Internship

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 1882—Administrative Leadership Academy Guidelines. Bulletin 1882 is referenced in LAC

28:I.920.A.

The amendment defines Newly Appointed Assistant Principals and Newly Appointed Principals. The revision, located on page 11 and 12 of Bulletin 1882 is amended as follows.

**Training  
Principal Internship**

\* \* \*

(See Prior Text)

**Newly Appointed Principal**

A person appointed to a principalship is considered to be "newly appointed" if at least one of the following conditions apply:

1. first time serving as a principal in a Louisiana public school;
2. prior experience in a Louisiana public school for two or more years as a principal and has been out of the principalship for five or more years; or
3. prior experience in a Louisiana public school for less than two years as a principal and reenters the principalship.

**Training  
Assistant Principal Internship**

\* \* \*

(See Prior Text)

**Newly Appointed Assistant Principal**

A person appointed to an assistant principalship is considered to be "newly appointed" if a least one of the following conditions apply:

1. first time appointed to an assistant principalship in a Louisiana public school;
2. prior experience in a Louisiana public school, for more than one year as an assistant principal, but has been out of the assistant principalship for five or more years; or
3. prior experience in a Louisiana public school for less than one year and reenters the assistant principalship.

Note: Situations that are not addressed by the above guidelines will be considered by the department on an individual basis. Decisions regarding participation will be based on written information from the superintendent of the respective school system or his/her designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1092 (June 1998).

Weegie Peabody  
Executive Director

9806#054

**RULE**

**Board of Elementary and Secondary Education**

School Psychologists' Appeals Council  
(LAC 28:I.105 and 107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended the *Louisiana Administrative Code*. The amendment abolishes the School Psychologists' Appeals Council.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 1. Organization**

**§105. Board Advisory Councils**

- A. Creation
1. - 8. ...
  9. Special Education Advisory Council (R.S. 17:1954);
  10. Teacher Certification Advisory Council (R.S. 17:31);
  11. Teacher Certification Appeals Council;
  12. Textbook and Media Advisory Council (R.S. 17:415.1).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.  
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1093 (June 1998).

**§107. Board Appeals Councils**

- A. ...
- B.1. - 2.b.iii. Repealed.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.  
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1093 (June 1998).

Weegie Peabody  
Executive Director

9806#048

**RULE**

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

Laboratory Accreditation (LAC 33:I.5303)(OS007)

*(Editor's Note: A portion of the following rule, which appeared on pages 917-933 of the May 20, 1998 Louisiana Register is being republished to correct a typographical error.)*

**Title 33  
ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary  
Subpart 3. Laboratory Accreditation**

**Chapter 53. Quality System Requirements**

**§5303. Equipment and Supplies**

- A. - G.3.d. ...
- 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 or equivalent (weights should be recertified every two years). Records showing daily (or before each use) functional/calibration checks for analytical balances and monthly functional/calibration checks for pan balances shall be maintained;
- H.1.b. - H.6.b. ...
- 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), repromulgated LR 24:1093 (June 1998).

Herman Robinson  
Assistant Secretary

9806#026

**RULE**

**Department of Environmental Quality  
Office of Waste Services  
Hazardous Waste Division**

Recodification (LAC 33:V.Subpart 1)(HW063\*)

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 Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 3, 5, 11, 15, 19, 21, 22, 23, 25, 27, 29, 30, 35, 38, 39, 40, 41, 43, and 49 (HW063\*).

This rule is identical to a federal regulation found in 40 CFR parts 260, 261, 262, 264, 265, 266, 268, 270, and 273, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

Although LAC 33:V.Subpart 1 is currently equivalent to the federal regulations, this rule will update the affected sections to reflect the same order in language as the federal regulations. The basis and rationale for the rule are to make it easier for the regulated community to compare the state and federal regulations.

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 V. Hazardous Waste and Hazardous Materials  
Subpart 1. Department of Environmental**

**Quality—Hazardous Waste**

**Chapter 1. General Provisions and Definitions**

**§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

\* \* \*

[See Prior Text in A - C.6]

D. Exclusions

1. Materials That Are Not Solid Wastes. The following

materials are not solid wastes for the purpose of this Subpart:

- a.i. domestic sewage; and
- ii. any mixture of domestic sewage and other wastes that pass through a sewer system to a Publicly Owned Treatment Works (POTW) for treatment. *Domestic sewage* means untreated sanitary wastes that pass through a sewer system;
- b. industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended;  
[Comment: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.]
- c. irrigation return flows;
- d. source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.;
- e. material subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process;
- f. pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in LAC 33:V.109.Solid Waste;
- g. spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in LAC 33:V.109.Solid Waste;
- h. secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:
  - i. only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
  - ii. reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
  - iii. the secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
  - iv. the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal;
    - i.i. spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and
    - ii. wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood;
- j. EPA Hazardous Waste Numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic (TC) specified in LAC 33:V.4903.E when, subsequent to generation, these materials are recycled to coke ovens, or to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are

recycled to coke ovens, tar recovery, or refining processes, or mixed with coal tar;

k. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery; and

l. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001.

2. Solid Wastes That Are Not Hazardous Wastes. The following solid wastes are not hazardous wastes:

a. household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Subpart if such facility:

- i. receives and burns only:
  - (a). household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and
  - (b). solid waste from commercial or industrial sources that does not contain hazardous waste; and
- ii. such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility;
- b. solid wastes generated by any of the following and which are returned to the soils as fertilizers:
  - i. the growing and harvesting of agricultural crops; and
  - ii. the raising of animals, including animal manures;
- c. mining overburden returned to the mine site;
- d. fly ash waste, bottom ash waste, slag waste, and

flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

e. drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy;

f. wastes that fail the test for the toxicity characteristic because chromium is present or are listed in LAC 33:V.Chapter 49, due to the presence of chromium, which do not fail the test for the toxicity characteristic for any other constituent, or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or waste generators that:

i. the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

ii. the waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

iii. the waste is typically and frequently managed in nonoxidizing environments;

g. specific wastes which meet the standard in Subsection D.1.f.i, ii and iii (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

i. chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

ii. chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

iii. buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue;

iv. sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

v. wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

vi. wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue;

vii. waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and

viii. wastewater treatment sludges from the production of TiO<sub>2</sub> pigment using chromium-bearing ores by the chloride process;

h. solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste. For purposes of this Paragraph, beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting and/or autoclaving and/or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching. For the purpose of this Paragraph, solid waste from the processing of ores and minerals will include only the following wastes:

i. slag from primary copper processing;

ii. slag from primary lead processing;

iii. red and brown muds from bauxite refining;

iv. phosphogypsum from phosphoric acid production;

v. slag from elemental phosphorus production;

vi. gasifier ash from coal gasification;

vii. process wastewater from coal gasification;

viii. calcium sulfate wastewater treatment plant sludge from primary copper processing;

ix. slag tailings from primary copper processing;

x. fluorogypsum from hydrofluoric acid production;

xi. process wastewater from hydrofluoric acid production;

xii. air pollution control dust/sludge from iron blast furnaces;

xiii. iron blast furnace slag;

xiv. treated residue from roasting/leaching of chrome ore;

xv. process wastewater from primary magnesium processing by the anhydrous process;

xvi. process wastewater from phosphoric acid production;

xvii. basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;

xviii. basic oxygen furnace and open hearth furnace slag from carbon steel production;

xix. chloride process waste solids from titanium tetrachloride production; and

xx. slag from primary zinc processing;

i. cement kiln dust waste, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

j. solid waste that consists of discarded arsenical-treated wood or wood products which fails the test

for the toxicity characteristic for Hazardous Waste Codes D004)D017 and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenical-treated wood and wood product for these materials' intended end use;

k. petroleum-contaminated media and debris that fail the test for the toxicity characteristic (Hazardous Waste Numbers D018-D043 only) and are subject to the corrective action regulations under underground storage tanks rules and regulations (LAC 33:XI);

l. injected groundwater that is hazardous only because it exhibits the toxicity characteristic (Hazardous Waste Codes D018-D043 only) in LAC 33:V.4903 and that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

i. operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

ii. a copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460;

m. used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use;

n. non-terneplated used oil filters that are not mixed with wastes listed in LAC 33:V.4901 if these oil filters have been gravity hot-drained using one of the following methods:

i. puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

ii. hot-draining and crushing;

iii. dismantling and hot-draining; or

iv. any other equivalent hot-draining method that will remove used oil; and

o. used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

3. Hazardous Wastes That Are Exempted from Certain Regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under LAC 33:V.Subpart 1 or to the notification

requirements of Subsection A of this Section, until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

#### 4. Samples

a. Except as provided in Subsection D.4.b of this Section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of LAC 33:V.Subpart 1 or to the notification requirements of Subsection A of this Section, when:

i. the sample is being transported to a laboratory for the purpose of testing; or

ii. the sample is being transported back to the sample collector after testing; or

iii. the sample is being stored by the sample collector before transport to a laboratory for testing; or

iv. the sample is being stored in a laboratory before testing; or

v. the sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

vi. the sample is being stored temporarily in the laboratory after testing for a specific purpose (e.g., until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

b. In order to qualify for the exemption in Subsection D.4.a.i-ii of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

i. comply with Louisiana Department of Public Safety (LDPS), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

ii. comply with the following requirements if the sample collector determines that LDPS, USPS, or other shipping requirements do not apply to the shipment of the sample:

(a). assure that the following information accompanies the sample:

(i). the sample collector's name, mailing address, and telephone number;

(ii). the laboratory's name, mailing address, and telephone number;

(iii). the quantity of the sample;

(iv). the date of shipment; and

(v). a description of the sample; and

(b). package the sample so that it does not leak, spill, or vaporize from its packaging.

c. This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in Subsection D.4.a of this Section.

#### 5. Treatability Study Samples

a. Except as provided in Subsection D.5.b of this Section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in LAC 33:V.109 are not subject to any requirement of LAC 33:V.Chapters 9, 11, 13, or 49, or to the notification

requirements of Subsection A of this Section, nor are such samples included in the quantity determinations of LAC 33:V.3903-3915 and LAC 33:V.1109.E.7 when:

i. the sample is being collected and prepared for transportation by the generator or sample collector; or  
ii. the sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

iii. the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

b. The exemption in Subsection D.5.a of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies, provided that:

i. the generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute hazardous waste, 1,000 kg of nonacute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

ii. the mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

iii. the sample is packaged so that it will not leak, spill, or vaporize from its packaging during shipment, and the requirements of Subsection 105.D.5.b.iii.(a) or (b) of this Section are met:

(a). the transportation of each sample shipment complies with the shipping requirements of the LDPS and USPS, or any other applicable shipping requirements; or

(b). if the LDPS, the USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(i). the name, mailing address, and telephone number of the originator of the sample;

(ii). the name, address, and telephone number of the facility that will perform the treatability study;

(iii). the quantity of the sample;

(iv). the date of shipment; and

(v). a description of the sample, including its EPA Hazardous Waste Number;

iv. the sample is shipped to a laboratory or testing facility that is exempt under Subsection D.6 of this Section or has an appropriate LAC 33:V.Subpart 1 permit or interim status;

v. the generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(a). copies of the shipping documents;

(b). a copy of the contract with the facility conducting the treatability study; and

(c). documentation showing:

(i). the amount of waste shipped under this exemption;

(ii). the name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(iii). the date the shipment was made; and

(iv). whether or not unused samples and residues were returned to the generator; and

vi. the generator reports the information required under Subsection D.5.b.v.(c) of this Section in its biennial report.

c. The administrative authority may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The administrative authority may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsection D.5.b.i and ii and 6.d of this Section for up to an additional 5,000 kg of media contaminated with nonacute hazardous waste, 500 kg of nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste:

i. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations;

ii. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when: there has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment; and

iii. the additional quantities and time frames allowed in Subsection D.5.c.i and ii of this Section are subject to all the provisions in Subsection D.5.a and b.iii-vi of this Section. The generator or sample collector must apply to the administrative authority and provide in writing the following information:

(a). the reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(b). documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study

processes were conducted on each sample shipped, and the available results of each treatability study;

(c). a description of the technical modifications or change in specifications that will be evaluated and the expected results;

(d). if such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(e). such other information that the administrative authority considers necessary.

6. Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to LAC 33:V.Subpart 1 requirements) are not subject to any requirement of LAC 33:V.Chapters 3, 5, 9, 11, 13, 15, 22, 41, and 43 or to the notification requirements of Subsection A of this Section, provided that the following conditions are met. A mobile treatment unit may qualify as a testing facility subject to Subsection D.6.a-k of this Section. Where a group of mobile treatment units is located at the same site, the limitations specified in Subsection D.6.a-k of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit:

a. no less than 45 days before conducting treatability studies, the facility notifies the administrative authority in writing that it intends to conduct treatability studies under this Subsection;

b. the laboratory or testing facility conducting the treatability study has an EPA identification number;

c. no more than a total of 10,000 kg of "as received" media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subjected to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector;

d. the quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of nonacute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste;

e. no more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived

are counted against the total storage limit for the facility;

f. the treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste;

g. the facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

i. the name, address, and EPA identification number of the generator or sample collector of each waste sample;

ii. the date shipment was received;

iii. the quantity of waste accepted;

iv. the quantity of "as received" waste in storage each day;

v. the date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

vi. the date the treatability study was concluded; and

vii. the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number;

h. the facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study;

i. the facility prepares and submits a report to the administrative authority by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

i. the name, address, and EPA identification number of the facility conducting the treatability studies;

ii. the types (by process) of treatability studies conducted;

iii. the names and addresses of persons for whom studies have been conducted (including their EPA identification numbers);

iv. the total quantity of waste in storage each day;

v. the quantity and types of waste subjected to treatability studies;

vi. when each treatability study was conducted; and

vii. the final disposition of residues and unused sample from each treatability study;

j. the facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under LAC 33:V.109.Hazardous Waste and, if so, are subject to LAC 33:V.Chapters 3, 5, 9, 11, 13, 15, 22, 41, 43, and 49, unless the residue and unused samples are returned to the sample originator under the Subsection D.5 of this Section exemption; and

k. the facility notifies the administrative authority by letter when the facility is no longer planning to conduct any treatability studies at the site.

7. The following wastes are exempt from regulation under this Subpart, except as specified in LAC 33:V.Chapter 38, and therefore, are not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under LAC 33:V.Chapter 38:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

8. PCB Wastes Regulated Under Toxic Substance Control Act. PCB-containing dielectric fluid and electric equipment containing such fluid authorized for use and regulated by the United States Environmental Protection Agency under 40 CFR 761, and that are hazardous only because they fail the test for the toxicity characteristic (Hazardous Waste Numbers D018—D043 only) are exempt from regulation under LAC 33:V.Subpart 1.

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[See Prior Text in E - J.2]

#### K. Variance to be Classified as a Boiler

1. Variance to be Classified as a Boiler. In accordance with the standards and criteria in LAC 33:V.109.Boiler and the procedures in Subsection K.2 of this Section, the administrative authority may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in LAC 33:V.109 after considering the following criteria:

- a. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and
- b. the extent to which the combustion chamber and energy recovery are of integral design; and
- c. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
- d. the extent to which exported energy is utilized; and
- e. the extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and
- f. other factors, as appropriate.

2. Procedures for Variances From Classification as a Solid Waste or to be Classified as a Boiler. The administrative authority will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed controlled flame combustion devices as boilers as provided in this Subsection:

- a. the applicant must apply to the administrative authority. The application must address the relevant criteria contained in this Subsection; and
- b. the administrative authority will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and/or radio broadcast in the locality where the recycler is located. The administrative authority will accept comment on the tentative decision for 30 days and may also hold a public hearing upon request or at his discretion. The administrative authority will issue a final decision after receipt of comments and after a hearing (if any).

#### L. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

1. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis. The administrative authority may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in LAC 33:V.4105.C.4 should be regulated under Subchapter A of LAC 33:V.Chapter 41. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the administrative authority will consider the following factors:

- a. the types of materials accumulated or stored and the amounts accumulated or stored;
- b. the method of accumulation or storage;
- c. the length of time the materials have been accumulated or stored before being reclaimed;
- d. whether any contaminants are being released into the environment, or are likely to be so released; and
- e. other relevant factors.

2. Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities. The administrative authority will use the following procedures when determining whether to regulate hazardous waste recycling activities described in LAC 33:V.4105.C.3 under the provisions of Subchapter A of LAC 33:V.Chapter 41, rather than under the provisions of Subchapter C of LAC 33:V.Chapter 41 of these regulations:

- a. if a generator is accumulating the waste, the administrative authority will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of LAC 33:V.1101, 1109.A, 1111.A, and 1113.A. The notice will become final within 30 days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the administrative authority will hold a public hearing. The administrative authority will provide notice of the hearing to the public and allow public participation at the hearing. The administrative authority will issue a final order after the hearing stating whether or not compliance with LAC 33:V.Chapter 11 is required. The order becomes effective 30 days after service of the decision unless the administrative authority specifies a later date or unless review by the administrative authority is requested. The order may be appealed to the administrative authority by any person who participated in the public hearing. The administrative authority may choose to grant or to deny the appeal. Final department action occurs when a final order is issued and department review procedures are exhausted; and
- b. if the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of these regulations. The owner or operator of the facility must apply for a permit within no less than 60 days and no more than 180 days of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the administrative

authority's decision, he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the administrative authority's decision was proper will remain open for consideration during the public comment period discussed under LAC 33:V.707 and in any subsequent hearing.

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[See Prior Text in M - N.5]

#### O. Variances from Classification as a Solid Waste

1. Variances from Classification as a Solid Waste. In accordance with the standards and criteria below, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid waste:

a. materials that are accumulated speculatively without sufficient amounts being recycled, as defined in LAC 33:V.109;

b. materials that are reclaimed and then reused within the original production process in which they were generated; and

c. materials that have been reclaimed, but must be reclaimed further before the materials are completely recovered.

#### 2. Standards and Criteria for Variances from Classification as a Solid Waste

a. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The administrative authority's decision will be based on the following criteria:

i. the manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (e.g., because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

ii. the reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;

iii. the quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

iv. the extent to which the material is handled to minimize loss; and

v. other related factors.

b. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

i. how economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

ii. the prevalence of the practice on an industry-wide basis;

iii. the extent to which the material is handled before reclamation to minimize loss;

iv. the time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;

v. the location of the reclamation operation in relation to the production process;

vi. whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

vii. whether the person who generates the material also reclaims it; and

viii. other relevant factors.

c. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

i. the degree of processing the material has undergone and the degree of further processing that is required;

ii. the value of the material after it has been reclaimed;

iii. the degree to which the reclaimed material is like an analogous raw material;

iv. the extent to which an end market for the reclaimed material is guaranteed;

v. the extent to which the reclaimed material is handled to minimize loss; and

vi. other relevant factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952

(August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:1093 (June 1998).

### §109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

\* \* \*

[See Prior Text]

*Accumulated Speculatively*—a material is *accumulated speculatively* if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under LAC 33:V.105.D.3 are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

\* \* \*

[See Prior Text]

*Boiler*—an enclosed device using controlled flame combustion and having the following characteristics:

\* \* \*

[See Prior Text in 1 - 1.c]

2. the unit is one which the administrative authority has determined, on a case-by-case basis, to be a boiler, after considering the standards in LAC 33:V.105.K.

\* \* \*

[See Prior Text]

*Hazardous Waste*—a solid waste, as defined in this Section, is a hazardous waste if:

1. it is not excluded from regulation as a hazardous waste under LAC 33:V.105.D; and

2. it meets any of the following criteria:

a. it exhibits any of the characteristics of hazardous waste identified in LAC 33:V.4903, except that any mixture of a waste from the extraction, beneficiation, or processing of ores and minerals excluded under LAC 33:V.105.D.2.h and any other solid waste exhibiting a characteristic of hazardous waste under LAC 33:V.4903 is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred; or if it continues to exhibit any of the characteristics exhibited by the nonexcluded wastes prior to mixture. Further, for the purposes of applying the toxicity characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in LAC 33:V.4903.E.Table 5 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if

it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture;

b. it is listed in LAC 33:V.4901 and has not been excluded from the lists in LAC 33:V.4901 by the Environmental Protection Agency or the administrative authority;

c. it is a mixture of a solid waste and a hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more of the characteristics of hazardous waste identified in LAC 33:V.4903 unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903; or unless the solid waste is excluded from regulation under LAC 33:V.105.D.2.h and the resultant mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903 for which the hazardous waste listed in LAC 33:V.4901 was listed. (However, nonwastewater mixtures are still subject to the requirements of LAC 33:V.Chapter 22, even if they no longer exhibit a characteristic at the point of land disposal.);

d. it is a mixture of solid waste and one or more hazardous wastes listed in LAC 33:V.4901 and has not been excluded from Paragraph 2 of this definition under LAC 33:V.105.D and M; however, the following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (except by application of Paragraph 2.a or b of this definition) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and:

i. one or more of the following solvents listed in LAC 33:V.4901.B—carbon tetrachloride, tetrachloroethylene, trichloro-ethylene—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or

ii. one or more of the following spent solvents listed in LAC 33:V.4901.B—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

iii. one of the following wastes listed in LAC 33:V.4901.C—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste Number K050); or

iv. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as

raw materials or are produced in the manufacturing process. For purposes of this Clause, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

v. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901, provided that the annualized average flow of laboratory wastewater does not exceed 1 percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

vi. one or more of the following wastes listed in LAC 33:V.4901.C—wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157)—provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or are recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or

vii. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C—organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156)—provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter; and

e. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by using an analytical method from LAC 33:V.Chapter 49.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to

metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

3. A solid waste which is not excluded from regulation under LAC 33:V.105.D becomes a hazardous waste when any of the following events occur:

a. in the case of a waste listed in LAC 33:V.4901, when the waste first meets the listing description set forth in LAC 33:V.4901;

b. in the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in LAC 33:V.4901 is first added to the solid waste; and

c. in the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in LAC 33:V.4903.

4. Unless and until a hazardous waste meets the criteria of Paragraph 5 of this definition:

a. a hazardous waste will remain a hazardous waste;

b.i. Except as otherwise provided in Paragraph 4.b.ii of this definition, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation runoff) is a hazardous waste. (However, materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

ii. The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of hazardous waste, unless they exhibit one or more of the characteristics of hazardous wastes:

(a). waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332);

(b). waste from burning any of the materials exempted from regulation by LAC 33:V.4105.B.9 - 12;

(c).i. nonwastewater residues, such as slag, resulting from High-Temperature Metals Recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or industrial furnaces (as defined in Industrial Furnace, Paragraphs 6, 7 and 13, in this Section), that are disposed of in subtitle D units, provided that these residues meet the generic exclusion levels identified in Tables A and B of this definition for all constituents and exhibit no characteristics of hazardous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion

in an enforcement action will have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements.

**Table A**

Generic Exclusion Levels for K061 and K062 Nonwastewater HTMR Residues	
Constituent	Maximum for any Single Composite Sample-TCLP (mg/l)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

**Table B**

Generic Exclusion Levels for F006 Nonwastewater HTMR Residues	
Constituent	Maximum for any Single Composite Sample-TCLP (mg/l)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii). A one-time notification and certification must be placed in the facility's files and sent to the administrative authority for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generators' or

treaters' files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the administrative authority on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

- [a]. the name and address of the subtitle D unit receiving the waste shipments;
- [b]. the EPA hazardous waste number(s) and treatability group(s) at the initial point of generation; and
- [c]. the treatment standards applicable to the waste at the initial point of generation; and
- [d]. the certification must be signed by an authorized representative and must state as follows:

"I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

d. Biological treatment sludge from the treatment of one of the following wastes listed in LAC 33:V.4901.C—organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), and wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157).

5. Any solid waste described in Paragraph 4 of this definition is not a hazardous waste if it meets the following criteria:

a. in the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in LAC 33:V.4903. (However, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of LAC 33:V.Chapter 22, even if they no longer exhibit a characteristic at the point of land disposal);

b. in the case of a waste which is a listed waste under LAC 33:V.4901, contains a waste listed under LAC 33:V.4901 or is derived from a waste listed in LAC 33:V.4901, and it also has been excluded from Paragraph 4 of this definition under LAC 33:V.105.H and M.

6. Notwithstanding Paragraphs 1-4 of this definition and provided the debris as defined in LAC 33:V.2203 does not exhibit a characteristic identified at LAC 33:V.4903.B-E, the following materials are not subject to regulation under LAC 33:V.Subpart 1:

a. hazardous debris as defined in LAC 33:V.2203 that has been treated using one of the required extraction or destruction technologies specified in LAC 33:V.Chapter 22.Appendix.Table 8. Persons claiming this exclusion in an enforcement action will have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements; or

b. debris as defined in LAC 33:V.2203 that the administrative authority, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

*Solid Waste*—

1.a. any discarded material that is not excluded by LAC 33:V.105.D or that is not excluded by a variance granted under LAC 33:V.105.O.

b. a discarded material is any material which is:

- i. abandoned as explained in Paragraph 2 of this definition;
- ii. recycled as explained in Paragraph 3 of this definition; or
- iii. considered inherently waste-like, as explained in Paragraph 4 of this definition.

2. Materials are solid waste if they are abandoned by being:

- a. disposed of; or
- b. burned or incinerated; or
- c. accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

3. Materials are solid wastes if they are recycled—or accumulated, stored, or treated before recycling—as specified in Paragraph 3.a-d of this definition:

a. used in a manner constituting disposal:

i. materials noted with an "\*" in column 1 of Table 1 in this Chapter are solid wastes when they are:

- (a). applied to or placed on the land in a manner that constitutes disposal; or
- (b). used to produce products that are applied to or placed on the land (in which cases the product itself remains a solid waste);

ii. however, commercial chemical products listed in LAC 33:V.4901.D and E are not solid wastes if they are applied to the land and that is their ordinary manner of use;

b. burning for energy recovery:

i. materials noted with an "\*" in column 2 of Table 1 in this Chapter are solid wastes when they are burned to recover energy, used to produce a fuel, or otherwise contained in fuels (in which case the fuel itself remains a solid waste);

ii. however, commercial chemical products listed in LAC 33:V.4901.D and E are not solid wastes if they are themselves fuels;

c. reclaimed—materials noted with an "\*" in column 3 of Table 1 in this Chapter are solid wastes when reclaimed;

d. accumulated speculatively—materials noted with an "\*" in column 4 of Table 1 in this Chapter are solid wastes when accumulated speculatively.

4. Inherently Waste-Like Materials. The following materials are solid wastes when they are recycled in any manner:

a. Hazardous Waste Numbers F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028;

b. secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in LAC 33:V.4901 or 4903, except for brominated material that meets the following criteria:

i. the material must contain a bromine concentration of at least 45 percent;

ii. the material must contain less than a total of 1 percent of toxic organic compounds listed in LAC 33:V.3105.Table 1; and

iii. the material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping); and

c. the administrative authority will use the following criteria to add wastes to that list:

i. the materials are ordinarily disposed of, burned, or incinerated; or

ii. the materials contain toxic constituents listed in Table 1 of LAC 33:V.Chapter 31 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

iii. the material may pose a substantial hazard to human health and the environment when recycled.

5. Materials that are not Solid Waste when Recycled

a. Materials are not solid wastes when they can be shown to be recycled by being:

i. used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

ii. used or reused as effective substitutes for commercial products; or

iii. returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on land.

b. The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (described in preceding paragraphs of this definition):

i. materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

ii. materials burned for energy recovery, used to produce a fuel, or otherwise contained in fuels; or

c. Materials accumulated speculatively; or

d. Inherently waste-like materials listed in Paragraph 4 of this definition.

6. Respondents in actions to enforce regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

Table 1				
	Use Constituting Disposal (1)	Energy Recovery/Fuel (2)	Reclamation (3)	Speculative Accumulation (4)
Spent Materials	*	*	*	*
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	.....	*
By-products (listed in LAC 33:V.4901)	*	*	*	*
By-products exhibiting a characteristic of hazardous waste	*	*	.....	*
Commercial chemical products listed in LAC 33:V.4901.E and F	*	*	.....	
Scrap Metal	*	*	*	*

\* \* \*

[See Prior Text]

*Treatability Study*—a study in which a hazardous waste is subjected to a treatment process to determine:

- 1.a. whether the waste is amenable to the treatment process;
- b. what pretreatment (if any) is required;
- c. the optimal process conditions needed to achieve the desired treatment;
- d. the efficiency of a treatment process for a specific waste or wastes; or
- e. the characteristics and volumes of residuals from a particular treatment process.

2. Also included in this definition for the purpose of the LAC 33:V.105.D.5 and 6 exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means of commercially treating or disposing of hazardous waste.

\* \* \*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1101 (June 1998).

### Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

#### §305. Scope of the Permit

\* \* \*

[See Prior Text in A - C.1]

2. generators who accumulate hazardous waste in an environmentally sound manner, on-site for less than 90 days in accordance with LAC 33:V.1109.E;

3. farmers who dispose of hazardous waste pesticides from their own use as provided in LAC 33:V.1101.D;

\* \* \*

[See Prior Text in C.4 - 9]

10. owners and operators of facilities granted a research development and demonstration permit under section 3005(g) of Subtitle C of RCRA, is so specifically exempted by the administrative authority;

11. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807;

12. the owner or operator of a facility permitted, licensed, or registered to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation by LAC 33:V.Subpart 1.

\* \* \*

[See Prior Text in D - G.3]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658

(July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998).

**Chapter 5. Permit Application Contents**  
**Subchapter E. Specific Information Requirements**  
**§525. Specific Part II Information Requirements for Surface Impoundments**

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments must provide the following additional information:

\* \* \*

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

**§527. Specific Part II Information Requirements for Waste Piles**

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that treat or store hazardous waste in waste piles must provide the following additional information:

\* \* \*

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

**§531. Specific Part II Information Requirements for Land Treatment Facilities**

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that use land treatment to dispose of hazardous waste must provide the following additional information:

\* \* \*

[See Prior Text in A - H.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

**§533. Specific Part II Information Requirements for Landfills**

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that dispose of hazardous waste in landfills must provide the following additional information:

\* \* \*

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

**Chapter 11. Generators**  
**§1101. Applicability**

\* \* \*

[See Prior Text in A - C]

D. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Chapter or other standards in the LAC 33:V.Chapters 3, 5, 7, 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, and 43 for those wastes, provided he triple rinses each emptied pesticide container in accordance with the provisions of LAC 33:V.109.Empty Container.3 and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.

\* \* \*

[See Prior Text in E - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

**Chapter 15. Treatment, Storage, and Disposal Facilities**

**§1501. Applicability**

\* \* \*

[See Prior Text in A - C.2]

3. Reserved;

4. a farmer disposing of waste pesticides from his own use as provided in LAC 33:V.1101.D;

\* \* \*

[See Prior Text in C.5 - 11.c]

D. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous wastes referred to in LAC 33:V.Chapter 22.

E. The requirements of this Chapter apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act only to the extent they are included in a RCRA permit by rule granted to such a person under LAC 33:V.305.D.

F. The requirements of this Chapter apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by 40 CFR 144.14.

G. The requirements of this Chapter apply to the owner or operator of a POTW which treats, stores, or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted to such a person under LAC 33:V.305.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

## **Chapter 19. Tanks**

### **§1901. Applicability**

The requirements of this Chapter apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste except as otherwise provided in Subsections A and B of this Section or LAC 33:V.1501.

\* \* \*

[See Prior Text in A - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

## **Chapter 21. Containers**

### **§2101. Applicability**

The regulations in this Chapter apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as specified in LAC 33:V.1501, or if the container is empty (see LAC 33:V.109).

\* \* \*

[See Prior Text in A - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

## **Chapter 22. Prohibitions on Land Disposal**

### **Subchapter A. Land Disposal Restrictions**

#### **§2201. Purpose, Scope, and Applicability**

\* \* \*

[See Prior Text in A - I]

1. waste pesticides that a farmer disposes of in accordance with LAC 33:V.1101.D;

\* \* \*

[See Prior Text in I.2 - 5.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

## **Chapter 23. Waste Piles**

### **§2301. Applicability**

A. The regulations in this Subpart apply to owners and operators of facilities that store or treat hazardous waste in

piles, except as specified in LAC 33:V.1501.

\* \* \*

[See Prior Text in B - C.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

## **Chapter 25. Landfills**

### **§2501. Applicability**

The regulations in this Chapter apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as specified in LAC 33:V.1501.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

## **Chapter 27. Land Treatment**

### **§2701. Applicability**

The regulations in this Chapter apply to owners and operators of facilities that treat or dispose of hazardous waste in land treatment units, except as LAC 33:V.1501 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

## **Chapter 29. Surface Impoundments**

### **§2901. Applicability**

The regulations in this Subpart apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste except as LAC 33:V.1501 provides otherwise.

[Comment: All surface impoundments used to store hazardous waste, including short-term storage (90 days or less), must have a TSD permit.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

## **Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

### **§3025. Regulation of Residues**

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements:

\* \* \*

[See Prior Text in A - A.1]

2. Ore or Mineral Furnaces. Industrial furnaces subject to LAC 33:V.105.D.2.h must process at least 50 percent by

weight normal, nonhazardous raw materials;

\* \* \*

[See Prior Text in A.3 - C.2.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

**Chapter 35. Closure and Post-Closure**

**§3501. Applicability**

\* \* \*

[See Prior Text in A]

B. Except as LAC 33:V.1501 provides otherwise, LAC 33:V.3503—3517 (which concern closure) apply to all hazardous waste facilities in operation or under construction as of the effective date of LAC 33:V.Subpart 1 and to all hazardous waste facilities permitted under LAC 33:V.Subpart 1, as applicable.

\* \* \*

[See Prior Text in C - C.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

**Chapter 38. Universal Wastes**

**Subchapter A. General**

**§3801. Scope and Applicability**

\* \* \*

[See Prior Text in A]

B. Persons managing household wastes that are exempt under LAC 33:V.105.D.2.a and are also of the same type as the universal wastes as defined in this Chapter may, at their option, manage these wastes under the requirements of this Chapter.

\* \* \*

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

**§3805. Applicability—Pesticides**

\* \* \*

[See Prior Text in A - B]

1. recalled pesticides described in Subsection A.1 of this Section, and unused pesticide products described in Subsection A.2 of this Section, that are managed by farmers in compliance with LAC 33:V.1101.D (LAC 33:V.1101.D addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with the definition of *empty container* under LAC 33:V.109);

\* \* \*

[See Prior Text in B.2 - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:569 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

**Chapter 40. Used Oil**

**Subchapter A. Materials Regulated as Used Oil**

**§4003. Applicability**

This Section identifies those materials which are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

\* \* \*

[See Prior Text in A - E.1.a]

b. not solid wastes and, thus, are not subject to the hazardous waste regulations of LAC 33:V.Subpart 1 as provided in LAC 33:V.109.Hazardous Waste.4.b.i.

\* \* \*

[See Prior Text in E.2 - I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

**Chapter 41. Recyclable Materials**

**§4105. Requirements for Recyclable Material**

Recyclable materials are subject to additional regulations as follows:

\* \* \*

[See Prior Text in A - B.4]

- 5. Reserved
- 6. Reserved

\* \* \*

[See Prior Text in B.7]

8. fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under LAC 33:V.105.D.1.1);

\* \* \*

[See Prior Text in B.9 - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

[See Prior Text in B - C]

**Chapter 43. Interim Status**  
**Subchapter A. General Facility Standards**

**§4307. Applicability**

The regulations of LAC 33:V.Chapter 43 apply to owners and operators of all hazardous waste facilities except as LAC 33:V.1501 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter C. Contingency Plan and Emergency Procedures**

**§4337. Applicability**

The regulations of this Subchapter apply to owners and operators of all hazardous waste facilities except as provided in LAC 33:V.4307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter D. Manifest System, Recordkeeping, and Reporting**

**§4351. Applicability**

The regulations in this Subchapter apply to owners and operators of both on-site and off-site facilities, except as LAC 33:V.4307 provides otherwise. LAC 33:V.4353, 4355, and 4363 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter F. Closure and Post-Closure**

**§4377. Applicability**

Except as LAC 33:V.4307 provides otherwise:

\* \* \*

[See Prior Text in A - B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:219 (March 1990), LR 16:614 (July 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter G. Financial Requirements**

**§4397. Applicability**

A. The requirements of LAC 33:V.3719, 4401, 4403, 4411, and 4413 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in LAC 33:V.4307.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 13:651 (November 1987), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter J. Surface Impoundments**

**§4447. Applicability**

The regulations in this Subchapter apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste, except as LAC 33:V.4307 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter K. Waste Piles**

**§4463. Applicability**

The regulations in this Subchapter apply to owners and operators of facilities that treat or store hazardous waste in piles, except as LAC 33:V.4307 provides otherwise. Alternatively, a pile of hazardous waste may be managed as a landfill under LAC 33:V.Chapter 43, Subchapter M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter L. Land Treatment**

**§4477. Applicability**

The regulations in this Subchapter apply to owners and operators of hazardous waste land treatment facilities with interim status, except as LAC 33:V.4307 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter M. Landfills**

**§4495. Applicability**

The regulations in this Subchapter apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as LAC 33:V.4307 provides otherwise. A waste pile used as a disposal facility is a landfill and is governed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

**Subchapter O. Thermal Treatment**

**§4523. Applicability**

The regulations in this Subpart apply to owners or operators of facilities that thermally treat hazardous waste in devices other than enclosed devices using controlled flame combustion, except as LAC 33:V.4307 provides otherwise. Thermal treatment in enclosed devices using controlled flame combustion is subject to the requirements of LAC 33:V.Chapter 31 and Subchapter N of LAC 33:V.Chapter 43 if the unit is an incinerator, and LAC 33:V.Chapter 30, if the unit is a boiler or an industrial furnace as defined in LAC 33:V.109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1110 (June 1998).

**Subchapter P. Chemical, Physical, and Biological Treatment**

**§4535. Applicability**

The regulations in this Subchapter apply to owners and operators of facilities which treat hazardous wastes by chemical, physical, or biological methods in other than tanks, surface impoundments, and land treatment facilities, except as LAC 33:V.4307 provides otherwise. Chemical, physical, and biological treatment of hazardous waste in tanks, surface impoundments, and land treatment facilities must comply with the requirements of LAC 33:V.Chapter 43, Subchapters I, J, and L, respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1110 (June 1998).

**Chapter 49. Lists of Hazardous Wastes**

*Editor's Note: The text in §4905 has been moved to LAC 33:V.109.Hazardous Waste.2.d.*

**§4905. Exclusions for Wastewaters**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:791 (November 1988), LR 15:182 (March 1989), LR 18:723 (July 1992), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1110 (June 1998).

H.M. Strong  
Assistant Secretary

9806#030

**RULE**

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

**Repeal of Death Benefit Payments**

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity ("fund"), pursuant to R.S. 11:3363(F) hereby repeals its death benefit rules.

**I. Definitions**

Repealed.

**II. Beneficiary Designations and Election of Retirement and Death Benefits**

Repealed.

**III. Calculation of Death Benefits**

Repealed.

**IV. Pre-Retirement Death Benefits**

Repealed.

**V. General**

Repealed.

William M. Carrouché  
President

9806#021

**RULE**

**Office of the Governor  
Office of Elderly Affairs**

**FY 1998-99 State Plan  
on Aging (LAC 4:VII.1317)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) amends LAC 4:VII.1317, the FY 1998-1999 State Plan on Aging, effective July 1, 1998. This rule change is in accordance with the *Code of Federal Regulations*, 45 CFR 1321.19 "Amendments to the State Plan," and 45 CFR 1321.35 "Withdrawal of Area Agency Designation" (Volume 53, Number 169, pages 33769 and 33770). The purposes of this rule change are:

(1) to reverse the designation of the Governor's Office of Elderly Affairs as the Area Agency on Aging for the Planning and Service Area (PSA) consisting of Allen and Jefferson Davis parishes;

(2) to designate Allen and Jefferson Davis parishes as Planning and Service Areas;

(3) to designate Allen Council on Aging, Inc. as the Area Agency on Aging for the Allen Parish PSA;

(4) to designate the Jefferson Davis Council on Aging, Inc. as the Area Agency on Aging for the Jefferson Davis Parish PSA.

The FY 1998-1999 State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the *Louisiana Register*, Volume 23, Number 9.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 13. State Plan on Aging**

**§1317. Area Agencies on Aging**

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier
Caddo COA	Caddo
Cajun COA	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on Aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
Cenla AAA	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSoto COA	DeSoto
East Baton Rouge COA	East Baton Rouge
GOEA AAA	Calcasieu
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse
Natchitoches COA	Natchitoches
North Delta AAA	East Carroll, Franklin, Jackson, Richland, Union
New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River
Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James AAA	St. James

St. John COA	St. John the Baptist
St. Tammany COA	St. Tammany
Tensas COA	Tensas
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997), amended LR 24:1110 (June 1998).

Paul F. Arceneaux, Jr.  
Executive Director

9806#014

**RULE**

**Office of the Governor  
Patient's Compensation Fund Oversight Board**

Actuarial Study and Rate Application,  
Filing, and Notice (LAC 37:III.703 and 707)

The Patient's Compensation Fund Oversight Board, under authority of the Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 37:III.Chapter 7, as follows, pertaining to the dates which the actuarial study and application for surcharge rates or rate changes must be completed and filed with the Insurance Rating Commission.

**Title 37**

**INSURANCE**

**Part III. Patient's Compensation Fund Oversight Board**

**Chapter 7. Surcharges**

**§703. Annual Actuarial Study**

A. An actuarial study of the fund and the surcharge rate structure necessary and appropriate to ensure that it is and remains financially and actuarially sound shall be performed annually by the PCF's consulting actuary on the basis of an actuarial analysis of all relevant claims experience data collected and maintained by the fund. In conjunction with the executive director, the consulting actuary shall, on behalf of the board, develop and prepare for submission to the Louisiana Insurance Rating Commission (LIRC) an application for surcharge rates or rate changes.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 19:204 (February 1993), LR 24:1111 (June 1998).

**§707. Rate Applications, Filings; Notice of Rates**

A. The PCF's application for surcharge rates or rate changes, if indicated by the annual actuarial study conducted pursuant to §703, shall be filed with the LIRC by the executive director on behalf of the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 24:1112 (June 1998).

Michael A. Walsh  
Executive Director

9806#055

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

Comprehensive Rule Revisions  
(LAC 46:XXXIII.Chapters 1-17)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.Chapters 1-17. No preamble has been prepared.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 1. General Provisions**

**§103. Evidence of Graduation**

A. All applicants for a dental or dental hygiene license shall furnish the board with satisfactory evidence of graduation from an accredited dental school, dental college, or educational program prior to the examination given by the board for such licensure. An accredited dental school, dental college, or educational program shall be one that has been certified as accredited by the Commission on Dental Accreditation of the American Dental Association.

B. The phrase "satisfactory evidence of graduation from an accredited dental school, dental college or educational program" shall mean receipt of satisfactory evidence from the dean of the applicant's school specifically stating that the applicant will indeed graduate within 90 days following the administration of the Louisiana State Board of Dentistry clinical licensing examination.

C. The president of the board shall withhold his signature on the license of the applicant pending receipt of satisfactory evidence of graduation before awarding the applicant's license to practice dentistry or dental hygiene in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 10:88 (February

1984), amended by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998).

**§108. Levels and Definitions of Supervision**

Licensed dentists who employ dental assistants, expanded duty dental assistants, and dental hygienists shall be responsible for the supervision of those employees' authorized duties. Authorized duties of dental assistants, expanded duty dental assistants, and dental hygienists may also be under the supervision of a licensed dentist who assumes responsibility for the treatment of that patient.

1. Direct Supervision. A licensed dentist personally diagnoses the condition to be treated; personally authorizes the procedures; is in the dental office or treatment facility during the performance of the authorized procedures; and, before dismissal of the patient, evaluates the performance of the dental assistant, expanded duty dental assistant, or dental hygienist.

2. General Supervision. The licensed dentist has authorized the procedures, which are being carried out by the dental hygienist in accordance with the dentist's treatment plan; however, the dentist is not required to be present in the dental office or treatment facility during the performance of the supervised procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998).

**§110. Licensees Suffering Impairment Due to Alcohol or Substance Abuse**

A. After considerable study and review of other state practices in regards to evaluation, diagnosis, prognosis, and treatment of licensees suffering impairment through chemical or drug abuse, the board shall hereby abide by the following procedures.

1. The board shall attempt to have the Louisiana Dental Association, the Louisiana Dental Hygiene Association, or a constituent association thereof, conduct an intervention with the alleged impaired licensee.

2. Where possible, a member of the Louisiana State Board of Dentistry may attend said intervention on either an official or unofficial basis according to his judgment in each particular case.

3. If the alleged impaired licensee fails to comply with the wishes and instructions of the intervention within seven days following said intervention, the board may order said alleged licensee into a properly equipped and board-approved facility for evaluation and, if necessary, treatment for the impairment, if same is proven positive. Should the evaluation prove that the licensee is not impaired, the cost of the evaluation shall be borne by the board. If the evaluation is positive for impairment, the cost for evaluation and all treatment thereof shall be borne by the licensee.

4. Should the alleged impaired licensee fail to comply with the order of the board relative to evaluation and treatment, formal proceedings may be brought against the alleged impaired licensee as soon as practicality dictates.

B. Any adverse action taken as a result thereof shall be reported to the National Practitioner Data Bank. However, if there is no action taken by the board in these matters, any required reporting to the National Practitioner Data Bank shall

not be the responsibility of the Louisiana State Board of Dentistry.

C. If the impaired licensee has violated any other provisions of the Louisiana Dental Practice Act, said violation shall be prosecuted and any subsequent action taken thereof shall be reported to the National Practitioner Data Bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(2) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998).

#### **§112. Avoidance of Conflict of Interest by Board Members**

A. No board member, during his or her term of office, shall simultaneously serve or hold the following appointive or elective offices in any local or statewide voluntary dental or dental hygiene association, organization, or society:

1. president;
2. president-elect;
3. vice-president;
4. secretary;
5. treasurer;
6. board of directors (elected or ex-officio);
7. peer review committee;
8. delegate or alternate delegate.

B. However, §112 shall not prohibit a board member from participating in any capacity relative to the administration of continuing education in any local or statewide voluntary dental association, organization, or society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

#### **§114. Reinstatement of Licenses Revoked for Nonpayment**

Any licensee seeking the reinstatement of his or her license to practice dentistry or dental hygiene in the state of Louisiana shall request, in writing, the reinstatement of his or her license, and personally appear before the board for an interview to determine the merits of the request for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

#### **§116. Reconsideration of Adverse Sanctions**

A. Any person wishing to initiate an application for reconsideration of an adverse disciplinary decision of the board or consent decree must make the request in writing and it shall be received by the board at its office at least 30 days prior to the next scheduled meeting of the board.

B. The request for reconsideration should be accompanied by supporting documentation and other pertinent information demonstrating his/her professional and/or personal rehabilitation since the adverse disciplinary sanctions or decision of the board.

C. If timely received, the applicant's written request and all supporting documentation and/or information are delivered to the board's disciplinary committee which originally rendered the adverse decision to the applicant, and said committee shall determine if the applicant's request for reconsideration has substantial merit. In the course of the committee's review, if it deems necessary, it may require the applicant and all

supporting references to appear in person before the committee for the purpose of affording the committee an opportunity to personally interview each person. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Because of the nature of the request, the committee may entertain it in executive session at the option of the applicant. Moreover, the committee shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly review of the subject matter. After review of the documentation and completion of the interviews, if any, the committee will determine if the request for reconsideration has sufficient merit to warrant the committee's favorable recommendation to the full board. If the committee rules favorably to the applicant, then the applicant's entire request for reconsideration and all supporting documentation and/or information are forwarded to the full board for its further consideration at the next scheduled board meeting.

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action.

E. The full board, at its next meeting, may consider the matter in open meeting if requested to do so by the applicant. In the absence of such consent, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. If the full board concurs with the favorable recommendations of the disciplinary committee, then the board shall decide upon the exact terms and conditions of any amendment, modification, or other change in the original decision rendered against the applicant. Thereafter, the applicant shall be notified, in writing, of the board's decision.

G. If the full board does not concur with the favorable recommendations of the disciplinary committee, then the board shall so notify the applicant in writing.

H. Any person desiring to file an application for a reconsideration with the board shall be permitted to do so only once every 12 months. If an application is denied, then that person must wait at least until the expiration of 12 months from the date appearing on the board's denial letter before submitting a subsequent application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

#### **§118. Guidelines for Granting Return to Active Status**

In addition to the continuing education requirements set forth in LAC 46:XXXIII.1601 et seq., an applicant must pass the examination in jurisprudence and ethics as given by the board, and make full payment of all necessary fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

### **§120. Temporary Licenses**

Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical licensing examination is given. Section 120 does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998).

### **§122. Scopes of Practice**

A. The board has reviewed and approved the "Standards for Advanced Specialty Education Programs" set forth by the Commission on Dental Accreditation of the American Dental Association and approves of the following specialties:

1. dental public health;
2. endodontics;
3. oral and maxillofacial surgery;
4. oral pathology;
5. orthodontic and facial orthopedics;
6. pediatric dentistry;
7. periodontics; and
8. prosthodontics.

B. The board approves of the definition of the specialties listed in §122.A and as set forth in §301.D, and acknowledges that those definitions set forth the scope of practice of said specialties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998).

## **Chapter 3. Dentists**

### **§306. Requirements of Applicants for Licensure by Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;
2. currently possesses a nonrestricted license in another state as defined in R.S. 37:751(L);

3. has been in active practice, while possessing a nonrestricted license in another state, by working full-time as a dentist at a minimum of 1,000 hours per year for the preceding five years before applying for licensure in Louisiana or full-time dental education as a teacher for a minimum of three years immediately prior to applying for licensure; or has completed a two-year general dentistry residency program or successfully completed a residency program in one of the board recognized dental specialties as defined in §301;

4. - 18. ...

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition;

20. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. The applicant must also:

1. show or provide a sworn affidavit that there are no unresolved complaints against him/her;

2. provide a notarized statement from the local peer review chairman where he/she is presently practicing stating that there have been no negative cases within the preceding five years relative to the applicant;

3. sign a release authorizing the peer review chairman to provide such information to the board;

4. show that his professional liability insurance has never been revoked, modified, or nonrenewed;

5. show proof that he/she has not failed the Louisiana State Board of Dentistry clinical licensure examination within the preceding 10 years;

C. A person in a residency program may not apply for licensure by credentials unless they have held an active license for at least two years during said residency. The fact of passing a regional board examination is not acceptable unless the license has been activated.

D. Applicants must also meet those requirements set forth in R.S. 37:761 and LAC 46:XXXIII.103.

E. Regardless of the applicant's compliance with the foregoing requirements, the board may refuse to issue a dental or dental hygiene license based on the applicant's credentials for any reason listed in R.S. 37:775 and R.S. 37:776.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998).

### **§318. Patient's Records**

A. Upon written request from the patient or the patient's legal representative, each dentist shall furnish a copy of any of the patient's dental records maintained in the dentist's office within 15 days, exclusive of holidays or weekends, from the receipt of the request.

B.1. The original dental records are the property of the dentist. However, the dentist may charge a reasonable copying charge not to exceed:

\$1 per page for the first 25 pages;

\$.50 per page for pages 26 - 500; and

\$.25 per page thereafter.

2. A handling charge not to exceed \$5, and actual postage may also be charged.

3. The dentist may also charge a reasonable fee for duplication of diagnostic materials.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 40:1299.96.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998).

#### **Chapter 4. Fees and Costs**

##### **Subchapter A. General Provisions**

##### **§405. Payments Nonrefundable**

Except as may be expressly provided by these rules, all fees and costs paid to the board shall be nonrefundable in their entirety. All licenses renewed for two years shall be paid in full whether the licensee intends to retire within the two-year period or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 24:1115 (June 1998).

##### **Subchapter C. Fees for Dentists**

##### **§415. Licenses, Permits, and Examinations**

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental applicant \$500
2. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998).

##### **Subchapter D. Fees for Dental Hygienists**

##### **§419. Licenses, Permits, and Examinations**

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental hygienist applicant \$200
2. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998).

#### **Chapter 5. Dental Assistants**

##### **§502. Authorized Duties of Expanded Duty Dental Assistants**

A. A person licensed to practice dentistry in the state of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be

performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1. periodontal screening and probing, or subgingival exploration for hard and soft deposits and sulcular irrigations;
2. the removal of calculus, deposits or accretions from the natural and restored surfaces of teeth or dental implants in the human mouth using hand, ultrasonic, sonic, or air polishing instruments;
3. root planing or the smoothing and polishing of roughened root surfaces using hand, ultrasonic, or sonic instruments;
4. placement and removal of antimicrobial impregnated fibers;
5. comprehensive examination or diagnosis and treatment planning;
6. a surgical or cutting procedure on hard or soft tissue including laser and micro abrasion reduction of tooth material;
7. the prescription of a drug, medication, or work authorization;
8. the taking of an impression for a final fixed or removable restoration or prosthesis;
9. the final placement and intraoral adjustment of a fixed appliance;
10. the final placement and intraoral or extraoral adjustment of a removable appliance;
11. the making of any intraoral occlusal adjustment;
12. the performance of direct pulp capping or pulpotomy;
13. the placement or finishing of any final restoration;
14. the final placement of orthodontic bands or brackets except in indirect bonding procedures in which the dentist has either performed the final placement of the brackets on the model or when the dentist has written a detailed prescription to the laboratory for placement of the bracket;
15. the administration of a local anesthetic, parenteral, Intravenous (IV), inhalation sedative agent or any general anesthetic agent; and
16. placement of pit and fissure sealants.

B. The delegating dentist shall remain responsible for any dental act performed by an expanded duty dental assistant.

C. Certified expanded duty dental assistants may not hold themselves out to the public as authorized to practice dentistry or dental hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:793 (August 1996), LR 22:1217 (December 1996), LR 24:1115 (June 1998).

##### **§503. Guide to Curriculum Development for Expanded Duty Dental Assistants**

A. Cognitive Objectives. Before becoming registered to perform expanded duty dental assistant functions, dental assistants should be tested on the reasons for doing these procedures, the criteria for correct performance of these procedures, and the effects of improper performance of these procedures. The dental assistant shall be familiar with the state Dental Practice Act and the rules and regulations governing

dental auxiliaries. This testing shall be included within at least 30 hours of instruction.

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

1. introduction: what is an expanded duty dental assistant?;

2. jurisprudence: legal duties of auxiliaries; limitation of auxiliary services; responsibility of dentists for all service provided under dentist's supervision; responsibility of auxiliaries to perform only those functions that are legally delegated; penalties for violation of Dental Practice Act; and mechanism to report to the board violations of dentists and/or auxiliaries;

3. infection control and prevention of disease transmission; dental assistants' responsibilities in upholding universal barrier techniques; and OSHA rules;

4. handling dental emergencies;

5. charting;

6. oral anatomy; morphology of the teeth; and medical and dental history for the dentist's review (vital signs, drug evaluation, medical laboratory reports, ascertaining the patient's chief dental problem);

7. overview of dental materials: cavity liners, temporary crown materials, periodontal dressings, post-surgical packs and acid-etch materials;

8. coronal polishing: rationale, materials, techniques and contraindications;

9. lab on coronal polishing and performance evaluation; half of the lab period shall be spent practicing on typodonts while the second half shall be spent practicing on partners;

10. lecture on use of gingival retraction cords; types of cords placement; and removal of cords.

11. lab on placement and removal of retraction cords; and performance evaluation-lab period shall be practicing on mannequins;

12. lab on placement of cavity liners; placement of temporary restorations; fabrications and placement of temporary crowns; placement of periodontal dressings; placement of post-surgical packs; performance of acid-etch techniques; placement and removal of wedges and matrices; and performance evaluation;

13. lecture on monitoring nitrous oxide/oxygen (N<sub>2</sub>O/O<sub>2</sub>) sedation;

14. Cardiopulmonary Resuscitation Course "C," Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course; this course may count for three hours of instruction provided this course has been successfully completed within six months prior to certification;

15. clinical exam instructions;

16. clinical and written exams.

C. All applicants for expanded duty dental assistant certificate confirmation must successfully complete a course in x-ray function and safety approved by the Louisiana State Board of Dentistry. Any dental assistant who may have been grandfathered in 1984 with the amendment to R.S. 37:792 must still take a radiology course as described herein in order

to seek the certificate confirmation as an expanded duty dental assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:1115 (June 1998).

### **§507. High School Diploma Requirement**

Effective January 1, 1998, all applicants for expanded duty dental assistant certificate confirmation shall present satisfactory documentation evidencing their graduation from an accredited high school or receipt of a general equivalency diploma (GED).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1116 (June 1998).

## **Chapter 7. Dental Hygienists**

### **§701. Authorized Duties**

A. Dental hygienists are expressly authorized to perform the procedure referred to as an *oral prophylaxis*, which is defined as the removal of plaque, calculus and stains from the exposed and unexposed surfaces of the teeth by scaling and polishing as a preventive measure for the control of local irritational factors.

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. However, dental hygienists who perform authorized duties in any public institution or school may perform authorized duties under the general supervision of a licensed dentist. A dentist may not delegate to a dental hygienist:

1. comprehensive examination or diagnosis and treatment planning;

2. a surgical or cutting procedure on hard or soft tissue including laser and micro abrasion reduction of tooth material;

3. the prescription of a drug, medication, or work authorization;

4. the taking of an impression for a final fixed or removable restoration or prosthesis;

5. the final placement and intraoral adjustment of a fixed appliance;

6. the final placement and intraoral or extraoral adjustment of a removable appliance;

7. the making of any intraoral occlusal adjustment;

8. the performance of direct pulp capping or pulpotomy;

9. the placement or finishing of any final restoration except for the polishing of an amalgam restoration;

10. the final placement of orthodontic bands or brackets except in indirect bonding procedures in which the dentist has either performed the final placement of the brackets on the model or when the dentist has written a detailed prescription to the laboratory for placement of the bracket; and

11. the administration of local anesthetic, parenteral, Intravenous (IV), inhalation sedative agent, or any general anesthetic agent (exception: see §710, "Administration of Local Anesthesia for Dental Purposes").

C. The delegating dentist shall remain responsible for any dental act performed by a dental hygienist.

D. Registered dental hygienists may not hold themselves out to the public as authorized to practice dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998).

#### **§706. Requirements of Applicants for Licensure by Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;

2. - 17. ...

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a notarized certificate of health from a medical doctor relative to his/her physical and mental condition;

19. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. The applicant must also:

1. show or provide a sworn affidavit that there are no unresolved complaints against him/her;

2. show that his/her professional liability insurance has never been revoked, modified, or nonrenewed;

3. show proof that he/she has not failed the Louisiana State Board of Dentistry clinical licensing examination within the preceding 10 years.

C. Applicants must also meet those requirements set forth in R.S. 37:764 and LAC 46:XXXIII.103.

D. Further, applicants must be in compliance with or not found guilty of any violations of R.S. 37:775 and/or R.S. 37:777.

E. Regardless of the applicant's compliance with the foregoing requirements, the board may refuse to issue a dental or dental hygiene license based on the applicant's credentials for any reason listed in R.S. 37:775 or R.S. 37:777.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998).

#### **Chapter 13. Dental Laser and Air Abrasion Utilization**

##### **§1305. Air Abrasion Units**

Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists and dental auxiliaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1117 (June 1998).

#### **Chapter 14. Rulemaking**

##### **§1401. Scope of Chapter**

The rules of this Chapter govern the board's process to consider petitions from interested persons relative to the adoption, amendment, repeal, or applicability of any statutory provision, rule, or order of the board in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), LR 24:1117 (June 1998).

##### **§1403. Forms**

All petitions requesting the adoption, amendment, repeal, or applicability of a rule, statutory provision, or order of the board, shall be submitted on plain white, letter size (8½" by 11") bond; with margins of at least 1 inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced; shall bear the name, address, and phone number of the person requesting the action; and shall also state the complete and full name of each person(s), organization, or entity the requester represents along with sufficient information to identify and fully describe said person(s), organization, or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), amended LR 24:1117 (June 1998).

#### **Chapter 16. Continuing Education Requirements**

##### **§1607. Exemptions**

A. Continuing education requirements shall not apply to:

1. - 2. ...

3. dentists in the first calendar year of their graduation from dental school;

4. dental hygienists in the first calendar year of their graduation from dental hygiene school.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998).

#### **Chapter 16. Continuing Education Requirements**

##### **§1611. Continuing Education Requirements for Relicensure of Dentists**

A. Unless exempted under §1607, each dentist shall complete a minimum of 20 hours of continuing education during each calendar year for the renewal of his/her license to practice dentistry. Dentists whose licenses are renewed for a two-year period are allowed to accumulate 40 hours over the two-year period.

B. ...

C. No more than 10 of the required 20 hours can be completed from the following:

1. - 2. ...

3. three credit hours for successful completion of

Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. When being audited for compliance with cardiopulmonary resuscitation course completion, a photocopy of the CPR card evidencing successful completion of the course for each year shall be appended to the form.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998).

### **§1613. Continuing Education Requirements for Relicensure of Dental Hygienists**

A. Unless exempted under §1607, each dental hygienist shall complete a minimum of 12 hours of continuing education during each calendar year for the renewal of his/her license to practice dental hygiene. Dental hygienists whose licenses are renewed for a two-year period are allowed to accumulate 24 hours over the two-year period.

B. ...

C. No more than six of the required 12 hours can be completed from the following:

1. - 2. ...

3. three credit hours for successful completion of Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. When being audited for compliance with cardiopulmonary resuscitation course completion, a photocopy of the CPR card evidencing successful completion of the course for each year shall be appended to the form.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 24:1118 (June 1998).

### **§1615. Approved Courses**

A. Courses sponsored or approved by the following organizations shall be accepted by the board:

1. - 2. ...

3. Academy of General Dentistry courses when set forth on official documentation;

4. - 9. ...

B. The following standards represent minimum criteria to which component societies, as referred to in §1615.A.7 of this rule, should adhere to if they wish the board to allow the participants to receive continuing education credits.

1. Each sponsoring organization will be responsible for developing its own specific policies for accreditation of continuing education programs and/or activities, and awarding credit hours. These policies must be filed with the board. Satisfactory documentation evidencing approval of continuing education courses must be kept by the sponsoring or

approving organization on file for a minimum of four years after the presentation of the course.

2. The program shall be under the continuous guidance of an administrative authority and/or individual responsible for its quality, content, and ongoing conduct.

a. Each program or activity must have specific educational objectives or goals that relate to the dental as well as the overall health care needs of the public and/or the interest and needs of the dental profession. The content of the program will be directed at achieving the stated objectives or goals.

b. The instructor or instructors in charge of the program or activity must be qualified by education to provide instruction in the relevant subject matter.

c. Facilities selected for each activity must be appropriate to accomplish:

i. the educational methods being used;

ii. the stated educational objectives or goals.

C. In general, continuing education activities shall be made available to all dental healthcare workers. The board does recognize that facilities and the number of instructors may limit the number of participants.

D. Clinical credit will only be given to lectures and/or participation programs or activities that deal with the actual delivery of dental services to the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:662 (June 1994), amended LR 22:24 (January 1996), LR 24:1118 (June 1998).

## **Chapter 17. Licensure Examinations**

### **§1701. Scope of Chapter**

This Chapter shall describe all procedures relative to the administration of the clinical licensing examinations for persons wishing to practice dentistry or dental hygiene in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998).

### **§1703. Candidate's Manual for the Dental Licensure Examination of the Louisiana State Board of Dentistry**

This manual is too voluminous to print in LAC 46:XXXIII. Section 1703 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy is on file with the Office of the State Register; and copies may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998).

### **§1705. Candidate's Manual for the Dental Hygiene Licensure Examination of the Louisiana State Board of Dentistry**

This manual is too voluminous to print in LAC 46:XXXIII. Section 1705 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy is on file with the Office of the State Register; and copies may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998).

### §1707. Religious Obligations

There will be no exceptions relative to religious obligations in the conducting of the clinical licensing examinations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998).

### §1709. Examination of Dentists

A. Any person desiring to be licensed as a dentist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the board not to exceed \$600 which shall be nonrefundable. There shall also be an examination fee set by the Louisiana State University School of Dentistry which shall not exceed \$200 and which may be refundable if the applicant is found ineligible to take the examination.

B. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency; and
4. has successfully completed the National Board of Dental Examiners Dental Examination within 10 years of the date of application.

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination.

D. The board is expressly authorized to utilize the services of other Louisiana licensed dentists to facilitate the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998).

### §1711. Examination of Dental Hygienists

A. Any person desiring to be licensed as a dental hygienist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee not to exceed \$400, and a clinical fee payable to the Louisiana State University School of Dentistry which shall not exceed \$100 and which may be refundable if the applicant is found ineligible to take the examination.

B. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. is 18 years of age or older;

2. is of good moral character;
3. is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and
4. has successfully completed the National Board of Dental Hygiene Examiners Dental Examination within 10 years of the date of application.

C. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene;
2. a practical or clinical examination which shall test the competency of the applicant's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998).

C. Barry Ogden  
Executive Director

9806#023

## RULE

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

#### Medicaid—Eligibility of Aliens

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 adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) as amended by the Balanced Budget Act of 1997 (P.L. 105-33) regarding Medicaid eligibility for noncitizens.

The state elects to provide regular Medicaid coverage to *optional qualified aliens* who were in the United States prior to August 22, 1996, who meet all eligibility criteria.

*Qualified Aliens* entering the United States on or after August 22, 1996, are not eligible for Medicaid for five years after entry into the United States. Such *qualified aliens* are eligible for emergency services only. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the *qualified alien* meets all eligibility criteria.

David W. Hood  
Secretary

9806#069

## RULE

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

Psychiatric Services for Recipients Under Age 22

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medicaid 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 adopts the following rule to provide an outreach program to enhance access to appropriate psychiatric services for Medicaid recipients under the age of 22. Admitting physicians will be required to contact the bureau or its designee to provide notification of a psychiatric hospital admission prior to the admission of children under 22. The bureau or its designee will follow the following procedure.

1. On-site visits will be made to review recipients' medical charts.
2. A face-to-face interview with recipient, family and/or treating physicians.
3. Level of need and the availability of community resources will be evaluated and findings shared with the treating physician and hospital treatment team.

David W. Hood  
Secretary

9806#076

## RULE

### Department of Insurance Office of the Commissioner

Regulation 63—Prohibitions on the Use of  
Medical Information and Genetic Test Results

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the commissioner of Insurance hereby adopts Regulation 63. The regulation establishes the statutory prohibitions on the use of prenatal tests, genetic tests, and related genetic test information by health insurers, third party administrators, and insurance agents.

#### Rule

##### Section 1. Purpose

The purpose of this regulation is to establish the statutory prohibitions on the use of medical information including pregnancy tests, genetic tests and related genetic test information by health insurers, third-party administrators, and insurance agents.

##### Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner of Insurance under the Administrative Procedure Act and R.S. 22:3, 22:10, 22:2014, 22:2002(7), 22:214(22) and (23), 22:213.6, and 22:213.7 of the *Insurance Code*.

##### Section 3. Definitions

*Collection*—obtaining a DNA sample or samples for the purpose of determining inherited or individual characteristics that can be utilized to predict the development of medical conditions in the future. *Collection* shall not mean diagnostic or medical treatment information about an existing medical condition or the prior medical condition of a person applying for or being covered by a health benefit plan.

*Compulsory Disclosure*—any disclosure of genetic information mandated or required by federal or state law in connection with a judicial, legislative, or administrative proceeding.

*DNA*—deoxyribonucleic acid including mitochondrial DNA, complementary DNA, as well as any DNA derived from ribonucleic acid (RNA). *DNA* shall not mean any medical procedure or test utilized in the practice of medicine for the purpose of diagnosing or treating a medical illness or health related condition.

*Disclose*—to convey or to provide access to genetic information to a person other than the individual.

*Family*—includes an individual's blood relatives and any legal relatives, including a spouse or adopted child, who may have a material interest in the genetic information of the individual. For purposes of providing individual or group health care coverage, the term *family* shall not be used to prevent the collection of reasonable medical information about individuals applying for health insurance coverage to perform medical underwriting based on existing or past medical conditions of those persons being insured, except *genetic information* as defined herein.

*Family History/Pedigree*—the medical history of blood relatives of an individual that is used to predict the possibility of developing a medical condition in the future. The term shall not include the medical history of an insured or applicant for coverage under a health benefit plan.

*Genetic Analysis*—the process of characterizing genetic information from a human tissue sample and does not include the performance of medical tests, including but not limited to blood tests, in the diagnosis or treatment of a medical condition.

*Genetic Characteristic*—any gene or chromosome, or alteration thereof, that is scientifically or medically believed to cause a disease, disorder, or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome. The term shall not apply to identification or disclosure of an individual's gender for the purposes of obtaining or maintaining insurance or establishing insurance rates.

*Genetic Information*—all information about genes, gene products, inherited characteristics, or family history/pedigree

that is expressed in common language. *Genetic information* does not include the medical history of an individual insured or applicant for health care coverage.

*Genetic Test*—any test for determining the presence or absence of genetic characteristics in an individual, including tests of nucleic acids, such as DNA, RNA, and mitochondrial DNA, chromosomes, or proteins in order to diagnose or identify a genetic characteristic. The determination of a genetic characteristic shall not include any diagnosis of the presence of disease, disability, or other existing medical condition.

*Health Benefit Plan*—any health insurance policy, plan, or health maintenance organization subscriber agreement issued for delivery in this state under a valid certificate of authority and does not include life, disability income, or long-term care insurance.

*Individual*—the source of a human tissue sample from which a DNA sample is extracted or genetic information is characterized.

*Individual Identifier*—a name, address, social security number, health insurance identification number, or similar information by which the identity of an individual can be determined with reasonable accuracy, either directly or by reference to other available information. Such term does not include characters, numbers, or codes assigned to an individual or a DNA sample that cannot singly be used to identify an individual.

*Insurer*—any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan, or any policy of group, family group, blanket, or franchise health and accident insurance, a self-insurance plan, health maintenance organization, and preferred provider organization, including insurance agents and third-party administrators, which delivers or issues for delivery in this state an insurance policy or plan. The term *insurer* does not include any individual or entity that does not hold a valid certificate of authority to issue, for delivery in this state, an insurance policy or plan. A certificate of authority to issue an insurance policy or plan for delivery shall not include a license or certificate to act as a preferred provider organization, insurance agent, or third-party administrator.

*Person*—all persons other than the individual or authorized agent acting on behalf of the individual, who is the source of a tissue sample and shall include a family, corporation, partnership, association, joint venture, government, governmental subdivision or agency, and any other legal or commercial entity. This shall not prevent any licensed insurance agent duly authorized to act on behalf of the individual, from completing and submitting health insurance application documents required to apply for coverage under a health policy or plan.

*Research*—scientific investigation that includes systematic development and testing of hypotheses for the purpose of increasing knowledge.

*Storage*—retention of a DNA sample or of genetic information for an extended period of time after the initial testing process. The term does not include medical history

information about insureds or persons applying for coverage under a health benefit plan.

#### **Section 4. Applicability and Scope**

Except as otherwise specifically provided, the requirements of this regulation apply to all issuers of health care policies or contracts of insurance, or health maintenance organization subscriber agreements issued for delivery in the state of Louisiana. The requirements of this regulation shall not impinge upon the normal practice of medicine or reasonable medical evaluation of an individual's medical history for the purpose of providing or maintaining health insurance coverage. The requirements of this regulation address the use of medical information, including use of genetic tests, and genetic information for the purpose of issuing, renewing, or establishing premiums for health coverage. The provisions of this regulation do not apply to any actions of an insurer or third parties dealing with an insurer taken in the ordinary course of business in connection with the sale, issuance or administration of a life, disability income, or long-term care insurance policy.

#### **Section 5. Prohibitions on the Use of Pregnancy Test Results**

Any insurer shall be authorized to request medical information that verifies the pregnancy of an insured or individual applying for coverage under a health benefit plan. The results of any prenatal test, other than the determination of pregnancy, shall not be used as the basis to:

1. terminate, restrict, limit, or otherwise apply conditions to the coverage under the policy or plan, or restrict the sale of the policy or plan in force;
2. cancel or refuse to renew the coverage under the policy or plan in force;
3. deny coverage or exclude an individual or family member from coverage under the policy or plan in force;
4. impose a rider that excludes coverage for certain benefits or services under the policy or plan in force;
5. establish differentials in premium rates or cost sharing for coverage under the policy or plan in force;
6. otherwise discriminate against an insured individual or insured family member in the provision of insurance.

#### **Section 6. Requirements for Release of Genetic Test and Related Medical Information**

A. A general authorization for the release of medical records or medical information shall not be construed as an authorization for disclosure of genetic information. No insurer shall seek to obtain genetic information from an insured or applicant or from a DNA sample, without first obtaining written informed consent from the individual or authorized representative. To be valid, an authorization to disclose the results of a genetic test shall:

1. be in writing, signed by the individual and dated on the date of such signature;
2. identify the person permitted to make the disclosure;
3. describe the specific genetic information to be disclosed;
4. identify the person to whom the information is to be disclosed;
5. describe with specificity the purpose for which the disclosure is being made;

6. state the date upon which the authorization will expire, which in no event shall be more than 60 days after the date of the authorization;

7. include a statement that the authorization is subject to revocation at any time before the disclosure is actually made or the individual is made aware of the details of the genetic information;

8. include a statement that the authorization shall be invalid if used for any purpose other than the described purpose for which the disclosure is made.

B. A copy of the authorization shall be provided to the individual. An individual may revoke or amend the authorization in whole or in part, at any time. In complying with the provisions of this Section, the record holder is responsible for assuring only authorized information is released to insurers with respect to medical records that contain genetic information. The requirements of this Section shall not act to impede or otherwise impinge upon the ability of the patient's attending physician to provide appropriate and medically necessary treatment or diagnosis of a medical condition.

### **Section 7. Prohibitions on the Use of Medical Information and Genetic Test Results**

A. No insurer shall require an applicant for coverage under a policy or plan, or an individual or family member who is presently covered under a policy or plan, to be the subject of a genetic test, release genetic test information, or to be subjected to questions relating to the medical conditions of persons not being insured under such policy or plan.

B. All insurers shall, in the application or enrollment information required to be provided by the insurer to each applicant concerning a policy or plan, include a written statement disclosing the rights of the applicant. Such statements shall be printed in 10-point type or greater with a heading in all capital letters that states: YOUR RIGHTS REGARDING THE RELEASE AND USE OF GENETIC INFORMATION. Disclosure statements must be approved by the Department of Insurance as complying with the requirements of R.S. 22:213.7 prior to utilization.

C. The results of any genetic test, including genetic test information, shall not be used as the basis to:

1. terminate, restrict, limit, or otherwise apply conditions to the coverage of an individual or family member under the policy or plan, or restrict the sale of the policy or plan to an individual or family member;

2. cancel or refuse to renew the coverage of an individual or family member under the policy or plan;

3. deny coverage or exclude an individual or family member from coverage under the policy or plan;

4. impose a rider that excludes coverage for certain benefits or services under the policy or plan;

5. establish differentials in premium rates or cost sharing for coverage under the policy or plan;

6. otherwise discriminate against an individual or family member in the provision of insurance.

### **Section 8. General Provisions**

A. The requirements of this Section shall not apply to the genetic information obtained:

1. by a state, parish, municipal, or federal law enforcement agency for the purposes of establishing the identity of a person in the course of a criminal investigation or prosecution;

2. to determine paternity;

3. to determine the identity of deceased individuals;

4. for anonymous research where the identity of the subject will not be released because it is confidential;

5. pursuant to newborn screening requirements established by state or federal law;

6. as authorized by federal law for the identification of persons;

7. by the Department of Social Services or by a court having juvenile jurisdiction as set forth in *Children's Code* Article 302 for the purposes of child protection investigations or neglect proceedings.

B. An applicant/insured's genetic information is the property of the applicant/insured. No person shall retain genetic information without first obtaining authorization from the applicant/insured or a duly authorized representative, unless retention is:

1. for the purposes of a criminal or death investigation or criminal or juvenile proceeding;

2. to determine paternity.

C. For purposes of R.S. 22:213.7, any person who acts without proper authorization to collect a DNA sample for analysis, or willfully discloses genetic information without obtaining permission from the individual or patient as required under this regulation, shall be liable to the individual for each such violation in an amount equal to:

1. any actual damages sustained as a result of the unauthorized collection, storage, analysis, or disclosure, or \$50,000, whichever is greater;

2. treble damages, in any case where such a violation resulted in profit or monetary gain;

3. the costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action to enforce any liability under R.S. 22:213.7.

D. Any person who, through a request, the use of persuasion, under threat, or under a promise of a reward, willfully induces another to collect, store or analyze a DNA sample in violation; or willfully collects, stores, or analyzes a DNA sample; or willfully discloses genetic information in violation of R.S. 22:213.7 shall be liable to the individual for each such violation in an amount equal to:

1. any actual damages sustained as a result of the collection, analysis, or disclosure, or \$100,000, whichever is greater;

2. the costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action under R.S. 22:213.7.

E. The discrimination against an insured in the issuance, payment of benefits, withholding of coverage, cancellation, or nonrenewal of a policy, contract, plan or program based upon the results of a genetic test, receipt of genetic information, or a prenatal test other than one used for the determination of pregnancy shall be treated as an unfair or deceptive act or practice in the business of insurance under R.S. 22:1214.

F. This regulation shall be effective June 20, 1998.

James H. "Jim" Brown  
Commissioner of Insurance

9806#002

**RULE**

**Department of Insurance  
Office of the Commissioner**

**Regulation 64—Vehicle Mechanical  
Breakdown Insurers Cancellation Provisions**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 22:3 and R.S. 22:1811, the commissioner of Insurance hereby adopts the following regulation to implement standards for the cancellation of Vehicle Mechanical Breakdown (VMB) contracts. The purpose of the regulation is to protect the interests of policyholders and to promote consumer awareness.

**Regulation 64  
Cancellation Provisions for Vehicle  
Mechanical Breakdown Insurers**

**Section 1. Purpose**

The purpose of this regulation is to implement standard cancellation requirements in all vehicle mechanical breakdown contracts, and to ensure that all such contracts (hereafter sometimes referred to as "policies") issued, delivered or used in Louisiana are drafted in a more consistent and streamlined manner.

**Section 2. Authority**

This regulation is promulgated under the authority granted the commissioner by R.S. 22:1811, R.S. 22:3 and R.S. 49:950 et seq.

**Section 3. Applicability and Scope**

This regulation shall apply to all vehicle mechanical breakdown contracts that are in force and to insurers issuing, for delivery or use, vehicle mechanical breakdown contracts in Louisiana.

**Section 4. Cancellation Standards**

The following standards shall govern the requirements for the cancellation provisions of vehicle mechanical breakdown contracts.

1. All Mechanical Breakdown Insurance contracts having terms of greater than six months shall be cancelable and refundable upon request of the insured.

2. The refund method to be used shall be the sum of the digits (Rule of 78s) or a refund method that will be more favorable to the insured.

3. The return factor is determined by the number of unused months or the number of unused miles, and shall be based on the full premium (including commissions) paid by the insured.

a. The number of months shall mean the number of months from the effective date of the policy until the expiration date of the policy.

b. The number of miles shall mean the sum of the

number of miles on the odometer at the time of purchase and the policy mileage limit.

4. A cancellation fee, not to exceed \$50, may be charged, provided such fee is disclosed to the purchaser at the time of policy purchase.

5. The method of refund and any cancellation fee, shall be fully disclosed to the insured at or before the time of policy purchase by having such information printed in the policy form and the policy application, which shall be agreed to in writing, by the insured.

6. In calculating any refund requested by the insured, no deduction shall be allowed for any claim that has been paid under the contract being canceled.

7. If cancellation is requested in writing by the insured within 30 days from the date of purchase, full refund, minus the cancellation fee, if any, shall be made.

**Section 5. Failure to Comply**

In addition to any other penalties provided by the Louisiana Insurance Code relating to the regulation of Vehicle Mechanical Breakdown (VMB) insurers, any VMB insurer found to have violated the requirements of this regulation, may be issued a cease and desist order pursuant to R.S. 22:1810.

**Section 6. Severability**

If any section or provision of this regulation is held invalid, such invalidity shall not affect other sections or provisions which can be given effect without the invalid section or provision, and for this purpose the sections and provisions of the regulation are severable.

**Section 7. Effective Date**

This regulation shall take effect on June 20, 1998.

James H. "Jim" Brown  
Commissioner of Insurance

9806#059

**RULE**

**Department of Justice  
Office of the Attorney General**

**Nonprofit Hospital Acquisitions  
(LAC 48:XXV.Chapter 3)**

In accordance with R.S. 49:950 et seq., the Office of the Attorney General has adopted the following rule governing the review and approval of nonprofit hospital acquisitions. The purpose of the rule is to set forth procedures for the review and authorization of nonprofit hospital acquisitions pursuant to R.S. 40:2115.11 through 2115.22.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part XXV. Mergers, Acquisitions, and Re-Organization**

**Chapter 3. Nonprofit Hospital Acquisitions:**

**Authorization for the Attorney General to  
Review Nonprofit Hospital Acquisitions**

**§301. Purpose**

A. These rules are adopted in accordance with the public interest of assuring the continued existence of accessible,

affordable health care facilities that are responsive to the needs of the communities in which they exist. In that regard, the state has a responsibility to protect the public interest in nonprofit hospitals by making certain that the charitable assets of those hospitals are managed prudently pursuant to the provisions of R.S. 40:2115.11 through 2115.22.

B. These rules are adopted to further Louisiana's goal of controlling health care costs and improving the quality of and access to health care for its citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1123 (June 1998).

### §303. Definitions

A. As used within the rules:

*Acquirer*—any legal entity to which the nonprofit hospital plans to sell, merge, or otherwise contract, along with each affiliate, parent, and/or subsidiary which it directly or indirectly controls, manages, owns, or operates. The *acquirer* may be another nonprofit hospital.

*Affiliate*—any or all of the following: corporation; partnership; sole proprietorship; joint venture; trust; natural person; or any other entity, whether existing for commercial or noncommercial purposes, however organized, in which any person or entity owning, directly or indirectly or beneficially, 3 percent of the acquirer owns directly, or indirectly, or beneficially, 50 percent or more of the affiliates.

*Attachment*—each document or object sent or provided with any document or object, and includes each document or object sent with it, whether it be a letter, memorandum, contract, document or other writing or object.

*Certified Mail*—uninsured first class mail whose delivery is recorded by having the addressee sign for it.

*Comment*—a written document offering explanation, illustration, criticism, or personal opinion.

*Days*—consecutive calendar days.

*Department*—the Louisiana Department of Justice, Office of the Attorney General.

*Director*—the director of the Civil Division.

*Documents* or *Document*—all writing or any other record of any kind, including originals and each and every non-identical copy (if different from the original for any reason).

*Document(s)* includes, but is not limited to:

a. correspondence, memoranda, notes, diaries, calendars, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, and interoffice and intra office communications;

b. notations (of any sort) of conversations, telephone calls, meetings, and other communications;

c. bulletins, printed matter, computer printouts, computer generated output, teletypes, telefax, facsimiles, invoices, worksheets, drafts, alterations, modifications, changes, and amendments of any kind;

d. photographs, charts, maps, graphs, sketches, microfiche, microfilm, videotapes, video recordings, and motion pictures; and

e. any electronic or mechanical records or tapes, cassette, diskettes, audio recordings, computer hard drives and other means of storing information.

*Expert*—one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience. For example, any economist, accountant, financial advisor, investment banker, broker, valuation specialist, or other person who is consulted, relied upon, retained, or used by the nonprofit and/or acquirer.

*Financial Statement*—

a. any compilation or statement (audited, unaudited, or draft) of the nonprofit's financial position. *Financial statements* (regardless of precise terminology) include, but are not limited to:

i. tax returns;

ii. balance sheets;

iii. statements of income and expenses;

iv. statements of profit and loss;

v. statements of stockholders' equity; and

vi. statements of changes in financial position;

b. each and every financial statement should include each and every related footnote of the respective financial statement.

*Foundation*—a permanent fund established and maintained by contributions for charitable, educational, religious, or benevolent purposes.

*Nonprofit Hospital* or *Nonprofit Entity*—any, some, or all of the firms, companies, or entities which the notifying nonprofit hospital, any of its subsidiaries, affiliates (see *affiliate* definition), firms, companies or entities may control, manage, own or operate. The nonprofit should be the entity filing the notice with the attorney general.

*Objection*—a written document offered in opposition to the approval of an application which states the reason, grounds, or cause for expressing opposition.

*Person*—any natural person, public or private corporation (whether or not organized for profit), governmental entity, partnership, association, cooperative, joint venture, sole proprietorship, or other legal entity. With respect to the nonprofit and/or acquirer, the term *person* also includes any natural person acting formally or informally as an employee, officer, director, agent, attorney, or other representative of the nonprofit and/or acquirer.

*Persons on Record*—persons submitting written documentation to the director, by certified mail, stating objections, comments, or requests for notification of actions by the department involving a particular application. Persons on record status must be renewed by written request, sent by certified mail to the director, prior to December 31 of each calendar year.

*Transaction* or *Proposed Transaction*—the proposed sale, merger, or other agreement between the nonprofit hospital and the acquirer which resulted in the submission of the notice to the attorney general pursuant to R.S. 40:2115.11 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1124 (June 1998).

### §305. Notice

A. Nonprofit persons who are parties to a transaction shall give the attorney general at least 30 days notice prior to the anticipated closing of the intended transaction.

B. The written notice shall include all of the following information:

1. the names, addresses and telephone numbers of the parties to the intended transaction;
2. the names, addresses and telephone numbers of the attorneys or other persons who represent the parties in connection with the intended transaction;
3. a general summary of the intended transaction;
4. a general description of the assets involved in the intended transaction and the intended use of the assets after the closing of the intended transaction, including any change in the ownership of tangible or intangible assets;
5. a general summary of all collateral transactions that relate to the intended transaction, including the names, addresses and telephone numbers of the parties involved in the collateral transactions; and
6. the anticipated completion date of the intended transaction.

C. Giving notice shall comply with the following format.

1. The notice shall be in writing, which pages shall be numbered and printed on paper measuring 8½ inches by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, the notice shall be printed on white paper.
2. Notice shall be sent to the director by certified mail. The director shall receive notice at least 30 days prior to the proposed transaction.
3. Notice shall not be given by facsimile machine.
4. Notice which does not comply with these rules shall not be accepted and will be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1124 (June 1998).

**§307. Filing of Applications and Additional Documents**

A. Filing of Applications

1. Applications shall be filed by delivering an original and three copies to the director.
2. The filing date of a conforming application shall be the date the department determines the application to be a completed application.
3. No application shall be filed by facsimile machine.
4. Applications filed with the department become property of the state.
5. Applications shall be accompanied with the filing fee as determined by §309 in accordance with R.S. 40:2115.22.
6. The application must include the contents of application.
7. The application shall be submitted to the attorney general on the forms provided and include the information requested therein.
8. The department may at any time request any other supplemental or additional documentation, disclosures, information, etc., as it deems necessary to the evaluation. The applicant shall provide the information not later than 10 days after the date of the request.
9. The application must be in the following format.
  - a. Applications shall be submitted to the attorney general on the forms provided and in accordance with the instructions therein.

b. Trade secret information shall be printed on goldenrod colored paper to assist in identifying material exempt from the Louisiana Public Records Act.

c. Applications which do not comply with these rules shall not be accepted and will be returned to the applicant.

B. Forms

**LOUISIANA ATTORNEY GENERAL'S APPLICATION  
REQUEST FOR INFORMATION FORM  
For Certain  
NONPROFIT MERGERS, SALES, AND ACQUISITIONS**

**PLEASE CAREFULLY REVIEW THE INSTRUCTIONS AND  
DEFINITIONS FORM PRIOR TO COMPLETING THIS FORM**

**1. Name of Nonprofit to be Acquired:** Identify each and every nonprofit entity or entities (hereinafter "nonprofit") which is the subject of an impending acquisition in accordance with R.S. 40:2115 et seq.

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**2. Contact Person for Nonprofit:** Provide the full legal name, title, address, telephone and facsimile number for the contact person regarding this Form (this individual will also receive any requests for additional information for documents):

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**3. Directors and Officers:** Identify by full legal name and title each and every director and officer of the nonprofit.

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**4. Corporate Documents of Nonprofit:** Attach as Appendix A, all corporate documents relating to the nonprofit entity and selected entities filing this Request. Include corporate documents of all parents, subsidiaries, or affiliates of the nonprofit. For the purpose of this Request, "corporate documents" means the charter or articles of incorporation, bylaws, and any and all amendments to each corporate document.

**5. Name of Acquirer:** Identify the proposed acquirer of the nonprofit (hereinafter "acquirer") identified in Request #1. Include in your response the identity of any (a) parent, (b) subsidiary, and/or (c) affiliate of the acquirer.

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**6. Contact Person for Acquirer:** Provide the full legal name, title, address, telephone, and facsimile number of the contact person for the acquirer.

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**7. Corporate Documents of Acquirer:** Attach as Appendix B copies of all corporate documents relating to the acquirer identified in Request #4.

**8. Value of Nonprofit Assets:** What is the aggregate approximate value of the nonprofit assets to be acquired in the proposed transaction?

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**9. Description of Proposed Transaction:** Attach as Appendix C a detailed description of the proposed transaction, including a detailed explanation of what is to be acquired by the acquirer, what is to be retained by the nonprofit(s), and the resulting funds to be received by the nonprofit(s). This should also include an analysis of the purchase price, based upon the nonprofit's interpretation of the letter of intent or definitive contract. The analysis should begin with the nonprofit's balance sheet, should consider the impact of any fund balances and/or liabilities to be retained by the resulting foundation, and end with a resulting fund balance for the proposed foundation to be created. This analysis should include reasonable estimates for any proposed purchase price adjustments called for in the letter of intent or definitive agreement. The objective of this analysis is to enable the Office of the Attorney General to understand the pricing of the transaction and the capitalization of any resulting foundation.

**10. Description of Negotiations of the Transaction:** Attach as Appendix D a detailed description of all discussions and negotiations between nonprofit and acquirer resulting in the proposed transaction. This response should include, but not be limited to, a summary outline in date sequence of any and all meetings held with the following parties with respect to the proposed transaction:

- (a) With the nonprofit's financial advisors or investment bankers related to the proposed transaction (including, but not limited to, management, committees of the board of directors or meetings of the full board);
- (b) With prospective purchasers, networkers, merging partners of the nonprofit (or substantially all of the nonprofit), together with a brief summary of the results of such meetings;
- (c) With the ultimate acquirer; and
- (d) With other parties deemed significant to the transaction (including, but not limited to, outside experts or other consultants).

**11. Closing Date:** What is the expected date of closing of the proposed transaction?

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**12. Governmental Filings:** Attach as Appendix E all filings with respect to the proposed transaction, including all amendments, appendices, and attachments, and each report or document provided to each federal, state, or local governmental entity regarding the proposed transaction. Include copies of forms to be provided to each such entity, the answer to information or questions on such forms, and each attachment submitted in connection therewith.

**13. Meetings with Governmental Officials:** Attach as Appendix F summaries of all meetings with federal, state, or local authorities regarding any filings or documents referenced in Request #12. Also, include each and every document which memorializes or discusses any and all meetings or other communications with the United States Department of Justice, Federal Trade Commission, or any other state, federal or local governmental entity in connection with the proposed transaction.

**14. Acquirer's Prior Acquisitions:** Identify all prior acquisitions by the proposed acquirer with the last three (3) years, including the following information for each:

- (a) Date of Acquisition;
- (b) Entity Acquired;
- (c) City/State;
- (d) Brief Description;
- (e) Purchase Price; and

(f) Form of Consideration.

**15. Letters of Intent:** Attach as Appendix G any and all drafts and final versions of any and all letters of intent, confidentiality agreements, or other documents initiating negotiations, contact, or discussion between the acquirer and nonprofit.

**16. Contracts or Purchase Agreements:** Attach as Appendix H any and all drafts and final versions of asset purchase agreements, contracts or agreements to purchase the nonprofit by the acquirer. Your response must also include any attachments, amendments, schedules, or appendices to such agreements.

**17. Fairness Opinions:** Attach as Appendix I any and all fairness opinions analyzing the proposed transaction along with any supplemental analysis prepared by the nonprofit or its experts. Include in your response the name of the company and the person(s) who prepared the opinion, their business telephone numbers and addresses, the agreement or engagement letter with such company or person, and background information regarding the company or person's qualifications.

**18. Meeting Minutes and Other Information:** Attach as Appendix J the following documents with respect to each meeting, whether regular, special, or otherwise, of the board of directors or board of trustees for each nonprofit or acquirer.

- (a) Announcements and the persons to whom the announcements were sent;
- (b) Agenda;
- (c) Minutes and/or resolutions of the board of directors or board of trustees for each nonprofit entity or acquirer which reflect or discuss the proposed transaction, including those regarding the final vote;
- (d) Each written report or document provided to the board or board members, including, but not limited to, each committee report and each expert's report;
- (e) Each proposal or document referencing or regarding possible or actual sale, merger, acquisitions, or distribution of assets of any nonprofit entity;
- (f) Each presentation to the board or any committee to the board; and
- (g) Each attachment to (a) through (f).

**19. Valuation Information:** Attach as Appendix K each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning the valuation during the last three (3) fiscal years of the nonprofit entities, their assets, their properties, their worth as a going concern, their market value, or their price for sale. This Request shall include, but not be limited to, any appraisals of the common stock of any for-profit subsidiaries of the nonprofit, any appraisals involving property held by the nonprofit.

**20. Information Regarding Other Offers:** Attach as Appendix K each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning any negotiation, proposal, or sale either initiated or received by the nonprofit regarding a sale of all or substantially all of its assets, a merger, a joint venture, a combination, an arrangement, a partnership, an acquisition, an alliance, or a networking relationship, and the dollar value of such proposed transaction.

**21. Mission Statement:** Attach as Appendix M any and all mission statements of the nonprofit.

**22. Press Releases and Related Information:** Attach as Appendix N any and all press releases, newspaper articles, radio transcripts, audiotapes and videotapes of any television commercials or reports regarding the proposed transaction and any other offers identified in Request # 20.

**23. Financial Records:** Attach as Appendix O all of the following for the last six (6) fiscal years for both the nonprofit and acquirer, unless otherwise indicated:

- (a) Audited and unaudited financial statements. Audits are sometimes presented in abbreviated form or in fuller form, with detailed supplements. Provide the most detailed form of your audit that is available;
- (b) Consolidating statements (balance sheets and income statements for each fiscal year);
- (c) Year-to-date internal financial statements for the most recent month-end available during the current year. Be sure that the statements are

comparative (with the same period of the previous fiscal year), otherwise provide last year's internal financial statements for the corresponding period as well;

(d) If separate audited financial statements are prepared for any of your nonprofit members or affiliates, or any parent or subsidiary of the acquirer, please provide those audits, together with comparative year-to-date financial statements for each such member, affiliate, parent or subsidiary;

(e) For the nonprofit only, projected capital expenditure requirements for the next three (3) years, assuming the nonprofit continues to operate as it has been operating;

(f) Each balance sheet, profit and loss statement, statement of change in financial position of the nonprofit, any entity or company it controls, operates, manages, or is affiliated with and also the same information for the acquirer and any entity which you reasonably believe it owns, operates, manages, or controls;

(g) For the nonprofit only, a detailed schedule of operating expenses, unless already provided with the audits;

(h) For the nonprofit only, an analysis (aging) of accounts receivable by major category, of receivables as of the most recent month-end available, indicating the amounts ultimately considered collectable by the nonprofit;

(i) For the nonprofit only, management compensation (salary, bonus, other benefits) for the five (5) officers of the nonprofit receiving the greatest amount of compensation;

(j) Identify any material off-balance sheet assets or liabilities (i.e., any assets or liabilities not reflected on the most recent audited financial statements) and provide documentation concerning such assets or liabilities. Examples of such items would include a significant under- or over-funding in the pension plan or a current litigation judgment not reflected in the most recent audit;

(k) Identify any material contingent assets or liabilities, and the conditions that must occur for any such contingent assets to be realized or for any such contingent liabilities to be incurred; and

(l) Identify all accounting firms, including the name, address, and telephone number of the accountant(s) primarily responsible for accounting and auditing of the entities for the last six (6) years.

**24. Foundation Issues:**

(a) Attach as Appendix P the detailed written plan of the preservation, protection, and use of any and all proceeds from the dissolution of the nonprofit, or the sale to or merger with the acquirer. State and fully explain whether any money, property, or proceeds resulting from the transaction referred to in your Notice or the operation of the foundation will benefit any director, officer or for-profit person or entity, directly or indirectly. The detailed plan shall include bylaws, a conflict of interest statement, a defined mission, the proposed investment policy, and granting procedures.

(b) Attach as Appendix Q proof that any asset purchase agreement or other contract, by whatever name, does not incorporate or place any restrictions which any for-profit entity may place on the use of charitable or nonprofit funds and any other funds or property, either now or in the future, by any foundation created or endowed to preserve, disburse, or protect the funds.

(c) Attach as Appendix R a report indicating, showing, explaining, and discussing the properties and assets, whether cash, securities, intangible property, and all other property (listing each encumbrance), available for charitable purposes before and after the transaction and showing or discussing what entity or person will control, manage, operate, deploy, and use the charitable or nonprofit properties or assets. Include in your response the full legal name, title, business address, and telephone number of the individual preparing said report.

**25. Existing Foundations or Restricted Donations:** Attach as Appendix S any and all documents reflecting any existing foundations or other restricted donations, including, but not limited to, trusts that are designated or intended to benefit the current nonprofit. Include a detailed statement setting forth your intention with regard to such restricted donations.

**26. Conflict of Interest, Self-Interest, and Self-Dealing Issues:**

(a) Attach as Appendix T an affidavit for each officer and director of the nonprofit.

(b) Attach as Appendix U any and all documents reflecting any possible conflict of interest, self-interest, or self-dealing of any board member, officer, or director in connection with the proposed transaction. Such documents shall include evidence of any disclosures or other curative measures taken by the board and any documents suggesting or referencing

financial or employment incentives or inducements offered to any board member, director or officer.

(c) Attach as Appendix V each memorandum, report, letter, or other document suggesting or referencing any employment or position (actual or possible) with acquirer for any officer or director of the nonprofit after the transaction is completed, as well as any assets, funds, annuity, deferred compensation or other economic or tangible benefit to be provided, whether or not in exchange for services rendered or to be rendered to any nonprofit or acquirer.

**27. Persons Involved in Decision Making of Planning:** Attach as Appendix W a list of the full legal names, titles, addresses, and telephone numbers of each and every officer, director, representative, manager, executive, expert or other persons having substantial input, at any phase of decision making or planning, into the decision or plan for the proposed transaction.

**28. Market Studies:** Attach as Appendix X each market study (and attachments) done for or by a nonprofit, or otherwise received by a nonprofit. Include an analysis of the nonprofit's market share from the perspectives which are normally tracked by the nonprofit board.

**29. Registered Agents for Service or Process:** Identify the registered agent for service of process, including his or her complete address, for each nonprofit and for the acquirer.

For Nonprofit: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

For Acquirer: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**30. Litigation and Proceedings:** Attach as Appendix Y copies of any and all complaints, pleadings, memoranda, court orders, settlements, liens or other security interests, and consent decrees filed in litigation in which the nonprofit and/or acquirer was or is a party.

Please include in your response any and all complaints, pleadings, memoranda, orders, settlements, opinions, notices of investigation (including subpoenas, civil investigative demands or other requests for information), of any state, federal, local government department, court, agency, or any other legal proceeding in which the nonprofit and/or acquirer was or is a party.

**CERTIFICATION AND VERIFICATION  
AFFIDAVIT OF THE NONPROFIT**

To be completed by President or Chief Officer

This Requests for Information Form, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with the instructions and definitions issued by the Attorney General. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies. I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General, in writing, of any representations that have been made or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purposes of Louisiana law. If copies were submitted, I also agree to retain the originals under my care, custody, and control, and I will not destroy or alter the originals without express written consent of the Attorney General or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty or perjury.**

STATE of \_\_\_\_\_

To be completed by Affiant:

Parish/County: \_\_\_\_\_

Affiant's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Sworn and subscribed before me

this \_\_\_\_ day of \_\_\_\_\_,

199 \_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Notary Public Telephone No.: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_

**AFFIDAVIT OF OFFICERS AND DIRECTORS**

STATE OF \_\_\_\_\_ SOCIAL SECURITY NO. \_\_\_\_\_  
PARISH/COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, after first being duly sworn, do hereby depose and, upon personal knowledge, state as follows:

1. I am an officer/director (please circle appropriate response) of \_\_\_\_\_ (insert name of nonprofit).

2. I have been an officer/director (please circle appropriate response) since \_\_\_\_\_, 199\_\_\_\_. Please identify any committees you have served on, the length of service on each committee, and any titles you have held on such committees.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. My home address is \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. My business telephone number is \_\_\_\_\_. My business facsimile number is \_\_\_\_\_.

5. I do/do not (circle appropriate response) own stock or options and/or warrants to purchase stock in \_\_\_\_\_ (Insert name of acquirer) or any parent, subsidiary, or affiliated company.

6. \_\_\_\_\_ (insert "no one in my immediate family," or the name[s] of family member[s], own(s) stock or options and/or warrants to purchase stock in \_\_\_\_\_ (insert name of acquirer) or any parent, subsidiary, or affiliated company.

7. I am/am not (circle appropriate response) employed by \_\_\_\_\_ (insert name of acquirer) or any parent, subsidiary, or affiliate company.

8. \_\_\_\_\_ (insert "no one in my immediate family" or the name[s] of family member[s] is/are employed by \_\_\_\_\_ (insert name of acquirer) or any parent, subsidiary, or affiliated company.

9. I will/will not (circle correct response) receive any financial benefit from the sale/merger (circle correct response) of \_\_\_\_\_ (identify nonprofit to be acquired) to \_\_\_\_\_ (insert name of acquirer).

10. \_\_\_\_\_ (insert "no one in my immediate family," or the name[s] of family member[s] will receive any financial benefit from the sale/merger (circle correct response) of \_\_\_\_\_ (identify nonprofit to be acquired) \_\_\_\_\_ (insert name of acquirer).

11. I have/have not (circle appropriate response) been contacted or otherwise requested or been offered a position on the \_\_\_\_\_ (insert name of acquirer) board or any of its subsidiaries, affiliates, or parent companies, or otherwise been offered employment of any sort with \_\_\_\_\_ (insert name of acquirer) or any of its subsidiaries, affiliates or parent companies.

12. I am/am not compensated for my services as an officer/director (circle appropriate response) of \_\_\_\_\_ (insert name of nonprofit). If your response is that you are compensated, please state the amount of your compensation per year: \_\_\_\_\_.

13. Briefly describe your education background:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Briefly describe your business or work experience:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Explain the reasons why you voted to approve the transaction to merge/sell \_\_\_\_\_ (insert nonprofit's name) to \_\_\_\_\_ (insert name of acquirer).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

16. Please briefly explain any information you had regarding valuation of \_\_\_\_\_ (insert nonprofit's name) and other options available to \_\_\_\_\_ (insert nonprofit's name) prior to approving the transaction referenced in Item 15.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

17. I do/do not (circle appropriate response) plan to become a director or officer of the foundation or other nonprofit entity to be created from the assets resulting from the sale or merger of \_\_\_\_\_ (insert nonprofit's name) to \_\_\_\_\_ (insert name of acquirer). I will/will not (circle appropriate response) receive compensation for my service in such position. If your response is that you will be compensated, please state the amount of the compensation per year: \_\_\_\_\_

18. I do/do not (circle appropriate response) have any conflict of interest, self-interest, financial interest or other self-dealing with regard to the proposed transaction with \_\_\_\_\_ (insert name of acquirer). If your answer is yes, please explain such interest in detail.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify, upon personal knowledge, that the information in this affidavit is true, accurate, and complete, **under penalty of perjury.**

Affiant's  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Sworn and subscribed  
before me this \_\_\_\_\_  
day of \_\_\_\_\_,  
199\_\_\_\_

Notary Public  
My Commission expires: \_\_\_\_\_

**CERTIFICATION AND VERIFICATION  
AFFIDAVIT OF THE ACQUIRER**

In order to assist \_\_\_\_\_ (insert name of nonprofit), \_\_\_\_\_ (insert name of acquirer) provided information used to complete the Request for Information Form by \_\_\_\_\_ (insert name of nonprofit). Attached as Exhibit A to this Affidavit are \_\_\_\_\_'s (insert name of acquirer) responses to the Request for Information Form, together with any and all appendices and attachments thereto. Exhibit A was prepared and assembled under my supervision in accordance with the instructions and definitions and definitions issued by the Attorney General. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and

records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies. I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General, in writing, of any representations that have been or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purpose of Louisiana law. If copies were submitted, I also agree to retain the originals under my care, custody, and control, and I will not destroy or alter the originals without the express written consent of the Attorney General or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty of perjury.**

STATE of _____	To be completed by Affiant:
Parish/County: _____	Name: _____
Affiant's _____	Title: _____
Signature: _____	Address: _____
Date: _____	_____
Sworn and subscribed before me _____	_____
this ____ day of _____,	_____
199__	_____
_____	Telephone No.: _____
Notary Public _____	Facsimile No.: _____
My Commission expires: _____	

**LOUISIANA ATTORNEY GENERAL'S**

**Request for Information Form for Certain Nonprofit Mergers, Sales, and Acquisitions**

**INSTRUCTIONS AND DEFINITIONS**

1. All responses to the Request for Information Form must be typed or clearly printed in black ink. **You must use only the official forms.**

2. All documents and appendices must be provided in compliance with the following:

(a) one set of original documents and three (3) separate sets of legible and collated copies of all documents must be submitted;

(b) each appendix shall be submitted in a separate legal size folder clearly marked with the appendix number along with the name of your nonprofit entity and the date of the Attorney General's Request for Information, set forth in Instruction #9. *For example, Nonprofit Company X, Appendix A, July 1, 1996;* and

(c) each document must be consecutively numbered and labeled along with an abbreviation for your nonprofit entity. *For example, the first document of a submission by the Nonprofit Company X, would be labeled NCX0001.* These initials and numbers should appear in the lower right-hand corner of each document.

3. All amendments or late-filed documents or responses must be clearly labeled to indicate which Request or appendix folder the document should be placed in upon receipt by the State. Such documents must be submitted in compliance with all other instructions herein.

4. Unless otherwise indicated, documents to be produced pursuant to this Request for Information Form include each and every document prepared, sent, dated, received, in effect, or which otherwise came into existence during the last three (3) years through the date of the production of documents by the nonprofit pursuant to this Request. Responses to the Request must be supplemented, corrected, and updated until the close of the transaction. **The Attorney General, at his discretion, may require the production of additional documents.**

5. For each Request calling for the production of documents, produce each and every responsive document in the nonprofit and/or acquiring entity's care, possession, custody, or control, without regard to the physical location of those documents.

6. If the nonprofit and/or acquiring entity possesses no documents responsive to a paragraph of this Request, the nonprofit and/or acquirer must state this fact,

specifying the paragraph(s) or subparagraph(s) concerned, in the response. If the nonprofit and/or acquirer must submit documents at a later date than that set forth in Instruction #9, the following procedure is required: the nonprofit and/or acquirer must state this fact, specify the paragraph(s) or subparagraph(s) concerned, identify the document(s) to be produced, and state the expected date of production.

7. If the nonprofit and/or entity asserts a privilege in response to a Request, the nonprofit and/or acquiring entity must state the privilege, the basis of the privilege, and identify the documents and Request to which the privilege attaches.

8. Responses to Requests not requiring the production of documents should be typed or clearly printed in black on the Request for Information Form. If additional space is required, you should attach additional 8 1/2" x 11" size pages, clearly noting at the top of the page to which Request the additional information is responsive and the identity of the nonprofit providing the information. *For example: Nonprofit Company X, Continuation to Request #3.*

9. This Request for Information is dated \_\_\_\_\_. The Attorney General must receive a complete response to this initial Request for Information Form, no later than \_\_\_\_\_ 199\_. If you are unable to provide the information by the date set forth above, please contact, \_\_\_\_\_, Assistant Attorney General, at \_\_\_\_\_ within twenty-four (24) hours to discuss an extension of the statutory fifteen (15) day period in order to extend the time period for you to respond to this Request. If you request an extension of the time period, you will be provided an Extension of the fifteen (15) Day Period Form, via facsimile transmission, which must be returned within twenty-four (24) hours of your discussion with the Assistant Attorney General or paralegal in order to extend the response period for the Request for Information. All extensions are subject to the final approval of the Attorney General.

10. All responses to this Request for Information shall be sent by United States Mail, hand delivered, or a nationally recognized express delivery service to the following individual.

\_\_\_\_\_  
Assistant Attorney General

11. The Request for Information Form is not complete or valid without the Certification and Verification Affidavits executed under oath in the presence of a notary and attached to the Request for Information Form.

12. Copies may be submitted in lieu of originals as long as the nonprofit and/or acquirer indicate(s) that the documents are copies, the location of the originals, and the reason for the substitution of copies. All originals must be returned as set forth in the Certification and Verification Affidavits. Additionally, the nonprofit and/or acquirer must sign the Certification of Verification Affidavit(s), agreeing that the documents are authentic for the purposes of Louisiana law.

13. All questions regarding these forms, the scope of any Request, and instruction, or any definitions shall be directed to the Assistant Attorney General listed in Instruction #10.

14. This Request for Information Packet should include all of the following forms:

- Form : Instructions and Definitions
- Form : Request for Information Form
- Form : Certification and Verification Affidavit of the Nonprofit Affidavit of Officers and Directors
- Certification and Verification Affidavit of the Acquirer
- Extension of the fifteen (15) Day Period

**If your packet is missing any of the above listed forms, please contact by telephone the Assistant Attorney General listed in Instruction #10 immediately. Your response to the Request for Information Form is not complete until the Attorney General's Office has received all of the above listed forms, fully completed.**

15. In the lower right-hand corner of each page of the Request for Information Form, type or print the name of the nonprofit in the space provided.

16. If two (2) or more nonprofits are merging, each nonprofit must complete the entire Request for Information Packet.

**EXTENSION OF THE FIFTEEN (15) DAY PERIOD FORM FOR CERTAIN NONPROFITS**

On behalf of \_\_\_\_\_ (insert name of nonprofit, I, \_\_\_\_\_ (insert your name), hereby waive any right \_\_\_\_\_ (insert name of nonprofit) may have for the Attorney General to review the proposed application transaction between \_\_\_\_\_ (insert name of acquirer) within a fifteen (15) day period. On behalf of \_\_\_\_\_ (insert name of nonprofit), I hereby agree and consent to an extension of the fifteen (15) day period within which the Louisiana Attorney General's Office may review the transaction. Specifically, I agree that the fifteen (15) day period will be extended an additional \_\_\_\_\_ (insert number) days. Thus, the Attorney General's right to review \_\_\_\_\_'s (insert name of nonprofit) proposed transaction application shall not conclude before \_\_\_\_\_, 199\_\_\_\_. (insert date extension will conclude). \_\_\_\_\_ (insert name of nonprofit) hereby agrees not to conclude or finalize the transaction until after \_\_\_\_\_, 199\_\_\_\_. (insert day after extension will conclude). I further agree to submit all documents requested by the Attorney General in the Request for Information Packet no later than \_\_\_\_\_, 199\_\_\_\_.

The reason for this request is as follows: \_\_\_\_\_

On behalf of \_\_\_\_\_ (insert name of nonprofit), I, \_\_\_\_\_ (insert your name), represent and warrant that I have authority to act for and bind \_\_\_\_\_ (insert name of nonprofit).

I also understand that this Request for an Extension is subject to the final approval of the Attorney General. I certify, that this extension form has been completed with true and information, **under penalty of perjury.**

STATE of \_\_\_\_\_ To be completed by Affiant:  
County of \_\_\_\_\_  
Affiant's \_\_\_\_\_ Name: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: \_\_\_\_\_  
Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Sworn and subscribed before me \_\_\_\_\_  
this \_\_\_\_ day of \_\_\_\_\_  
199\_\_\_\_  
\_\_\_\_\_  
Notary Public Phone No.: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_

**C. Filing of Additional Documents**

1. Format required for filing of additional documents shall be in accord with §307.A.9.

2. Documents relating to an application shall be filed by delivering an original and three copies to the director.

3. Additional documents to an application may be accepted by facsimile machine provided that the original and three copies thereof are received by the director no later than seven days after transmission of the facsimile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1125 (June 1998).

**§309. Fees**

**A. Remittance of Fees**

1. In accordance with R.S. 40:2115.22 fees shall be remitted with the application and reports required by R.S. 40:2115.19. Fees shall be reasonably related to the costs incurred by the department in considering the application, evaluating reports, and performing other necessary administrative duties.

2. Fees shall be remitted only by certified check, cashier's check, or bank money order, and made payable to the department.

3. The fee shall be due with the application. The fee shall be \$50,000. If the actual cost incurred by the department is greater, the applicant shall pay any additional amounts due as instructed by the department.

4. The fee due with the filing of the report as required by R.S. 40:2115.19 shall be \$15,000. If the actual cost incurred by the department is greater, the parties involved shall pay any additional amounts due as instructed by the department.

B. If it becomes necessary for the department to file suit to enforce any provision of applicable law, these rules, or any of the terms of an approved application, then applicants/parties shall be responsible for all costs associated with any such litigation, including, but not limited to all court costs and attorneys fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1130 (June 1998).

**§311. Notification of Pending Application and Public Hearing**

**A. In accordance with R.S. 40:2115.14:**

1. within five working days of receipt of a completed application, the department shall notify all persons of record by first class United States mail of the filing of such application, and publish in the official journal of the parish where the hospital is located notice of the filing. The notice shall state the following:

- a. that an application has been received;
- b. the names of the parties to the agreement;
- c. a description of the contents of the agreement; and
- d. the date by which a person may submit comments about the application to the attorney general.

**B. In accordance with R.S. 40:2115.15:**

1. the attorney general shall during the course of review of the application hold a public hearing in which any person may file written comments and exhibits, or may appear and make a statement;

2. the hearing shall be held no later than 30 days after receipt of a completed application. At least 10 working days prior to the scheduled public hearing, the department shall publish in the official journal of the parish where the hospital is located the location, date and time of the public hearing to be held in Baton Rouge, Louisiana;

3. at the public hearing, all interested persons shall be allowed to present testimony, facts, or evidence related to the application and shall be permitted to ask questions. The department shall also receive comments regarding the transaction from any interested person; and

4. if requested by the department, persons required to appear and testify under oath, shall include, but not be limited to:

- a. any expert or consultant retained by the applicant who was directly or indirectly involved in the preparation of any financial and/or economic analysis of the proposed transaction;

b. any independent expert or consultant retained by the department to review the proposed transaction regarding his or her finding and analysis; and

c. parties to the agreement, officers, and members of the governing boards of the facilities involved;

5. the department may require additional information or testimony from other persons, including but not limited to, members of the medical staff, nursing staff, contract employees, architects, engineers, other employees, or contractors of the facilities involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1130 (June 1998).

### §313. Application Review

A. In accordance with R.S. 40:2115.14:

1. the attorney general shall, within 15 days after the date an application is received, determine if the application is complete for the purposes of review. If the department determines that an application is unclear, incomplete, or contains an insufficient basis upon which to provide a decision, the application shall be returned to the applicant;

2. if the attorney general determines that an application is incomplete, he shall notify the applicant within 15 days after the date the application was received, stating the reasons for his determination of incompleteness with reference to the particular questions for which a deficiency is noted;

3. if an application is returned to the applicant and the applicant will be resubmitting the application for further review, the filing fee shall remain deposited; and

4. if an application is returned and the applicant elects not to resubmit an amended application, the department shall return the filing fee submitted with the application less costs associated with the review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1131 (June 1998).

### §315. Final Decision

A. The attorney general shall review the completed application. Within 60 days after receipt of a completed application, the attorney general shall either:

1. approve the acquisition, with or without specific modifications; or

2. disapprove the acquisition.

B. Any approval shall be conditioned upon the periodic submission of specific data relating to cost, access, and quality, and to the extent feasible, identify objective standards of cost, access, and quality by which the success of the arrangement will be measured.

1. The final decision shall be in writing and be based upon findings of fact and conclusions of law supporting the decision.

2. The department may condition approval on a modification of all or part of the proposed arrangement.

3. A copy of the final decision shall be sent, by certified mail, to the applicant. All persons on record shall be provided notice of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1131 (June 1998).

### §317. Reports and Ongoing Supervision of Certificates

A. In accordance with R.S. 40:2115.19, the parties to the agreement shall submit information and supporting data on an annual basis regarding the current status of the agreement, including information relative to the continued benefits, any disadvantages of the agreement, and sufficient information to evaluate whether any terms and conditions imposed by the department have been met or otherwise satisfied. Reports shall be due on or before the annual anniversary date of the approval. Parties are under a continuing obligation to provide the department with any change to the information contained in the application subsequent to the approval of the application. Such information shall be provided to the department in a timely fashion or within a reasonable time that such information is known to the parties. The attorney general may subpoena information and documents reasonably necessary to assure compliance.

B. The information and supporting data that must be submitted to the department shall include, but not be limited to, the following:

1. an update of all the information required in the application;

2. any change in the geographic territory that is served by the health care equipment, facilities, personnel, or services which are subject of the agreement;

3. a detailed explanation of the actual effects of the agreement on each party, including any change in volume, market share, prices, and revenues;

4. a detailed explanation of how the agreement has affected the cost, access, and quality of services provided by each party; and

5. any additional information requested by the department.

C. Requested data shall be in the following format.

1. The page shall be numbered and printed on paper measuring 8½ by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, all data shall be printed on white paper.

2. Trade secret information shall be designated and printed on goldenrod colored paper to assist identifying material exempt under the Louisiana Public Records Act.

D. The department may, at any time, require the submission of additional data or alter the time schedule for submission of information. The parties shall be notified by certified mail of any requirement for the submission of additional information or alteration of the time for submission of materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1131 (June 1998).

### §319. Revocation

A. If at any time, the attorney general receives information indicating that the acquiring person is not fulfilling the commitment to the affected community as provided for in R.S. 40:2115.18, the attorney general shall hold a hearing upon 10 days notice to the affected parties.

1. If after the hearing the attorney general determines that the information is true, it may petition the Louisiana Department of Health and Hospitals to revoke the license issued to the purchaser.

2. Any action for license revocation shall be conducted in accordance with the provisions of R.S. 40:2109 et seq., and the regulations promulgated thereunder.

B. Notwithstanding any other provision of this part any amendment or alteration to an approved cooperative, merger, or consolidation agreement and any material change in the operations or conduct of any party to a cooperative, merger, joint venture, or consolidation shall be considered a new agreement and shall not take effect or occur until the attorney general has approved the amendment, alteration, or change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1131 (June 1998).

E. Kay Kirkpatrick  
Deputy Attorney General

9806#084

## RULE

### Department of Public Safety and Corrections Board of Pardons

Clemency Filing and Processing  
(LAC 22:V.Chapter 1)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Board of Pardons hereby amends rules and procedures relative to processing requests for clemency consideration.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part V. Board of Pardons

#### Chapter 1. Applications

##### §101. General

A. Any completed application will be considered for hearing by the board on the first Tuesday of each month. Should the first Tuesday fall on a legal holiday, the board will meet the following Tuesday. The board shall also meet at the discretion of the chairman to transact such other business as deemed necessary.

B. Applications must be received in the Board of Pardons office by the fifteenth of the month to be placed on the docket for consideration the following month.

C. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

D. Any offender sentenced to death shall submit an application within one year from the date of the direct appeal denial.

E. Any offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has

sufficient evidence which would have caused him to have been found not guilty.

F. No application will be considered by the board until it deems the application to be complete in accordance with the following rules and procedures in Chapter 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1132 (June 1998).

#### §103. Filing Procedure

##### A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

- a. name of applicant;
- b. prison number [Department of Corrections (DOC) number];
- c. date of birth;
- d. race/sex;
- e. education (highest grade completed);
- f. age at time of offense;
- g. present age;
- h. offender class;
- i. place of incarceration (incarcerated applicant only);
- j. parish of conviction/judicial district/court docket number;
- k. offense(s) charged, convicted of or plead to;
- l. parish where offense(s) committed;
- m. date of sentence;
- n. length of sentence;
- o. time served;
- p. prior parole and/or probation;
- q. when and how parole or probation completed;
- r. prior clemency hearing/recommendation/approval;
- s. reason for requesting clemency;
- t. relief requested and narrative detailing the events surrounding the offense;

u. institutional disciplinary reports (incarcerated applicants only); total disciplinary reports, number within the last 12 months; nature and date of last violation; and custody status.

2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.

3. An application must be completed. If any required information does not apply, the response should be "NA."

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant:

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in §103.A.1.u and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must

attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572 (B)]. Applicants who have received an Automatic First Offender Pardon must attach a copy of the Automatic First Offender Pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing unless applicant has a life sentence and has served less than 15 years and has documentation proving innocence. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1132 (June 1998).

### **§105. Discretionary Powers of the Board**

A.1. The Board of Pardons, at its discretion, may deny any applicant a hearing for any of the following reasons:

- a. serious nature of the offense;
- b. insufficient time served on sentence;
- c. insufficient time after release;
- d. proximity of parole/good time date;
- e. institutional disciplinary reports;
- f. probation/parole—unsatisfactory/violated;
- g. past criminal record; or
- h. any other factor determined by the board.

2. However, nothing in Chapter 1 shall prevent the board from hearing any case.

B. Any applicant denied under Chapter 1 shall be notified, in writing, of the reason(s) for denial and thereafter may file a new application two years from date of the letter of denial. Any applicant with a life sentence denied after August 15, 1997 may reapply six years after the initial denial; three years after the subsequent denial; and every two years thereafter.

C. Any fraudulent documents or information submitted by applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial. Any lifer denied because of fraudulent documents may reapply 10 years from the date of letter of initial denial; seven years if subsequent denial; and six years for denials thereafter.

D. In any matters not specifically covered by LAC 22:V.Chapter 1, the board shall have discretionary powers to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998).

### **§107. Contact with the Board of Pardons**

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifying at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual that the contact is illegal. The letter must be accompanied by a copy of R.S.15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in §107.B shall be fined not more than \$500 or imprisoned for not more than six months or both.

D. All letters in favor of pardon, clemency, or commutation of sentence are subject to public inspection. Exceptions to §107 are:

1. letters from any victim of a crime committed by the applicant being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence.

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998).

### **§109. Hearing Granted**

A. After notice to an applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I, (applicant's name), DOC Number, have applied for clemency"

and must be published for three days within a 30-day period without cost to the Department of Public Safety and Corrections, Corrections Services, Board of Pardons.

B. Applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:1133 (June 1998).

### **§111. Notice of Public Hearing Dates**

A. After receipt of all documents required by §§103 and 109.A and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

B. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;

4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;

5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

6. any other interested person who notifies the Board of Pardons, in writing, giving name and return address.

C. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the Board of Pardons by means of telephone communication from the office of the local district attorney.

D. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

E. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

F. Applicant's failure to attend and/or notify the Board of Pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in six years if it is his/her initial hearing, three years if subsequent hearing date, and two years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:1133 (June 1998).

### **§113. Denials by Board after Public Hearing**

A. The board shall notify the applicant of the denial. Applicant may submit a new application two years after the date of letter of denial. Any applicant serving life may apply six years after initial denial, three years after subsequent denial and thereafter every two years.

B. The board shall terminate hearing should the applicant become disorderly, threatening, or insolent. Any hearing terminated due to applicant's disorderly, threatening, or insolent behavior is an automatic denial and the applicant may reapply four years from the date of hearing except those serving life sentence who may reapply 10 years from the date

of initial hearing termination, seven years from the subsequent hearing termination, and six years from hearing termination thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).

### **§115. Denial/No Action Taken by Governor after Favorable Recommendation**

A. The board shall notify the applicant after its receipt of notification that favorable recommendation was denied or no action was taken by the governor. Applicant may submit a new application one year from the date of the letter of denial or notice of no action.

B. An applicant who has been paroled, released under good time parole supervision, or released from sentence within one year of the date of letter of denial or notice of no action by the governor, may submit a new application two years after the date of release from confinement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).

### **§117. Governor Grants**

The Office of the Governor will notify the applicant if any clemency is granted. Applicant may submit a new application for additional relief four years from the date of notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).

C.J. Bell  
Vice-Chairman

9806#015

## **RULE**

### **Department of Social Services Office of Family Support**

Family Independence Work Program  
(FIND Work)—Organization, Activities  
and Services (LAC 67:III.2901 and 2913)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work" and formerly known as "Project Independence."

Under the authority of Public Law 104-193 and R.S. 46:231.10, the agency changed the amount allowed per participant per fiscal year for items deemed necessary to facilitate a participant's entry into employment. The funds used to provide such items has been set at a maximum of \$100 per participant per fiscal year since October 1990. This rule increases the amount allowed to \$150 per participant per fiscal year. Section 2901 is also being updated as the authority to administer the program has changed.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 5. Family Independence Work Program (FIND Work)**

**Chapter 29. Organization**

**Subchapter A. Designation and Authority of State Agency**

**§2901. General Authority**

The Family Independence Work Program (FIND Work) is established in accordance with state and federal laws to assist recipients of Family Independence Temporary Assistance (FITAP) to become self-sufficient by providing needed employment-related activities and support services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 19:504 (April 1993), LR 24:1135 (June 1998).

**Subchapter C. Activities and Services**

**§2913. Support Services**

A. - 3.a. ...

b. Payments not to exceed a combined total of \$150 per fiscal year may be made for certain costs deemed necessary such as eyeglasses, hearing aids and other small medical appliances, uniforms, tools and training materials, medical exam not provided by Medicaid or other resource, placement test fees and other course prerequisite costs, safety equipment and transportation related expenses.

c. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), amended by the Office of the Secretary and Office of Family Support, LR 24:356 (February 1998), amended by the Office of Family Support, LR 24:1135 (June 1998).

Madlyn B. Bagneris  
Secretary

9806#043

**RULE**

**Department of Transportation and Development  
Highways/Engineering**

**Joint Use Agreements  
(LAC 70:III.1901)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby adopts a rule entitled "Joint Use Agreements," in accordance with R.S. 48:381.1.

**Title 70**

**TRANSPORTATION**

**Part III. Highways/Engineering**

**Chapter 19. Contracts, Leases and Agreements**

**§1901. Joint Use Agreements**

**A. Elements of the Lease**

1. At the initiation of the lease, DOTD's Real Estate Section will estimate the fair market lease value of the property. That value will be utilized in determining the amount charged as a rental fee. At the conclusion of a five-year term, the market value of the leased property will be reassessed. If the lessee chooses not to renew the lease and pay the revised fair market value as a fee, the lease shall expire.

2. DOTD property that is "excess," or that was expropriated through unfriendly negotiations will not be eligible for lease. DOTD "excess" property shall be disposed of in accordance with R.S. 48:224 and EDSM Number L1.1.10, and shall not be leased.

3. Property that bears improvements constructed with public funds will not be eligible for lease for a period of 20 years from the date of completion of said improvements.

4. Preference in use of right-of-way is as follows:

- a. highway purposes;
- b. drainage purposes;
- c. legal street connections purposes;
- d. legal driveway connections purposes;
- e. utilities purposes;
- f. joint use (lease) purposes.

5. Preference for availability of joint use leases shall be given to the following entities, in the following order:

- a. governmental bodies using the property for the general public and generating no revenue;
- b. governmental bodies;
- c. the land owner from whom the property was expropriated;
- d. adjacent land owners;
- e. general public.

6. Title and control of the area of right-of-way involved will remain with DOTD.

7. Subleasing is prohibited without the prior written consent of DOTD.

8. Use of property shall be in accordance with local building and zoning ordinances and/or codes.

9. DOTD may terminate the lease agreement at any time and require lessee to vacate the premises and remove all improvements. Improvements not removed by lessee within 30 days may be removed by DOTD at lessee's expense.

10. The lease shall be subordinate to any existing agreements between DOTD and other parties affecting the leased property.

11. Illegal activities on the premises conducted by lessee are prohibited and shall trigger automatic termination of the lease.

12. All heavy commercial activity and the serving of alcohol are prohibited on the leased premises.

**B. Application Procedure**

1. Parties interested in leasing state right-of-way must contact the headquarter's utility and permit engineer at the permit office of DOTD.

2. The applicant must submit, in writing to the headquarter's utility and permit engineer, a proposal detailing the use of the property including a location description. The headquarter's utility and permit engineer will distribute copies of the proposal to the district office and other appropriate parties within the department.

3. DOTD will investigate proposed highway improvements in the area and the viability of leasing the property.

4. If a lease agreement is viable, then the applicant must submit:

a. a layout map of the requested area showing DOTD right-of-way, including a metes and bounds description;

b. a written metes and bounds description of the area labeled as "Exhibit A";

c. detailed plans showing any improvements to be placed on the premises including structures, type of material used, appearance, fences which may be required, and any other pertinent information, labeled "Exhibit B";

d. vertical clearance between area to be used and bottom of overhead structure.

5. DOTD's Real Estate Section will estimate the fair market lease value of the property.

6. If more than one party is interested in leasing the same parcel of property:

a. DOTD shall first attempt to facilitate a cooperative endeavor agreement between the parties, so that the property can be shared;

b. if a cooperative endeavor is not possible, then §1901.A.5 shall be utilized to select a lessee;

c. if two or more parties tie for top choice, then DOTD shall initiate a bidding process as follows:

i. all parties will be informed of the bid situation and given 30 days to prepare bids;

ii. DOTD shall designate a date to receive sealed bids;

iii. the headquarter's utility and permit engineer shall open all bids on the same day;

iv. bids more than 10 percent below the estimated fair market value shall be rejected. All bids for uses that the headquarter's utility and permit engineer deems prohibited, inappropriate, or inconsistent with use of the property by DOTD shall be rejected. If any bids remain, the lease shall be awarded to the highest bid. If no eligible bids remain, then the bid process may be repeated. If there are still no eligible bids, then all proposals shall be discarded. In the event of a tie, the tied parties will be allowed to toss a coin to determine the winning bidder.

7. DOTD performs all required reviews of the request, including an environmental assessment. The applicant may be required to submit corrected and/or additional information.

8. Once the submittal is complete and correct and the environmental clearance is issued, the request is given final approval by the headquarter's utility and permit engineer.

9. The request is then submitted to the Federal Highway Administration (FHWA) for review and becomes effective upon the concurrence of FHWA. (Note: FHWA concurrence is not required for some state routes.)

#### C. Improvements

1. No improvements or alterations, including landscaping, shall be made upon the premises without written approval of DOTD.

2. The improvements and the property must be maintained by the lessee in good condition. Maintenance must be accomplished so that there is no unreasonable interference with the transportation facility.

3. All plans for construction of any improvements must be reviewed and approved by DOTD. Preliminary plans must be submitted with the initial application.

4. At the conclusion of the lease, all improvements must be removed leaving the property in its original condition. In special cases improvements may remain with written consent from DOTD, provided there is no expense to DOTD.

#### D. Maintenance and Inspection

1. The lessee shall, at its sole expense, keep and maintain the premises at all times in an orderly, clean, safe, and sanitary condition.

2. If proper maintenance is not performed, DOTD reserves the option to cancel the lease or perform the maintenance and obtain reimbursement from the lessee.

3. The lessee shall maintain the premises at the lessee's own expense, including all driveways, fences, and guardrails, subject to the approval of DOTD. The lessee shall be liable for reimbursement to DOTD for any damage to DOTD property.

4. On-premise signs, displays, or devices may be authorized by DOTD, but shall be restricted to those indicating ownership and type of activity being conducted in the facility, and shall be subject to reasonable restrictions with respect to number, size, location, and design.

5. Inspections of the property may be performed by a DOTD representative to assure compliance with all the rules set forth in the lease. DOTD specifically reserves the right of entry by any authorized employee, contractor, or agent of DOTD for the purpose of inspecting said premises, or the doing of any and all acts necessary on said premises in connection with protection, maintenance, painting, and operation of structures and appurtenances. DOTD reserves the further right, at its discretion, to immediate entry upon the premises and to take immediate possession of the same only in case of any national or other emergency and for the protection of said structures; and, during said period, lessee shall be relieved from the performance of all conditions of the agreement.

6. All structures shall be of fire resistant construction as defined by the applicable building codes, and will not be utilized for the manufacture of flammable material, or for the storage of materials or other purposes deemed by the DOTD or Federal Highway Administration to be a potential fire or other hazard to the highway.

7. The lessee shall secure all necessary permits required in connection with operations on the premises and shall comply with all federal, state, and local statutes, ordinances, or regulations which may affect the lessee's use of the premises.

#### E. Liability of Lessee

1. The lessee shall occupy and use the property at its own expense, and shall hold DOTD, its officers, agents, and employees, harmless from any and all claims for damage to

property, or injury to, or death of, any person entering upon same with lessee's consent, expressed, or implied.

2. The lessee shall carry liability insurance to indemnify claims resulting from accidents and property damage, which coverage shall be extended to include the facilities authorized in this agreement, to provide for the payment of any damages occurring to the highway facility and to the public for personal injury, loss of life and property damage resulting from lessee's use of the premises. DOTD shall be named as an additional insured and proof of such required insurance shall be provided to DOTD prior to occupancy. The insurance company and lessee shall notify DOTD, in writing, at least 30 days prior to cancellation of changes affecting the required insurance coverage.

F. Credit Check and Security Deposit

- 1. DOTD may require a credit check.
2. A security deposit may be required at the discretion of the DOTD.

G. Payment

1. Payment will be due on the first day of every year. If the lease begins in the middle of the year, the rent will be prorated for that year according to the number of days remaining in that year.

2. At the discretion of DOTD, payment may be due on a monthly basis.

3. Payments must be made by check, money order, or certified check.

4. If a lessee submits a bad check for payment, he will no longer be allowed to pay with personal checks. Future payments must be made by certified checks or money orders.

H. Governmental Entities

1. The fees may be waived for governmental entities if there is no revenue derived by the use of the property.

2. If the revenue generated is not sufficient to cover operating expenses and the joint use fee, the rent may be reduced to 10 percent of the gross revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:1135 (June 1998).

Frank M. Denton
Secretary

9806#057

RULE

Department of the Treasury
Board of Trustees of the State Employees Group
Benefits Program

Mental Health Parity

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting

the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has approved amendments to the Plan Document of Benefits in compliance with state and federal law, in particular, the Mental Health Parity Act of 1996. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars, effective July 1, 1998:

Amendment Number 1

Amend the Schedule of Benefits, under the heading "Mental Health/Substance Abuse," as follows:

a. Under the subheading "Benefits," amend Paragraph 2 and add Paragraphs 3 and 4, to read as follows (Paragraph 1 is unchanged):

- 1. ...
2. 100 percent of eligible expenses over \$5,000 until the lifetime maximum for all program benefits is reached.
3. Up to a maximum of 45 inpatient days per person, per calendar year.
4. Up to a maximum of 52 outpatient visits per person, per calendar year inclusive to the intensive outpatient program.

Note: Two days of partial hospitalization or two days of residential treatment center hospitalization may be traded for each inpatient day of treatment that is available under the 45-day calendar year maximum for inpatient treatment. A residential treatment center is a 24-hour, mental health or substance abuse, nonacute care treatment setting for active treatment interventions directed at the amelioration of the specific impairments that led to the admission. Partial hospitalization is a level of care where the patient remains in the hospital for a period of less than 24 hours.

b. Under the subheading "Maximum," delete Paragraphs 2 and 3.

Amendment Number 2

Amend the second, unnumbered, paragraph of Article 3, Section I, Subsection D, to read as follows:

D. Maximum Benefit

\*\*\*

Benefits for mental health and substance abuse treatment will be paid subject to the lifetime limits for all benefits in the Schedule of Benefits. Benefits paid may be used toward the restoration of the lifetime balance as set forth in the Schedule of Benefits.

\*\*\*

Amendment Number 3

Amend Article 3, Section I, Subsection F, Paragraph 33, to read as follows:

F. Eligible Expenses

\*\*\*

33. Mental health and/or substance abuse services only when obtained through the Program's contractor. These services are subject to a separate \$200 deductible and have a separate \$1,000 out-of-pocket maximum per individual. There is also a \$50 per day deductible for a maximum of five days (\$250) for inpatient benefits. After satisfying any applicable deductibles, the Program, through the contractor pays 80 percent of the first \$5,000 of eligible expenses per calendar

year and then 100 percent of eligible expenses up to the lifetime maximum for all benefits listed in the Schedule of Benefits.

\* \* \*

Ann B. Davenport  
Deputy Director

9806#078

**RULE**

**Department of the Treasury  
Board of Trustees of the Teachers' Retirement System**

Cost of Living Adjustment  
(COLA)(LAC 58:III.1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of the Teachers' Retirement System approved the following method for the distribution of a cost-of-living adjustment for all eligible retirees, all eligible beneficiaries of deceased retirees and all eligible survivors of deceased members of the Teachers' Retirement System from the Employee Experience Account. This benefit adjustment is effective July 1, 1998, pursuant to the notice of intent published March 20, 1998.

**Title 58**

**RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana  
Chapter 3. Cost-of-Living**

**§1303. Cost-of-Living Adjustment—July 1, 1998**

A. Effective July 1, 1998, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits, on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit of each eligible recipient as determined in accordance with the formula:  $\$10.00 + W + 2X + Y + 2Z$ , where:

- W = \$1.00 per year since retirement or death of the member or retiree to June 30, 1997;
- X = \$1.00 per year since retirement or death of the member or retiree in excess of 10 years as of June 30, 1997;
- Y = \$1.00 per year of credited service at the time of retirement or death of the member or retiree;
- Z = \$1.00 per year of credited service greater than 25.0 years at the time of retirement or death of the member or retiree.

C. No increase in benefit shall be paid to any retiree, beneficiary or survivor unless such person was receiving benefits on or prior to June 30, 1997. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on or prior to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787(D) and 11:883.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 24:1138 (June 1998).

James P. Hadley, Jr.  
Director

9806#016

**RULE**

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

Reef Fish— Daily Take and Size  
Limits (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby amend a rule (LAC 76:VII.335) modifying recreational creel and size limits for reef fish, and rules for commercial harvest of reef fish, which are part of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§335. Reef Fish—Daily Take, Possession and Size Limits Set by Commission**

A. The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies within and without Louisiana's territorial waters:

SPECIES	RECREATIONAL BAG LIMITS
	* * *
4. Greater amberjack	1 fish per person per day
	* * *

B.1. All persons who do not possess a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit.

2. Persons who are limited to a recreational bag limit shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any reef fish.

\* \* \*

D.1. For charter vessels and headboats as defined in 50 CFR Part 622.2 there will be an allowance for up to two daily bag limits on multi-day trips provided the vessel has two licensed operators aboard as required by the U.S. Coast Guard for trips of over 12 hours, and each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

2. Any fish taken from charter vessels or headboats as defined in 50 CFR Part 622.2 or any charter vessel as described in R.S. 56:302.9 shall not be sold, traded, bartered or exchanged or attempted to be sold, traded, bartered or

exchanged. The provisions of §335 apply to fish taken within or without Louisiana's territorial waters.

3. No person aboard any commercial vessel shall transfer or cause the transfer of fish between vessels on state or federal waters.

\* \* \*

G. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which a commercial license or permit was issued.

H.	Species	Minimum Size Limits
1.	Red Snapper	15 inches total length
2.	Gray, mutton and yellowtail snapper	12 inches total length
3.	Lane snapper	8 inches total length
4.	Red, gag, black, yellowfin and Nassau grouper	20 inches total length
5.	Jewfish	50 inches total length
6.	Greater amberjack	28 inches fork length (recreational) 36 inches fork length (commercial)
7.	Black seabass	8 inches total length
8.	Vermillion snapper	10 inches total length

I. Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows:

*Charter Vessel*—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

*Headboat*—a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory pelagic fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998).

Thomas M. Gattle, Jr.  
Chairman

9806#035

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Reef Fish —Daily Take and Size Limits (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby amend LAC 76:VII.335, modifying commercial red snapper harvest requirements and establishing a closed season for commercial harvest of greater amberjack, as part of the existing rule for daily take, possession and size limits for reef fishes set by the commission. The authority for adoption of this proposed rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery

#### §335. Reef Fish—Daily Take, Possession and Size Limits Set by Commission

\* \* \*

E. All persons who do not possess a Class 1 or Class 2 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico reef fish resources are limited to the recreational bag limit for red snapper. Those persons possessing a Class 2 red snapper licenses issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico reef fish resources are limited to a daily take and possession limit of 200 pounds of red snapper per vessel.

F. Those persons possessing a Class 1 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a daily take and possession limit of 2,000 pounds of red snapper per vessel.

\* \* \*

J. The season for the commercial harvest of greater amberjack shall be closed during the months of March through May of each year. Possession of greater amberjack in excess of the daily bag limit while on the water is prohibited during the closed season. Any greater amberjack harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. The provisions of §335.J apply to fish taken within or without Louisiana's territorial waters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1139 (June 1998).

James H. Jenkins, Jr.  
Secretary

9806#036

**RULE**

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

White-Tailed Deer Importation (LAC 76:V.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby promulgate rules governing importation of white-tailed deer into Louisiana.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§117. White-Tailed Deer Importation**

A. Definitions

*White-Tailed Deer*—any animal of the species *Odocoileus virginianus*.

B. Permits. No person shall import, or cause to be imported, white-tailed deer into the state of Louisiana without first notifying the Department of Agriculture and Forestry and obtaining a current permit number. The permit number shall be included on the certificate of veterinary inspection and shall accompany the shipment of white-tailed deer. The permit number and certificate of veterinary inspection shall be available to Department of Wildlife and Fisheries personnel upon request.

C. Import Restrictions

1. No person shall import or cause to be imported any white-tailed deer from the states of California, Colorado, Connecticut, Delaware, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, or Wyoming. This shall include any white-tailed deer that have been confined

within these states, or have been in direct contact with deer of any species from these states, within 180 days of entry into Louisiana.

2. No person shall import or cause to be imported any white-tailed deer without written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*, as published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

3. No person shall import, or cause to be imported, white-tailed deer without written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* once published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all white-tailed deer 6 months of age and older entering Louisiana shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the white-tailed deer originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin.

4. No person shall import, or cause to be imported, any white-tailed deer for release into the wild or into any enclosure not specifically licensed for the possession of white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:6(10), (13) and (15), R.S. 56:20 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998).

Thomas M. Gattle, Jr.  
Chairman

9806#034